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LAW AND GOSPEL IN LUTHER'S ANTINOMIAN DISPUTATIONS,
WITH SPECIAL REFERENCE TO
FAITH'S USE OF THE LAW

A Dissertation Presented to the Faculty
of Concordia Seminary, St. Louis,
Department of Systematic Theology,
in partial fulfillment of the
requirements for the degree of
Doctor of Theology

by

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December 1995

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LIST OF ABBREVIATIONS

1. Luther's Later Disputations

1 AD	Erste Disputation gegen die Antinomer (18 Dec. 1537)
2 AD	Zweite Disputation gegen die Antinomer (12 Jan. 1538)
3 AD	Dritte Disputation gegen die Antinomer (6 Sept. 1538)
A Th, I	Erste Thesenreihe gegen die Antinomer (Dec. 1537)
A Th, II	Zweite Thesenreihe gegen die Antinomer (Dec. 1537)
A Th, III	Dritte Thesenreihe gegen die Antinomer (Jan. 1538)
A Th, IV	Vierte Thesenreihe gegen die Antinomer (Jan. 1538)
A Th, V	Fünfte Thesenreihe gegen die Antinomer (Aug./Sept. 1538)
A Th, VI	Sechste Thesenreihe gegen die Antinomer (1540)
CMP	Disputation contra missam privatam (29 Jan. 1536)
De hom.	Disputation de homine (14 Jan 1536)
De fide	Thesen de fide (11 Sept. 1535)
De lege	Thesen de lege (11 Sept., 1535)
DHC	Disputation de divinitate et humanitate Christi (1540)
FR	Promotionsdisputation von Theodor Fabricius und Stanislaus Rapagelanus (23 May 1544)
Iust.	Disputation de iustificatione (10 Oct 1536)
Marb.	Promotionsdisputation von Johann Marbach (16 Feb. 1543)
Mörlin	Promotionsdisputation von Joachim Mörlin (10 Sept. 1540)

- MF Promotionsdisputation von Georg Major und Johannes Faber (1544)
- PT Promotionsdisputation von Palladius und Tilemann (1 June 1537)
- Rom. 3: 28, III 3. Thesenreihe über Röm. 3: 28 (1536)
- Rom. 3: 28, IV 4. Thesenreihe über Röm 3: 28 (1536)
- Sch. Promotionsdisputation von Heinrich Schmedenste (7 July 1542)
- VN Zirkulardisputation de veste nuptiali (15 June 1537)

2. Other Abbreviations

- AE Luther's Works, American Edition
- Art. Article
- BSLK Die Bekenntnisschriften der evangelisch-lutherischen Kirche
- CA Confessio Augustana
- CR Corpus Reformatorum: Philippi Melancthonis Opera, 28 vols., ed. Carolus Gottlieb Bretschneider and Henricus Ernestus
- Bindseil.
- FC Die Konkordienformel [The Formula of Concord]
- Fragm. Fragment
- GK: Der große Katechismus [The Large Catechism]
- Inst: John Calvin's Institutes of the Christian Religion
- KK: Der kleine Katechismus [The Small Catechism]
- MBW Melancthon's Briefwechsel
- MPG Migne, Patrologia Graeca
- MPL Migne, Patrologia Latina

NT	New Testament
OT	Old Testament
Pos	Positiones (antinomian theses)
Praef.	Preface
RE	Realenzyklopädie für protestantische Theologie und Kirche
Rel.	Relation or recension of Disputationsnachschriften
scil.	(=scilicet) namely
SA	Die Schmalkaldischen Artikel [The Smalcald Articles]
SD	Solida Declaratio [The Solid Declaration]
StA:	Martin Luther: Studienausgabe, ed. Hans-Ulrich Delius, 6 vols.
Th.	Thesis
Ths.	Theses
ThLZ	Theologische Literaturzeitung
ThStKr	Theologische Studien und Kritiken
TRE	Theologische Realenzyklopädie
v.	verse
vv.	verses
W ²	Dr. Martin Luthers Sämtliche Schriften, ed. G. Walch (St. Louis)
WA	D. Martin Luthers Werke: Kritische Gesamtausgabe, 61 vols.
WA DB	D. Martin Luthers Werke: Kritische Gesamtausgabe, Deutsche Bibel, 12 vols.

- WA Br D. Martin Luthers Werke: Kritische Gesamtausgabe,
Briefwechsel, 18 vols.
- WA TR D. Martin Luthers Werke: Kritische Gesamtausgabe,
Tischreden, 6 vols.
- ZHT Zeitschrift für historische Theologie
- ZKG Zeitschrift für Kirchengeschichte

CHAPTER ONE

INTRODUCTION

Sources

The topic of our research involves Martin Luther's role in the First Antinomian Controversy in Wittenberg during the period 1537-1540. More specifically, it entails a theological analysis of the three disputations held during the climax of the controversy, 1537-1538.¹ They form a self-contained unit within the collection of Luther's later disputations,² which in turn are an important com-

¹The following are the primary sources: *Die erste Disputation gegen die Antinomer* (WA 39 I, 364-417; *Praefatio*: 360-64; *Nachträge*: 39 II, 414-419). *Die zweite Disputation gegen die Antinomer* (WA 39 I, 423-85; *Praefatio*: 419-22; *Nachträge*: 39 II, 419-425); *Die Dritte Disputation gegen die Antinomer (Promotionsdisputation des Cyriacus Gerichus)* (WA 39 I, 496-584; *Praefatio*: 489-496). There was a fourth antinomian disputation held two years later which has traditionally been grouped with the three primary ones: *Die Promotionsdisputation von Joachim Mörlin* (WA 39 II, 124-44). This disputation will not be analyzed but merely referred to. The first disputation has been reedited by Rudolf Mau and issued in a new edition: *Martin Luther Studienausgabe*, vol. 5, ed. Hans-Ulrich Delius (Berlin: Evangelische Verlagsanstalt, 1992), 245-325. The text of the disputation is preceded by a scholarly essay on the manuscript tradition of the disputation (specifically the relationship between the *Textrelationen*), as well as by the *positiones antinomicae*, and Luther's *praefatio*.

²See Hermelink's introduction to Luther's disputations (both before and after 1533) as well as his remarks on Luther as *Disputator*, WA 39 II, IX-XXXVII. A recent dissertation by a Roman Catholic scholar examines Luther's later disputations from the standpoint of christology. See, Axel Schmidt, *Die Christologie in Martin Luthers späten Disputationen*, Dissertationen theologische Reihe, 41, ed. Bernhard Sirch (St. Ottilien: EOS Verlag Erzabtei St. Ottilien, 1990). Unfortunately, its treatment of the antinomian disputations is inadequate. More will be said about this work below.

ponent within the literary corpus of the mature Luther.³ Each of the disputations is loosely based on a set of theses prepared by Luther specifically for that purpose.⁴ Some of the main themes of the disputations were included in an open letter which Luther wrote in 1539 in order publicly to renounce the antinomians and categorically to reject their theology.⁵ Although the disputations are vital documents for a full understanding of Luther's position on the law, they were lost for a long time and were only discovered and published by the Melancthon scholar Paul Drews at the end of the last century.⁶ The theses and disputations

³The disputations themselves of course are not written by Luther but represent summary transcripts [*Nachschriften*] of the proceedings made by his disciples, although in most cases only Luther's *responsio* to a given *argumentum* has been preserved rather than an account of the whole. Usually Luther himself wrote the accompanying set of theses [*Thesenreihe*]. See below ch. 3 for more on the nature of academic disputations in general as well as Luther's role in the antinomian disputations in particular.

⁴First disputation: *Disputatio D. Martini Lutheri. Contra quosdam Antinomios* (WA 39 I, 345-47); second disputation: *Disputatio secunda D. Martini Lutheri contra Antinomios* (WA 39 I, 347-50); third disputation: *Quinta disputatio D. Martini Lutheri, contra Antinomios*. Because the third and fourth disputations lapsed (as will be explained in ch. 2) the third disputation, which later proved necessary, was based on the fifth set of theses. Hence, the fourth and final disputation (Mörlin's licentiate examination) was based on the sixth set of theses: *Disputatio sexta D. Martini Lutheri contra Antinomios* (WA 39 I, 358). Although we offer a structural analysis and summary of the *Thesenreihen* in ch. 3, we will not discuss them since anything important in them is taken up in the disputations.

⁵*Wider die Antinomer* (WA 50, 468-477). Luther wrote an even more abrasive and sarcastic tract in 1540: *Wider den Eisleben* (WA 51, 429-444) in order to defend himself against the charges brought by Agricola.

⁶*Disputationen Dr. Martin Luthers in den Jahren 1535-1545 an der Universität Wittenberg gehalten*, ed. Paul Drews (Göttingen: Vandenhoeck und Rupprecht, 1895). That is the reason that the St. Louis edition of Luther's works (as indeed all the *Gesamtausgaben* preceding it) has only the *Thesenreihen* but no disputations (W², 20, 1629-49).

have never before appeared in English so that with the translation alone we are forging new ground.⁷ While it would have been interesting also to investigate Luther's sermons to see how he preaches parenthesis, that would have made an already long dissertation too long.⁸

State of Research

At the First International Congress for Luther Research in Aarhus (1956) the German Luther scholar Heinrich Bornkamm made the perceptive observation that up till that time the enormous volume of research devoted to the writings of the young Luther had been disproportionate to their importance when compared with other Reformation documents and that the *Lutherforschung* of the future would need to concentrate its efforts much more than previously on the older Luther, for it is just his mature writings that point the way he wanted theology and the church to go after his death.⁹ The antinomian disputations fit into this

⁷Curiously, not even the *Thesenreihen* were included in the American Edition of *Luther's Works*. Fortunately, the decision was made to include at least Luther's last polemical writing against the Antinomians (specifically against their leader John Agricola) in the form of an open letter addressed to Agricola's arch-enemy, Caspar Güttel, a pastor in Eisleben: "Against the Antinomians" AE 47, 107-119.

⁸The monograph by Gerhard Heintze, *Luthers Predigt von Gesetz und Evangelium* (Munich: Chr. Kaiser Verlag, 1958), is inadequate. A good critique of Heintze's book is offered by Martin Schloemann, *Natürliches und Gepredigtes Gesetz bei Luther: eine Studie zur Frage nach der Einheit der Gesetzesauffassung Luthers mit besonderer Berücksichtigung seiner Auseinandersetzung mit den Antinomern* (Berlin: Verlag Alfred Töpelmann, 1961), 37-42. Heintze's *Lutherdeutung* has a distinctly Barthian character. Consequently, it is not surprising that his understanding of law and gospel is influenced more by Agricola than Luther. The Agricola-Barth axis will be noted as we proceed.

category and provide a classical example of Luther's warning against the false teachers whom he knew would inundate the church after his death. The disputations are important not only for the light they shed on the doctrine of the law but because Luther shows how antinomianism constitutes a threat both to the church and to theology as a whole.¹⁰

If one wants to come to a better appreciation of Luther's understanding of the law and its relation to the gospel, one cannot avoid coming to grips with his disputations against the antinomians. And yet oddly enough these have received very little scholarly attention. It is commonly agreed among Luther scholars that there is still a dire need for an exhaustive theological analysis of the 1537-1540 antinomian controversy, and especially Luther's *Thesenreihen* and disputations.¹¹

⁹Lutherforschung heute, ed. Vilmos Vajta (Berlin, 1958), 11. He further said: "Die Hauptmühe wird die biografische Forschung in Zukunft auf den alten Luther verwenden müssen. Die Lebensstrecke von 1532 bis zu seinem Tode ist fast ebenso lang wie die von 1517-1532, aber die ihr gewidmete Literatur ist nur ein geringer Bruchteil von dem, was über den jungen Luther und die Kampfzeit bis etwa zum Augsburger Reichstag 1530 geschrieben worden ist." It is interesting to note that, generally speaking, German Luther-scholarship has been more interested in the young Luther than Scandinavian, especially Swedish, scholarship.

¹⁰Joachim Rogge, *Johann Agricolas Lutherverständnis unter besonderer Berücksichtigung des Antinomismus* (Berlin: Evangelische Verlagsanstalt, 1960) 188, observes that one can see from Luther's disputations "daß er den Antinomismus nicht als Sondermeinung zu einem Einzelproblem ansah, sondern als ein Verhängnis, durch das die gesamte Theologie und Kirche unter ein falsches Vorzeichen geriet."

¹¹This has been recognized most recently by the Danish scholar Steffen Kjeldgaard-Pedersen in his very scholarly dissertation, *Gesetz, Evangelium und Busse: Theologiegeschichtliche Studien zum Verhältnis zwischen dem jungen Johann Agricola (Eisleben) und Martin Luther* (Leiden: E. J. Brill, 1983), 22, which he wrote under Leif Grane. The topic of this monograph is not the 1537-1540 antinomian controversy but rather the relation between the young Agricola and Luther up to 1527. Hence, the work provides us with valuable background information.

The need for such an analysis has also been duly noted by Gerhard Ebeling, who himself has made a significant contribution to Luther scholarship in his careful analysis of some of the later disputations on justification, but in particular in his magisterial work on Luther's disputation *De homine*.¹² He promised many years ago that something would be forthcoming, but that promise unfortunately has never been realized.¹³ Finally, the Luther Congress in Lund (1977) confirmed that the antinomian theses and disputations had been sadly neglected and needed to be carefully studied in the future. Because the congress discussed many of the questions that we too will need to answer, we now highlight the main problems that were raised.¹⁴

1. Questions relating to the structure and content of the disputations in WA 39 I, 342-584.

2. Various questions about the way the law is to be understood.

a) Luther's interpretation especially of those Old Testament passages in which God's law is praised.

b) The pedagogical use of the law (the exposition of the Decalogue, the bringing up of children), which was called an *usus puerilis legis*.

c) The *tertius usus legis* (partly in comparison with FC SD VI).

¹²Gerhard Ebeling, *Lutherstudien*, vol. 2: *Disputatio de homine*, (Tübingen: J. C. B. Mohr [Paul Siebeck], 1971-1982).

¹³"Zur Lehre vom triplex usus legis in der reformatorischen Theologie," in *Wort und Glaube* (Tübingen: J. C. B. Mohr [Paul Siebeck], 1960), 68.

¹⁴The official Report: "Gesetz und Evangelium im Antinomerstreit" in *Luther und die Theologie der Gegenwart: Referate und Berichte des Fünften Internationalen Kongresses für Lutherforschung*, ed. Leif Grane and Bernhard Lohse (Göttingen: Vandenhoeck & Ruprecht, 1980), 156-64.

d) The complex: natural law--Decalogue--law of love. How does Luther understand the *lex aeterna*?

3. Question about repentance

a) What is meant by the term *bonum propositum* in this context?

b) How do Luther and Agricola differ on repentance?

4. Is there a development in Luther's theology, that is, does the mature Luther understand law and gospel differently than at the outset?

5. Some remarks on the concept of *humilitas*.

Although it is not our intention systematically to examine and report on each of these questions in a formal way, they will nevertheless all be treated in the course of our discussion somewhere, some of course in greater detail than others, and we will offer some answers in chapter four.

The work that has been done specifically on our topic is virtually negligible, although some valuable research has been done on the historical background to the controversy of 1537-1540. We will begin by briefly reviewing this, noting particularly those aspects that are pertinent to our own investigation. The section will conclude with a short discussion of those works that bear directly on our topic.

The first major work on John Agricola and his involvement in the anti-nomian controversy was written by Gustav Kawerau.¹⁵ This book is a masterpiece in its own way and still remains the only complete biography of Agricola even though many details have had to be corrected and supplemented by later research. The most valuable aspect of the book is the way it works with the

¹⁵Gustav Kawerau, *Johann Agricola von Eisleben: Ein Beitrag zur Reformationsgeschichte* (Berlin: Verlag von Wilhelm Hertz, 1881).

sources. Its biggest deficiency, on the other hand, is that it focuses exclusively on historical events without attempting to understand them within the context of his theology. In other words, the sources are read as purely historical documents with no account taken of their theological content.¹⁶ This lacuna was to some extent filled with the appearance of the monograph by Joachim Rogge.¹⁷ He builds on the work of Kawerau but goes further. His aim is to develop a picture of Agricola as we know him from his own writings rather than what Luther says about him. Hence, Rogge is the first one to work carefully with the Agricola-corpus in an attempt to come to some understanding of his own theological position but at the same time to see it against the background of Luther's theology, for the latter, it is assumed, forms the origin of Agricola's theology and so the criterion by which it is to be assessed.

The third piece of work on the background of our controversy is the Bonn dissertation by Gustav Hammann.¹⁸ Actually, Hammann had originally intended to deal with the antinomian controversy 1537-1540 as well as the discussion about the law after 1548. Then after looking at the sources he realized he needed to confine his research to just the first (he calls it the second) antinomian controversy of 1537-1540. But when he discovered how little had been done on the background to this controversy, he reduced the scope of his topic even further so

¹⁶Ibid, 185, Kawerau suggests that the three main problems that the "antinomian" dispute revolves about are: 1) the nature of repentance; 2) its place in the *Heilsproceß*; and 3) the manner in which it should be preached.

¹⁷Joachim Rogge, *Johann Agricolas Lutherverständnis: Unter besonderer Berücksichtigung des Antinomismus*.

¹⁸Gustav Hammann, *Nomismus und Antinomismus innerhalb der Wittenberger Theologie von 1524-1530*, Bonn diss., 1952 (unpublished).

that now it focuses only on the period 1524-1530 and analyzes the two important wings of Wittenberg theology that develop during that time: nomism as represented by Melanchthon, and antinomianism as represented by Agricola. The work is both historical and theological and makes a significant contribution to the topic of the Reformation and orthodoxy. Hammann points out in the foreword that his aim is not to investigate Agricola's theology as a whole but only those aspects that touch on the antinomian controversy.¹⁹ First, he wants to consider his theology within the context of Reformation theology, and secondly, to discover how he came to diverge from Luther's theology and develop his own antinomian brand of Reformation theology. In a word, Hammann attempts to show how in the course of the preliminary antinomian dispute (which, as we will see in the next chapter, culminates in 1527) Agricola moved from a position of *consensus* with his teacher to one of *dissensus*.²⁰ He does this by first establishing Agricola's theological approach (and especially his understanding of the law) on the basis of a careful analysis of his *Lukaskommentar* (probably the best source for his theology). He then looks at his position vis-à-vis Melanchthon in the controversy of 1527 and contrasts both of their positions with that of Luther.²¹

¹⁹Ibid., IX.

²⁰We note in passing that there are two schools of thought when it comes to explaining the Reformation as an historical phenomenon. One (and this seems to be the majority position) sees the **unity** of the Reformation movement as a consensus in a series of different points; the other views it as the **differences** in this apparently unified movement.

²¹Although not relevant for our purposes, Hammann also examines the *Confessio Augustana* in the crucial areas of repentance, works, and faith and good works, and finds the same nomistic emphases coming out there and he found in Melanchthon's *Articles of Visitation*, which he prepared for the Saxon Church visitation.

Hammann argues that it was Melanchthon's nomism that first triggered Agricola's antinomianism and that both had to be corrected by Luther in different ways for pulling apart law and gospel. This research certainly represents the most comprehensive work to date on the relationship between Luther, Melanchthon, and Agricola, all of whom played a role in the antinomian controversy of 1527.²² Whether it is a completely accurate portrayal of the three positions or a little too schematic will have to be left to later historical research to determine.

The most recent work on Agricola (specifically the young Agricola) and his relation to Luther has been done by the Danish scholar Steffen Kjeldgaard-Pedersen.²³ This treatment of the relation between Luther and Agricola differs from that of Kawerau, Rogge and Hammann, all of whom the author describes as representative of the developmental approach to the problem of explaining the differences between Luther and Agricola,²⁴ because instead of trying to find the differences between the antagonists in their separate development away from an

²²Also important, but on a much smaller scale, is the work by Ernst Koch, "Johann Agricola neben Luther: Schülerschaft und theologische Eigenart," in *Lutheriana. Zum 500. Geburtstag Martin Luthers von den Mitarbeitern der Weimarer Ausgabe*, ed. Gerhard Hammer and Karl-Heinz zur Mühlen. Cologne and Vienna: Böhlau Verlag, 1984.

²³Steffen Kjeldgaard-Pedersen, *Gesetz, Evangelium und Busse: Theologiegeschichtliche Studien zum Verhältnis zwischen dem jungen Johann Agricola (Eisleben) und Martin Luther*.

²⁴Another important work, exclusively on Agricola (hence the reason for our referring to it only in the footnotes), which fits into this same category, comes from Susi Hausammann: *Busse als Umkehr und Erneuerung von Mensch und Gesellschaft: eine theologiegeschichtliche Studie zu einer Theologie der Busse* (Zurich: Theologischer Verlag 1974). Of all the works on Agricola, this one presents him in the most sympathetic light.

earlier consensus, or more typically, in Agricola's shift away from Luther's Reformation position, Kjeldgaard-Pedersen tries to show that a theological divergence exists between Luther and Agricola from the very beginning, and that this is not to be sought in their theological opinions but quite simply in the way in which they do theology, that is, read and hear scripture.²⁵ But why then did the confrontation between them come so late? Here Kjeldgaard-Pedersen distinguishes between *Sache* and consciousness: the differences were there all along, he contends, but the parties to the dispute only became aware of them some time later. He is just as critical of attempts to offer an explanation for Agricola's deviation from Luther's Reformation position as he is of attempts to rehabilitate Agricola (which is one of the aims of Rogge) by interpreting his "un-Lutheran" ideas in the most favorable light. He opposes the genetic approach to the understanding of Agricola's development on the grounds that it uses statements taken out of context to prove things external to the text. In contrast, his primary interest is in listening to the text itself.²⁶

Kjeldgaard-Pedersen's book falls into three parts. The first investigates Agricola's work up to 1526. The second part deals with a systematic investigation of the relations between Luther and Agricola. The Luther sources used as the basis of comparison are those dealing with biblical texts and ideas which Luther first wrote on during Agricola's first Wittenberg period and which

²⁵Kjeldgaard-Pedersen, *Gesetz, Evangelium und Busse*, 31.

²⁶*Ibid.*, 32, n. 17. He points out that Agricola, like Luther, did not leave behind any closed theological system, but a series of exegetical works and various writings in answer to concrete problems. Hence, in view of the nature of the sources, we cannot ask exclusively about what is said and meant but must also ask how it works theologically. Both questions must be asked (34).

have assumed an important place in Agricola's own theology.²⁷ The author wants to compare Agricola and Luther to bring out characteristic differences that will shed light on the later controversy. He does not work with the assumption that Agricola took over Luther's teaching of law and gospel and later distorted it, but rather posits that the two theologians have a fundamentally different *Ausgangspunkt*. Hence, the decisive thing for Kjeldgaard-Pedersen--and this finally is why the question of which Luther-texts are used in the comparison is not of such great moment--is not concerned with this or that detail of Luther's influence but the way that Agricola uses Luther.²⁸ In the third part of the book the author shows how, in his opinion, his findings can contribute to current issues in scholarly debate, particularly the question of what constitutes Luther's genuine Reformation thinking. It is in this spirit that Kjeldgaard-Pedersen enters into lively discussion with three authors whose works represent a position that he himself fiercely disavows, namely, that Luther's *Durchbruch* marks the beginning of his Reformation theology proper and that his later, mature theology stands in marked contrast to his earlier Augustinian theology. This position, first articulated by Ernst Bizer and supported by others with minor variations, that Kjeldgaard-Pedersen critically examines and rejects in the final part of his book. In spite of the criticism that we will inevitably have to raise against his findings, it

²⁷Priority is given to those Luther-texts which Agricola probably knew or at least had the possibility of knowing when he addressed problems on which his teacher had already commented or on which he had an opinion.

²⁸*Ibid.*, 213-14. For this reason Kjeldgaard-Pedersen has no intention of undertaking a detailed comparison of the respective "theologies" of Agricola and Luther.

must be said that the great merit of his work is the careful textual analysis that he provides and his great attention to detail.²⁹

Apart from those books which may touch on antinomianism or deal with some of the questions connected with it,³⁰ there are really only four works which deal with the our topic or at least with aspects of it. We begin with the two shortest. The article written by Heinz Eisenhuth is a brief survey of the history of the antinomian controversy, the teaching of Agricola, and Luther's position on the basis of the disputations.³¹ This essay is the most fruitful for our own work. The author approaches the topic by posing two theses which, in his opinion, sum up Luther's stance in the discussions, and which he then subdivides into several sections to show how each thesis is worked out.

²⁹We agree with his complaint that modern *Lutherforschung* tends to be in too much of a hurry to proceed from one controversial issue to the next without taking the time to enter into discussion on the basis of a detailed analysis of the texts. This method, in our opinion, is the only way to proceed without leaving oneself open to the charge of pure arbitrariness. Of course, already the very selection of texts, let alone one's own interpretative approach and presuppositions leaves plenty of scope for subjectivity!

³⁰The following are the most important: Albrecht Peters, *Gesetz und Evangelium*, vol. 2 of *Handbuch Systematischer Theologie*, ed. Carl Heinz Ratschow (Gütersloh: Gütersloher Verlagshaus Mohn, 1981); Wilfried Joest, *Gesetz und Freiheit: Das Problem des tertius usus legis bei Luther und die neutestamentliche Parainese*, 4th ed. (Göttingen: Vandenhoeck & Ruprecht, 1968); Lauri Haikola, *Usus Legis*, (Upsala: n.p., 1958; reprinted Helsinki, 1981); Hans Joachim Iwand, *Glaubensgerechtigkeit: Lutherstudien*, ed. Gerhard Sauter, 2d ed. (Munich: Chr. Kaiser Verlag, 1991); Gerhard Ebeling, "Zur Lehre vom triplex usus legis in der reformatorischen Theologie," in *Wort und Glaube*. 3d ed. (Tübingen: J. C. B. Mohr (Paul Siebeck), 1960); and James Nestingen, "Luther: The Death and Resurrection of Moses," in *Dialog* 22 (1983): 275-279.

³¹Heinz Erich Eisenhuth, "Luther und der Antinomismus," in *In Disciplina Domini: In der Schule des Herrn, Thüringer kirchliche Studien*, vol. 1 (Berlin: Evangelische Verlagsanstalt, 1963), 18-44.

The first thesis: *lex non est docenda*, is treated under the following heads: a) Nature and effect of the law, where Eisenhuth looks at the *lex naturae* and the Decalogue under the theme: *lex est ostensio peccati*; b) Law and Gospel, where he shows that, in spite of their exclusivity, they are indissoluble connected with each other. The law must be interpreted in the light of the gospel. Thus he argues that *paedagogus in Christum* is the proper definition of the law.³²

The second thesis: *peccatum omnino mortuum est* is treated under the following heads: a) Christ and the law, where he shows that for faith the demanding and accusing law has been abolished. The law is now newly grounded in Christ. b) The law, repentance and justification. Here he tries to show that in repentance the word of the judging and gracious God is affirmed. Faith and repentance cannot be separated. As Luther says, we are now justified *imputative* but not yet *formaliter*. Hence, the Christian encounters the law both as *lex impleta* and as *lex implenda*. It is in this section that Eisenhuth argues against the idea of a *tertius usus legis* and instead follows Joest and Althaus. c) Law, Holy Spirit, and church. Here he stresses that the Holy Spirit works through the law, *contra antinomios*, but not as gift. Luther differs with the antinomians also on the matter of ecclesiology: The *ecclesia* is indeed already *sancta*, but it is that only *per synecdochen*. He rejects the false eschatology of the antinomians which sees the church already now pure and holy. Invoking the idea of the twofold righteousness, Luther says every Christian can be seen in a twofold way: *in praedicatione relationis* (= justification is *imputative*), and *in praedicatione qualitatis* (the *reliquiae peccatorum* must be combated *expurgative*).³³

³²Ibid., 9-13.

The foregoing ideas, which represent a brief summary of Luther's position as drawn up by Eisenhuth, will be explained and discussed in chapters 3 and 4. In the final section he reflects on the significance of the rejection of antinomianism for the church. He says that Luther advances nothing essentially new in the disputations in comparison with his earlier teaching, only he presents it in a tighter form. However, this statement will need to be nuanced more carefully in the light of our discussion of the relation between early and later Luther. All in all, this essay, while not yielding any groundbreaking insights, is a good summary of some of the main arguments presented by Luther in the three disputations within their historical context.

The second essay to address our topic, and probably even more important than the foregoing because of its critical approach, is that by Rudolf Hermann.³⁴ He stresses that Luther does not talk so much about the cancellation or abrogation of the law as of its having been overcome by Christ. Hence, even though the law continues for Christians, insofar as they are still sinners, they can nonetheless exult over its conquest because through faith in Christ it can no longer harm or condemn them. Hermann wants to underscore the fact that the position Luther takes vis-à-vis the antinomians never leads him to the point where Christ as the bringer of salvation becomes superfluous. Christians can never get beyond Christ because he is always the *evangelizator pauperum et miserorum*,³⁵ for the abiding validity of the law continues to remind them that they

³³Ibid., 13-21.

³⁴Rudolf Hermann, *Zum Streit um die Überwindung des Gesetzes: Erörterungen zu Luthers Antinomerthesen* (Weimar: Hermann Böhlhaus Nachfolger, 1958).

³⁵WA 39 I, 538, 11-12 (3 AD, Arg. 18).

are sinners. Hermann argues that Luther understands the law in basically functional terms; that is, the law is described more in terms of what it does than what it is; the law is not so much a statute as a principle. Thus, as Luther says, the law is anything that discharges the duties of the law. That which is constitutive of the law is not really a court and a signature (this he does not explain), but its function, namely, the *verberare animum* and *premere cor*, thus the pressure on the conscience.³⁶

Hermann also examines Luther's rejection of the antinomian argument that repentance is based not on the *violatio legis* but on the *violatio filii*. Where the gospel has also to take over the office of the law it will inevitably mean that the gospel is deprived of providing certain comfort to those tortured by the grave *Anfechtungen* caused by the devil. The antinomians, on the other hand, could claim that Luther himself makes a law out of the gospel, inasmuch as he too can find the law in the *beneficia Christi* (considered as a motive of repentance).³⁷

Hermann raises an important point when he observes that decisive for Luther's understanding of repentance is the matter of transition [*Übertragungsproblem*]: the concern that at the right time (which is reserved to the Holy Spirit) the penitent conscience embraces faith and does not let itself be detained or interrogated by the law.³⁸ Particularly important are his reflections

³⁶Ibid, 19-20; cf. WA 39 I, 536, 14. There is some similarity here between Hermann's emphasis and that of Th. Harnack, *Luthers Theologie mit besonderer Beziehung auf seine Versöhnungs- und Erlösungslehre* (Munich: Ch. Kaiser Verlag, 1926; original, 1862).

³⁷Hermann, *Zum Streit um die Überwindung des Gesetzes*, 22-25.

³⁸Ibid., 28.

on the problem of the fulfillment of the law through Christ, especially on how Luther uses the terms *primum* and *insuper* (or *deinde*). If the first is equated with the forgiveness of sins (justification), then what Luther describes as happening next through the work of the Holy Spirit in sanctification seems to go beyond the forgiveness of sins. But is not the Spirit already fully given with the forgiveness of sins? This problem will be taken up again later.

Without a doubt the monograph by Martin Schloemann, although it concentrates more narrowly on just one problem: the unity of the law in Luther, and in the antinomian disputations in particular, is an outstanding piece of scholarship and has proved very helpful in arriving at a clearer understanding of the relation between the natural law and the preached law.³⁹ He contends that these two laws are one, both in terms of what they demand (content) and what they do (office). In fact he argues that Luther understands all laws, whether natural, divine, or human, as fundamentally one, because of their common demand, and sets them all in antithesis to the gospel. Hence, Luther in this mature writings never distinguishes between laws in such a way as to make the gospel the highest form of the law (*nova lex* or *lex spiritualis*), as he did in his earlier years under Augustinian influence, but rather he holds to the unity of the law and sees it in contradistinction to the gospel.⁴⁰ Furthermore, he holds that

³⁹Martin Schloemann, *Natürliches und Gepredigtes Gesetz bei Luther: eine Studie zur Frage nach der Einheit der Gesetzesauffassung Luthers mit besonderer Berücksichtigung seiner Auseinandersetzung mit den Antinomern*.

⁴⁰Schloemann in the course of his work engages in debate with two scholars, both of whom he criticizes because they represent a type of *Lutherdeutung* which fails to distinguish between law and gospel: J. Heckel. *Lex charitatis: eine juristische Untersuchung über das Recht in der Theologie Martin Luthers* (Munich: Verlag der Bayrischen Akademie der Wissenschaften, 1953); A. Siirala,

for Luther the theological and spiritual office of the law, namely, to punish and to drive to despair (the *Strafamt* and *Zornesamt*) is fundamentally given with every law, even if it is not preached. Moreover, the preached law does not demand anything "higher" than that already demanded by the law of nature, but it clarifies and sharpens that demand and shows that its author is God. The preaching of the law refers back to, and reminds us of, the natural experience of the law, which is always present. In this the Christian preacher is just following Moses, who was simply an interpreter and illustrator of the law written on the hearts of all people.⁴¹ Finally, Schloemann argues that one of the most effective ways that Luther countered antinomianism was through a renewed presentation of the condemning universality of the law and the fact that this is inextricably rooted by nature in the earthly existence of human beings.⁴²

The final work to be considered is an unpublished dissertation written by Gerd Rosenberger.⁴³ Since this covers the same subject area as our own research

Gottes Gebot bei Martin Luther (Helsinki: n.p., 1956). Both works attribute to Luther a supralapsarian approach to the conception of the law. The difference between them lies in the fact that Heckel, being oriented to Barth, operates more "christocentrically" (pp. 20, 51, 173), while Siirala, being oriented to Lundenian theology, operates more "theocentrically" (pp. 46ff., 53ff., 186-7). By beginning with a single will and word of God, understood as *lex spiritualis*, *göttliches Naturgesetz*, *ewiges Gesetz*, *Gottes Gebot* etc, they break up Luther's conception of the law from within. This problematical approach, first noted by F. Lau, *Leges charitatis: drei Fragen an Johannes Heckel in Kerygma und Dogma* 2 (1956): 76ff, has found its way into the Luther-literature which is theologically dependent on them. It is clear from the sources used that such an approach works almost exclusively with the writings of the early Luther, before he understood justification and learned to distinguish between law and gospel. For a critique of Heckel and Siirala (Siirala basically follows Heckel), see Schloemann, 10-22, and 51, n. 235.

⁴¹Schloemann, *Natürliches und Gepredigtes Gesetz bei Luther*, 104-105.

⁴²Ibid., 131.

it warrants a more detailed description. The chief difference between this work and our own lies not only in the conclusions (at least in regard to the use of the law in the Christian life) but also in the approach. Rosenberger's work is thematic and basically nonhistorical. It treats the disputations as dogmatic assertions instead of as a response to a set of arguments which itself is part of Luther's continuing debate with the antinomians within his own camp. Since we do not have the full dialog (the antinomian arguments or syllogisms normally encapsulate the position Luther is opposing, or which he shows must at least be qualified), the missing data has to be inferred or presupposed.⁴⁴ Because Rosenberger does not analyze any of the arguments as whole units but simply uses them to construct an outline of Luther's position on key *topoi*, he takes no account of how Luther argues his case against the *positiones* of his antinomian opponents.⁴⁵

⁴³Gerd Rosenberger, *Gesetz und Evangelium in Luthers Antinomerdisputationen* (Mainz Diss., 1958).

⁴⁴The most reliable sources to assist in reconstructing the theology of the antinomians are first of all their own *positiones antinomicae*, and secondly Agricola's own writings. These will be investigated in ch. 2.

⁴⁵We note in passing that this purely systematic, nonhistorical approach to the sources is one of the major weaknesses of another dissertation mentioned above: Axel Schmidt, *Die Christologie in Martin Luthers späten Disputationen*. This work covers all of Luther's later disputations (from 1533 onwards) and not just the antinomians disputations. It may be possible to treat the other disputations in a purely thematic way because they do not presuppose the complex historical background that we find associated with the antinomian disputations. Although the focus of Schmidt's research is christology (specifically, his task is to determine whether Luther stands in the christological tradition of the early church), as part of his background work he refers to the key Luther-texts in areas germane to our work such as the nature of the law, Christ and the law, the law-gospel dialectic, contrition and repentance, faith and love, and the twofold justification in connection with the *simul iustus et peccator* thesis. However, even here the treatment is disappointing, especially from a Lutheran point of view. His main interest lies in discussing subjects that have traditionally been a source of dispute between

His work falls into three main sections: A. The unfulfilled law; B. The fulfilled law; C. Law and gospel. These sections are then subdivided. Under A. he treats the universality of the law and the use of the law; under B. Christ as the end of the law, the abiding *Amt* of the law, and the freedom of the believer from the law in the writings of early Luther. The final section has no subdivision but attempts to show that the *tertius usus legis* is grounded in the relationship of law and gospel. He works extensively with Wilfried Joest but we cannot always agree with his criticism. He maintains, on the basis of a survey of key writings from Luther's earlier period (from 1520 onwards) that, in contrast to the antinomian disputations, Luther knows of no use of the law there that norms the Christian life or the battle of believers against sin. Even though at this point the antinomian disputations are unique, Rosenberger does not see any contradiction here with Luther's earlier statements. Rather, he argues that already in the young Luther law and gospel are grounded in the will of God, even if the line of the *tertius usus legis* is only drawn out much later. Hence, he claims that the third use can be inserted quite naturally into Luther's theology of the law, without contradicting his basic thesis that law and gospel are fundamentally antithetical. However, he does not see it grounded in the law per se as the perfect divine rule for a God-pleasing life, but rather in the fact that the believer, understood exclusively as *totus iustus-totus peccator*, still needs a norm to live as God intended [*noch einer Richtschnur bedarf, um in der gewollten Ordnung des Schöpfers zu leben*].⁴⁶ This matter will need to be taken up in chapter 4 and discussed again in the light

Lutherans and Catholics. See also Rudolf Keller's review in *Luther: Zeitschrift der Luthergesellschaft* 66/1 (1995): 47-48, which, while it tries to be as charitable as possible, also criticizes him for ignoring the historical background entirely.

⁴⁶Gerd Rosenberger, *Gesetz und Evangelium*, 104.

of our own analysis of the disputations. It is sufficient at this point to say that Rosenberger takes over many of Joest's insights but does not follow him in his attempt to reinterpret the *tertius usus legis* of later Lutheranism along evangelical lines by replacing it with the *usus practicus evangelii*.

Method of Approach

Now that we have discussed the sources and state of research we may proceed to outline the problems connected with our area of research and to state clearly what we ourselves will attempt to show. We turn first to the historical problem. As will become clear from Chapter 2, where we discuss the historical background of the antinomian controversy, it is impossible to separate history and theology. Consequently, the next chapter provides the theological background to the early antinomian controversy culminating in 1527 with the altercation between Agricola and Melancthon over the use of the law in connection with the visitation of the churches. Luther attempts to forge a settlement but it does not last. During the major controversy of 1537-38, which is our area of concentration, the key themes of a decade earlier are repeated with ever new variations. Moreover, our picture of antinomianism will be considerably clearer after our analysis of the document which the antinomians themselves circulated, the *positiones antinomicae*, setting out their theology in thetic form. This will be supplemented by an overview of Agricola's understanding of the law based on one of his key documents.⁴⁷ The main body of our research comes then in

⁴⁷Our main concern is with *Lutherforschung* and not *Agricolaforschung*; our interest in Agricola research is not for its own sake but only insofar as it sheds light on the antinomian controversy and allows us better to understand the thinking of Luther. See Kjeldgaard-Pedersen, *Gesetz, Evangelium und Busse*, 25-33 for a discussion of *Agricolaforschung*. In taking the approach we do, we realize

chapter 3 with the translation and discussion of the three disputations (preceded in each case by a translation and analysis of the respective *Thesenreihe*). This is followed in chapter 4 by an attempt to pull together the chief insights to emerge from our analysis in chapter 3 and to focus this research on those issues which we will specify below as constituting the goal of our work. The conclusions will be set out in the last chapter.

Since we are the first to undertake a systematic analysis of all the *argumenta* and *responsiones* contained in each of the three disputations (at least in recension or *Relation A*) in an attempt to examine Luther's way of doing theology with the view to better understanding his answer to the antinomians, there is no one single piece of work which we can engage in ongoing discussion. Where isolated arguments have been discussed in the literature mentioned above they will be referenced.

Because there is considerable repetition of ideas we cannot discuss each relevant topic in full every time it emerges in an *argumentum* or *responsio*. The discussions reflect a natural unfolding of Luther's own position, often being briefer at the beginning and fuller towards the end, so that the discussion of topics in the second and third disputations will be more complete than in the first. On the other hand, the first disputation is more replete with cross-references than the second and third because once a major theme has been cross-referenced, it will not be repeated every time it recurs. The value of the cross-references, especially within the antinomian disputations themselves, but also to the other later disputations (and some times even beyond that) is that they

that we are numbered among those whom he criticizes for a one-sided approach to Agricola research which is narrowly interested in Agricola's theology of the law and where it deviates from that of Luther.

establish the continuity of a line of thought (in some case the opposite) as well as the coherence and consistency of Luther's thinking. Where Luther's position can be supported by parallel references it lends weight to his argument and makes it difficult to sustain the charge that it is purely arbitrary, inconsistent or without precedent. Therefore, in the light of what we have said, there is a certain unevenness to the discussion in chapter 3: in some places it is short, while in others it is quite lengthy. There is also an unfolding of the argumentation. Luther's position vis-à-vis antinomianism cannot be properly appreciated until the final arguments have been heard. Furthermore, we have at places provided summaries of Luther's exposition of key ideas. Sometimes these precede a discussion of a new occurrence of that topic in order for us better to appreciate any new accent or development of thought. At other times summaries may come at the end of our discussion of an argument in order to sum up the main points that have been made. In a work of this nature involving such a huge volume of arguments and data it is necessary now and then to take stock and provide periodic summaries.

Although, as we said above, the interaction with secondary literature is at times minimal in chapter 3, in chapter 4 we will enter into a fuller discussion with the literature in the areas that we single out for special attention. While clearly our chief concern is with the antinomians disputations, we will permit ourselves the liberty now and then to enter into a more general discussion of a topic within our area of concentration. However, conclusions will only be drawn on the basis of the data that we have analyzed, discussed and demonstrated. Whether or not our conclusions can be corroborated by parallel references in the wider Luther

corpus, while certainly always interesting, is finally of no importance for our project.

Theses and Areas of Concentration

Our major task is to analyze the data of the disputations and to try to gain a picture of how Luther responds to the threat posed by a rampant antinomianism within sections of the evangelical churches. The nature of the disputation is such that he is often forced to take arguments proposed by the opponents, as his starting point, rather than those of his own, which may at times hinder him from being as clear as he is when he is writing and lecturing.

In addition to our translation, analysis, and discussion of the three antinomian disputations, we wish to focus our attention on several key areas which should assist us in clarifying Luther's position and method of argumentation vis-à-vis the antinomians. To this end we wish to put forward the following theses, not so much to defend in a formal sense, but to help guide and focus our discussion.

1) Luther does not simply react to Agricola's antinomianism by over-emphasizing the law (which would only lead to a nomian or "pronomian" error in the opposite direction), but rather shows the impossibility of driving a wedge between Christ and the law, for he claims that if the law is rejected Christ cannot be retained as the savior of sinners. In other words, Luther contends against the antinomians, not finally for the sake of the law but for the sake of Christ and the gospel.

2) While antinomianism at its most basic level calls for the abolition of the law (Decalogue) from the churches on the assumption that it has already been fulfilled and abolished by Christ, it is also marked by other characteristic

doctrinal distortions. Its chief error is rooted in its failure to understand the scriptural doctrine of sin, which manifests itself in a one-sided anthropology (the loss of the *simul* in the *simul iustus et peccator*) as well as a defective eschatology (the loss of the "not yet"). The result is a false perfectionism where Christians are already regarded as altogether *sancti* (and the *ecclesia* as *sancta*) not just *imputative* but even *formaliter*.

3) The antinomian heresy rejects the law only to turn the gospel into a new law (*nova lex*). This is clearly evident in Agricola's doctrine of repentance based as it is on the gospel rather than the law, or, to use his language, on the *violatio filii* rather than on the *violatio legis*. Luther, on the other hand, holds that whatever exposes sin and preaches wrath is law, even if the words are those of the gospel.

4) It is thoroughly consistent with the above when Agricola defends early Luther against late Luther, thus showing himself to be the heir of Augustine, for whom the gospel was the evangelical law (*lex spiritualis*).

5) To read the later *tertius usus legis* back into the Luther of the antinomian disputations (or to claim that it is implicit in these texts) contradicts Luther's basic understanding of the *duplex usus legis*. A third use of the law for Christians *qua* saints fails to do justice to Luther's understanding of the *usus legis* in the Christian life because a) he consistently holds that Christians need the law only insofar as they are still sinners [*in quantum peccati*]; and b) it stems from a failure to distinguish between law and gospel after justification. Furthermore, Luther's evangelical use of apostolic parenesis is predicated on the fact that faith receives the law as gift. Therefore, faith's use of the law, or the evangelical use of the law, would be a better way of expressing this, terminologically, than *tertius usus legis*.

CHAPTER TWO
THE BACKGROUND OF THE FIRST
ANTINOMIAN CONTROVERSY

Three major antinomian controversies took place in Wittenberg in the sixteenth century, one during Luther's lifetime and two after his death.¹ The first controversy, which is the subject of our study, had its beginnings in 1527 in an argument between Johann Agricola and Philipp Melanchthon. The occasion for this was the visitation of the churches in electoral Saxony and the major issue was the role of the law in repentance. The main phase of the first controversy however was the dispute between Agricola and Luther between 1537 and 1540. The issue was basically the same. The second and third antinomian controversy, which broke out after Luther's death, were between the Philippists and the Gnesio-Lutherans.² The issue at stake this time was the question of the third use

¹Some scholars number them differently and as a result end up speaking of three antinomians controversies. Thus, Gustav Hammann, *Nomismus und Antinomismus innerhalb der Wittenberger Theologie von 1524-1530* (Dissertation Bonn, 1952), VIII (Vorwort), instead of taking the dispute of 1527 as the initial phase [*Vorspiel*] of the first controversy that broke out a decade later, regards the early dispute as the First Antinomian Controversy and the following one as the Second (or Great) Antinomian Controversy. According to this reckoning, the controversy that flared up again after Luther death would have to be the third. We will follow the more common nomenclature because the issues at the center of the controversy in 1537 are basically the same as those discussed a decade earlier.

²Some further comments will be made about this controversy at the end

of the law. The matter was finally settled by the Formula of Concord.³

This chapter, in which we will occupy ourselves with the background to the antinomian controversy of 1537-40, is divided into two parts, one dealing with history, the other with theology. Although these have been divided, they are of course inseparable as the presentation itself will show. Even when we are tracing the historical development of the controversy we will be discussing theology. We begin with a study of the historical background, focusing especially on the preliminary dispute between Agricola and Melanchthon in the second half of the 1520s, and then the unfolding of the controversy proper between Luther and Agricola a decade later. Although this controversy spans the years 1537-40, our research will concentrate on the years 1537-38 because it is during these two years that the three famous disputations, which are the subject of the next chapter, took place. Although there was one final opportunity in 1540 which Luther seized on to refute the antinomian error, namely, the licentiate examination of Johannes Mörlin, which has traditionally been numbered among the antinomian disputations, this time Luther himself only played a comparatively minor role and the arguments were not really new. Since that disputation is not analyzed in the next chapter, the circumstances surrounding it will not be discussed in detail. For the sake of completeness however we will at least outline the history of the controversy up till 1540.

of this section.

³FC SD VI, *Vom dritten Brauch des Gesetzes Gottes* (BSLK, 962-69). The preceding article, V, *Vom Gesetz und Evangelium*, picks up the main points of the earlier controversy between Luther and Agricola (BSLK, 951-61). While each of the controversies has its distinctive emphasis, these are not mutually exclusive so that it should not surprize us to discover (as we will see in our analysis of the disputations) that Luther makes many remarks that have a bearing on the problem of the *tertius usus legis*. This matter will also be taken up again in ch. 4.

The second part of this chapter will concentrate on the theology of the antinomians and of Agricola, their chief leader. This will take us into an analysis of the *positiones antinomicae*, the "official" doctrinal statement of the antinomians, which Luther published together with his own counter-theses. This will be supplemented by material from Agricola's own writings in order to build up as comprehensive a picture of antinomian theology as possible.

The Rise of Antinomianism in Wittenberg

We begin with a brief sketch of the early life of John Agricola,⁴ the key figure in the First Antinomian controversy, and his relationship with Luther.⁵ He

⁴Agricola is a Latinization of Schneider and Schnitter (WA TR 4, 270, 21-24). He was also called Eisleben or (Eis-)Islebius, after his place of birth, to distinguish him from others of the same name. Hence, Luther nicknamed him "Grickel."

⁵The standard work on the relationship between Luther and Agricola is Joachim Rogge, *Johann Agricolas Lutherverständnis unter besonderer Berücksichtigung des Antinomismus* (Berlin: Evangelische Verlagsanstalt, 1960). Although our work concentrates on the period 1537-38, yet the early history of the relationship between these two men and their theological divergence is very important for the light it sheds on the antinomian controversy that erupts in the second half of the 1530s. Rogge's work is not intended as a biography, but it is probably the best detailed treatment of the relationship between Agricola and Luther, although his too eager attempt to rehabilitate Agricola sometimes prevents us from agreeing with his interpretation. However, the basic biographical work still remains Gustav Kawerau's *Johann Agricola von Eisleben* (Berlin: Verlag von Wilhelm Hertz, 1881), even though it needs correction in places in the light of more recent scholarship.

Two more specialized works deserve special mention: the Bonn dissertation by Gustav Hammann (mentioned above) and the monograph by Steffen Kjeldgaard-Pedersen, *Gesetz, Evangelium und Busse: Theologiegeschichtliche Studien zum Verhältnis zwischen dem jungen Johann Agricola (Eisleben) und Martin Luther* (Leiden: E. J. Brill, 1983). On a smaller scale but no less incisive is the essay by Ernst Koch of Leipzig, written in commemoration of the five hundredth anniversary of the birthday of Martin Luther: Ernst Koch, "Johann Agricola neben

was born (most probably in 1494) in Eisleben. We do not have much information about his childhood and youth. He entered the university in Leipzig in 1509/10 but did not finish his doctorate. Instead, he took up school teaching (probably in Brunswick). Hence, he did not become a theologian right away. His early relationship with Luther was close and cordial. Both were troubled in their younger years with the fear and anxiety born of a troubled conscience--Agricola also experienced a "Turmerlebnis" like Luther⁶--and both knew first hand the freedom and comfort brought by the gospel. It is difficult to date the beginning of Luther's theological influence on Agricola. It is usually thought that Agricola first met Luther in Wittenberg on 6 January 1516 after being profoundly moved by his Epiphany Day sermon, but that is no longer certain.⁷ Luther made such a deep impression on Agricola that he always continued to look upon him as his spiritual father, even during the years of controversy.⁸ Agricola was decisively shaped by Luther over the next five years and developed a very close friendship

Luther: Schülerschaft und theologische Eigenart," in *Lutheriana: Archiv zur Weimarer Ausgabe der Werke Martin Luthers*, vol. 5, ed. Gerhard Hammer and Karl-Heinz zur Mühlen (Cologne and Vienna: Böhlau Verlag, 1984), 131-50. These are the key secondary sources that will guide our discussion in this section. The standard reference works (e. g. TRE, RE, RGG) do not contain anything new, in fact often the author of the article "Agricola" or "antinomianism" will often be a person who has one of the above books.

⁶Koch, *Johann Agricola*, 150.

⁷The basis for this was Agricola's remark: "*ex eo tempore factum est, ut me ad omnia sua officia perpetuo accerseret Lutherus*" (E. Thiele, *Denkwürdigkeiten aus dem Leben des Johann Agricola von Eisleben, von ihm selbst aufgezeichnet*, in ThStKr 80 [1907]: 253 n. 2).

⁸See C. E. Förstemann, *Neues Urkundenbuch zur Geschichte der evangelischen Kirchen-Reformation* (Hamburg: n.p., 1842), 319 b: "*Es ist Luther, den ich alweg alss meyn vater an Gottes stadt gehalten habe, durch welchen ich auch ein Christe vnd Gottes kind worden bin.*"

with him.⁹ He helped Luther post the Ninety-Five Theses to the door of the Castle Church in Wittenberg, he served as secretary at the Leipzig Disputation, edited Luther's sermons on the Lord's Prayer,¹⁰ in 1519 became *magister in bibliis*, in 1521 set himself up publicly as Luther's defender, and in 1523 became ἀνάγνωστος in the divine service.¹¹ Although it was with Luther in particular that he was to develop such close ties (which included their families also), he and Melanchthon were also very close friends,¹² and undoubtedly he was influenced

⁹The question of the young Luther's theological influence on the young Agricola is a topic for itself. See Koch, *Johann Agricola*, 133-40, 146; he shows that three periods in Luther's early life are decisive for Agricola: The *Römerbriefvorlesung* (1515/16), the *Auslegung der sieben Bußpsalmen* (1517), and the *Operationes in psalmos* (1519/21). Luther's Romans lectures were probably the first occasion Agricola had to hear the young doctor lecture. Here he would have heard him developing his *humilitas* theology and the idea that God's actions are always *sub contraria specie* (cf. Rom. 5: 7, 193, 1-18; 56, 375, 14-378, 17). According to his comments on Rom. 8: 7 and 8: 15, true repentance does not arise out of fear but out of love: "*Non enim timendo, Sed amando fugitur ira Dei et miseria atque horror Iudicii et per conformitatem voluntatis Dei quietatur conscientia*" (WA 56, 365, 16-20). A comparison of Agricola's treatment of the Zacchaeus pericope (Luke 19: 1-10), which had great influence on him, with Luther's exposition shows both lines of continuity and peculiar emphases (Koch, 138-39).

¹⁰See Koch, *Johann Agricola*, 134, n. 21, for the change he makes to Luther's understanding of the passion of Jesus in his edition of Luther's *Vaterunserauslegung* (1519).

¹¹RE I (3d. ed.), 250; ThStKr (1907): 255; ThLZ (1887): 61. We have no date for Melanchthon's statement that Agricola ist a κατηχητής in Wittenberg (ZHT [1872]: 360). Hammann, in note 13 to § 2 shows that Kawerau's statement (*Johann Agricola*, 31) as well as RE I (3d. ed.), 250, that already in 1521 Luther had appointed Agricola to teach biblical studies to the parish youth, can no longer be supported since the publication of Agricola's autobiographical notes by E. Thiele, *Denkwürdigkeiten*, 246-70).

¹²It was Melanchthon who taught him philosophy in the Arts Faculty before both of them went on and studied theology, graduating in the same year

by his early theology.¹³ After a few years of vocational indecision, he followed Luther's advice and in 1523 began teaching exegesis in the theology department of the university where he was highly valued as an interpreter of scripture.¹⁴ What is difficult to account for is why in 1525 he suddenly left his circle of friends in Wittenberg and accepted the offer of appointment (made by the Count of Mansfeld) as director of the newly established Latin school in Eisleben. In addition to his school responsibilities he assumed the duty of preacher, although, like Melanchthon, was never ordained to the holy ministry. His hopes of obtaining a professorship at Wittenberg suffered a set back when in 1526 Melanchthon was appointed to a newly founded chair in the theological faculty. This also seems to have caused a serious rift in their friendship. He would have to wait another ten years before Luther, at the instigation of the elector, summoned him to Wittenberg to take part in a conference on the Smalcald Articles, with a view to securing his appointment to a chair.¹⁵ Meanwhile, during his time in Eisleben he prepared exegetical lectures which then later formed the basis for his commentary on the Gospel of Luke.

Sandwiched between Agricola's first and second Wittenberg periods is the

 (1519). Both of them married the following year and their friendship continued to be very close until Agricola left Wittenberg.

¹³Ernst Koch, *Johann Agricola*, 146. We will discuss this further when we consider Agricola's theology.

¹⁴Thiele, *Denkwürdigkeiten*, 253-55, noted by Hammann, *Nomismus und Antinomismus* § 2 n. 15. Agricola was often later criticized for being ambitious and seeking admiration in his formative years.

¹⁵E. L. Enders, *Dr. Martin Luther's Briefwechsel*, vol. 11 (Calw & Stuttgart: Verlag der Vereinsbuchhandlung, 1907), 143-45 (*Kurfürst Johann Friedrich von Sachsen an Luther und die übrigen Theologen*, 11 December 1536), and 147-48 (*Joh. Agricola an Luther*, 18 December 1536).

dispute between himself and Melanchthon over the law and repentance, which as well as having a second episode ten years later, also has a prelude in a dispute in 1524 over the method of preaching employed by Dominicus Beyer in Tetschen (Bohemia).¹⁶ He stressed that the preaching of the law reveals sins and thus prepares for the preaching of faith. On the other hand, there were some (obviously of an antinomian persuasion), chief among whom was Martin Becker, who objected to this. They claimed that Christ has given command to preach the gospel not the law. This was reported to Luther in a letter by Wolf von Saalhausen with a request for his considered opinion. Luther's answer is very instructive.¹⁷ He says that Christians, real Christians, do not live their life under the law, that is, under external compulsion; just as little however do they live in a gospel which, after it has been separated from the law, is understood now as principally freedom in worldly things, but Christians live rather in faith, that is, in an "extra," unseen by us, of servanthood and freedom. Through the word of God and the presence of Christ, Christians are new people who exercise and preserve their

¹⁶Hammann, *Nomismus und Antinomismus*, 1-9, whose analysis of this controversy we will follow, calls this 1524 dispute a *Vorspiel* because, just as a prelude already contains all the themes of the following work, so too this dispute is a minature of the main controversy three years later (which Hammann calls the First Antinomian Controversy). In each case, two voices are sounded in opposition to each other, to which Luther's voice is then added as a third and independent voice. Retaining the musical metaphor, in our terminology, the First Antinomian Controversy has a prelude (1524) and two movements: in the first (1527) we hear the two principal voices of Agricola and Melanchthon, which are sounded in counterpoint; in the second and main movement the principal voices are Luther and Agricola, and although the same themes reappear, this time they are expanded and arranged in a complex variety of variations.

¹⁷WA 15, 228-29 (Ein Sendbrief des Herrn Wolfen von Saalhausen an D. Martin Luther, 27 June 1524).

faith precisely by serving the neighbor in the orders and laws of this world. But since real Christians can never be separated empirically from sham Christians, but are known only by God, law and gospel must be preached side by side. In that way the wicked are urged to external goodness and uprightness through the preaching of the law (and the worldly sword).

Thus Luther confirms Beyer's preaching about the abiding office of the law in the worldly things. In fact he even goes a step further when he says that basically it is more necessary to preach God's law than the gospel, because there are many wicked people who must be restrained through the compulsion of the law. To some this sounds as if Luther has changed from his earlier evangelical position. But this represents no change of view. Rather, it is simply evidence of the fact that Luther finds it necessary, in view of the special situation confronting him, to emphasize one side of Christian preaching more strongly than he needed to previously.

In answer to the second question put to him, whether the law had first to be satisfied before faith could be given to us, he showed how far removed he was from Beyer. While the latter had demanded the fulfillment of the law at all costs (either by us ourselves, or indirectly, by Christ's substitutionary fulfillment for us, Luther holds that the fulfillment of the law by us is virtually impossible. And while Beyer moreover had said that man has to fulfill the law or at least confess that he has not, Luther makes it much clearer that God uses the law to compel us to confess our sins and to seek his help, so that there is no room for any human achievement prior to faith. Hammann suggests that in this second question Luther stands apart from Beyer when he rules out not only antinomianism but nomism as well. For faith these opposites are not only removed but combined

because the Christian fulfills the law precisely because he stands in the freedom of the gospel. Beyer had said just the opposite: Only that person who fulfills the law or who acquires its fulfillment through the confession of sins and the prayer for forgiveness can come to the gospel, to faith, and become a Christian. Luther, on the other hand, says that the Christian, the new being, also does good works precisely because he already has faith and is already a new being.¹⁸

Clearly this letter did not put an end the dispute for later in the same year (1524) Beyer and Becker, at the suggestion of their patron, traveled to Wittenberg to speak to the acknowledged authorities of evangelical theology in order to have this matter resolved. Their agreement [*Vertrag*] on the doctrine of the law reached by Luther, Melanchthon and Bugenhagen stressed the following: 1) The law is to be preached to show and punish sin; 2) it must be preached so that the godless and uneducated people live disciplined lives for the sake of the common peace; 3) works are not meritorious for grace remains God's free gift. This teaching of the double function of the law agrees with Luther's original views. For as yet we hear nothing of the *tertius usus legis* introduced into theology later by Melanchthon. In fact it says nothing about the place of the law in an *ordo salutis*.¹⁹ There is no mention of the fact that sinners cannot receive God's grace before they have first experienced the terror of the law, but it simply says that the gospel does not give people the comfort of the forgiveness of sin who do not know or

¹⁸WA 7, 61, 35-38 (Von der Freiheit eines Christenmenschen, 1520): *Ita necesse est, primum personam ipsam hominis esse bonam vel malam, antequam faciat bonum vel malum opus, et opera sua non faciunt eum malum aut bonum, sed ipse facit opera sua aut mala aut bona.*

¹⁹Hammann, *Nomismus und Antinomismus*, 7, is right in accusing Kawerau of eisegesis when he says the "*Bedeutung des Gesetzes für Heilsordnung*" is stressed in the *Gutachten* of the Wittenbergers.

acknowledge their sin.²⁰ Nevertheless, there is a difference between Luther's letter and the *Gutachten* of the Wittenbergers which must not be overlooked: 1) The *Gutachen* is more doctrinal in that it separates the locus *de lege* from its context within the rest of theology and treats its in isolation; 2) comfort is put under the gifts of the gospel, whereas Luther in his letter spoke of grace;²¹ 3) above all, the *Gutachten* is silent about the fact that it is God who compels and urges us through the law to acknowledge our sin and seek his grace: Here it is rather the law itself that shows and punishes sin.²²

The merit of the *Saalhausen'sche Vorspiel*, to use the musical metaphor, is that it introduces us to the major themes to be heard in the first of the two movements comprising the First Antinomian Controversy. In Becker we meet the proponent of an evangelical theology that approves a one-sided preaching of grace (completely separated from the law), which already bears a distinctive antinomian stamp. Over against the libertinistic currents that could have spread as a consequence of it, Beyer seeks rather to preach reformation theology in all its fullness. He gives great emphasis to the validity of the law for the worldly order, but at the same time begins to make faith independent of the law and works and thus lapses into a nomism that at first is scarcely noticeable. Luther adopts a position midway between these two men, yet with his strong emphasis on the

²⁰WA 15, 229, 19-20 (Antwort Doctor Martini Luthers, 3 August 1527).

²¹WA 15, 229, 19; 228, 26.

²²WA 15, 229, 15-16. These three points are highlighted by Hammann, *Nomismus und Antinomismus*, 7. He maintains that while these differences may only seem slight, the events of later years would show that the problematical features of Melanchthon's theology had their beginnings in just such statements.

preaching of the law he seems to have come closer to nomism than Beyer.²³ But what Luther says here applies only to the validity of the law in the world. How exactly Luther will speak about the law and faith is not yet fully clear.

It comes as no surprise to learn that the main themes from the *Vorspiel* are repeated in the dispute between Agricola and Melanchthon in 1527 for Agricola's ideas have not changed. His characteristic emphasis, that repentance is not produced by the law but results from preaching of the gospel, put him on a collision course with Melanchthon, who after discovering with Luther during the visitation of the churches that repentance had been abandoned altogether and that Christian liberty had given way to carnal license, came to the conviction that the law had to be preached more emphatically, for the law was necessary for repentance.²⁴ Melanchthon set out his basic theological convictions for the visitors in his *Visitation Articles* (1527),²⁵ which, after minor alterations, were later included

²³Thus Hammann, *Nomismus und Antinomismus*, 8.

²⁴Hammann, *Nomismus und Antinomismus*, 116, concludes that the nomistic stamp of Melanchthon's doctrine of repentance is not simply the result of the appalling conditions of the church and the moral laxity of the people discovered by the visitors. Rather, he holds that the nomism that manifests itself here is constitutive of Melanchthon's theology and as such informs all its different areas.

²⁵*Articuli de quibus egerunt per Visitatores* (CR 26, 7ff). These articles were printed without the knowledge of Melanchthon and against his will (WA 26, 182), in both German and Latin (CR 26, 7ff). The document contains seventeen articles, among others: *Von der Lehre*; *Von den zehn Geboten*; *Von der rechten christlichen Buße*; *Von der rechten christlichen Genugtuung für die Sünden*. However, the order in the shorter Latin form is quite different: The article *Vom Kreuz* comes second, and that *Vom Gesetz* only right at the end. With the collapse of the old church structures new norms needed to be established to govern personal conduct and ecclesiastical practises. This probably is the reason that the *Articles of Visitation* give a stronger emphasis to the role of the Decalogue (including obedience to the authorities) and the need for repentance than to the doct-

in the well-known *Instructions for the Visitors of Parish Pastors in Electoral Saxony* (1528) along with a preface by Luther.²⁶ In spite of some minor improvements, the doctrine of repentance of the *Instructions* remained exactly what it had been previously in the *Visitation Articles*. Again repentance is understood as remorse and suffering of the heart over sin, terror and fear of God's wrath, punishment and judgment, and only occasionally the mortification of the flesh. From this it is clear that Melanchthon's preferred terms are remorse and suffering. But above all we find here once again that faith is viewed as independent of the foregoing repentance. Just as in the *Visitation Articles* here also God is the active subject of repentance, on the one hand, and man, when he is admonished and encouraged to repent, on the other. Furthermore, we miss here, as before, a separate article

rine of justification (although of course it was presupposed). Even making allowances for the fact that the theological emphases were conditioned by the situation, we agree with Martin Brecht, *Martin Luther: Zweiter Band: Ordnung und Abgrenzung der Reformation, 1521-1532* (Stuttgart: Calwer Verlag, 1986), 263, that it is regrettable that the gospel does not come out more clearly. Hammann, *Nomismus und Antinomismus*, 113, on the other hand, reminds us that Luther never regarded the document as a theological treatise but saw it as a practical document to show pastors how they must teach, and one which he hoped they would willingly use for the sake of the gospel. He valued it because it summarized the chief articles of the Christian faith in a simple way that could be easily understood. He did not see the *Articles of Visitation* as an end in itself but as a means of establishing orderly conditions in the Saxon Church. For an analysis of the Articles, see Hammann, *Nomismus und Antinomismus*, 61-71.

²⁶The *Visitation Articles*, with a few modifications and a preface by Luther, also appear in the works of Luther under the title *Unterricht der Visitatoren an die Pfarrherrn im Kurfürstentum zu Sachsen* (WA 26, 195), for in the final analysis the theology is his, although the formulations are Melanchthon's. The preface had the effect of sloping the document in a more evangelical direction and making it sound less like a papal bull. When Luther reissued it in 1538 he made some noteworthy evangelical alterations. For details on the historical background, see the introduction by Thiele and Brenner (WA 26, 175-82).

on Christ, the Word of God, faith and justification.²⁷

The main issue in this controversy was the place of faith and justification in the context of salvation. Agricola continued to uphold what he had heard preached so emphatically by Luther at the beginning of the Reformation: Christ is the end of the law (Rom. 10: 4). The person who is righteous *ex fide* is no longer under the wrath of God.²⁸ In addition, the *Lukaskommentar* shows that repentance for Agricola is not connected to the law, nor is it even temporally antecedent to justification, but it is located in various other places.²⁹ From his point of view then Melanchthon's stress on the law and repentance and the necessity of terrifying the conscience before preaching the gospel all smacked of that papistic legalism from which Luther had delivered the church through the preaching of the gospel. However, Agricola's protest against Melanchthon's doctrine of repentance in the *Visitation Articles* went unheeded.³⁰ The theological discussions

²⁷Hammann, *Nomism und Antinomism*, 115.

²⁸Luther, at the beginning of his mid-career, set out his view of the law in great detail in *Confutatio rationis Latomianae* (WA 8, 43-128).

²⁹See Joachim Rogge, "Innerlutherische Streitigkeiten um Gesetz und Evangelium, Rechtfertigung und Heiligung," ed. Helmar Junghans, in *Leben und Werk Martin Luthers von 1526 bis 1546. Festgabe zu seinem 500. Geburtstag*, vol. 1 of 2 vols. (Göttingen: Vandenhoeck & Ruprecht, 1983), 187-204. Rogge's analysis of this early dispute between Agricola and Melanchthon is very instructive. His approach is in many ways is very congenial to Gustav Hammann's work, *Nomismus und Antinomismus*, which traverses the same territory, but in much greater detail, yet for some strange reason he fails to mention him. See below for a summary of Hammann's analysis of the *Lukaskommentar*.

³⁰He and others attacked Melanchthon harshly, "*er kröche wieder rückwärts*" (see H. Hermelink and W. Maurer, *Reformation und Gegenreformation*, 3d. ed. [Tübingen, 1931], 139). Agricola also objected to Melanchthon's insistence that the Decalogue had to be diligently expounded by pastors. In the *Hundert*

during the first phase of the First Antinomian Controversy had no noticeable effect on the way in which Melanchthon formulated the visitation document. The crucial doctrine of repentance remained unaltered. Agricola responded by writing what amounted to a *censura*.³¹

und Dreißig gemeiner Fragestücke für die jungen Kinder (1527)--in 1528 this is expanded to 156 and later to 321 questions (Kawerau, *Johann Agricola*, 73)--he claimed that the law no longer has any place in Christian preaching but is useful only for the maintenance of order among the crude masses. Repentance is not produced by the law nor by the threat of judgment. This can only follow as a fruit of faith after the preaching of grace. It is the sight of God's love in the sacrificial death of Christ that brings about repentance and faith (cf. CR 1, 915: *ab amore iustitiae*). The law is not a precursor of the gospel but a "*verfehelter Versuch Gottes*" to rescue mankind. Repentance does not have its origins in the fear of punishment, but in the love of God. This comes out especially in *Fragen 75-78*; see Kawerau, *Johann Agricola*, 142-43.

³¹WA Br 4, 323, 44-47 (Agricola an Luther; 3 January 1528). The question of the relationship between Melanchthon and Agricola merits far greater attention than we can give here. Hammann, *Nomismus und Antinomismus*, has made an valuable contribution to the discussion (see esp. pp. 143-54). He maintains that Melanchthon was never able to make a clean break with his pre-Wittenberg humanism. The difference that 1518 made for him is that his humanism now no longer has a philosophical but a theological foundation. His position is really a synthesis between his earlier humanism and Luther's theology. Agricola, on the other hand, comes to Wittenberg without any philosophical baggage and was decisively shaped theologically by Luther (albeit it the early Luther!). In the preliminary antinomian controversy, Hammann argues, Melanchthon harks back to his earlier position, whereas Agricola fails in his attempt to represent Reformation theology in its essential form. Hammann posits that with Luther and Melanchthon we have two different forms of theology, even though Melanchthon himself declared that he wished to do nothing but repeat Luther's teaching (CR 1, 898 and 903). In line with his rationalistic, pedagogical interests, he attempted to make the *homo novus* visible, tangible, and teachable! Through him there gradually arose a new theological anthropology, an intrinsic interest in the nature of the *homo novus*. The *Visitation Articles* are an important marker along this way (149). Agricola, on the other hand, strove much more than Melanchthon for the heart of Luther's theology, but precisely because he missed it at its center, he missed it completely, and ended up creating his own type of Reformation theology (137-38).

At the elector's request, a consultation was held at Torgau Castle on 26 to 29 November 1527 to settle the dispute over the visitation. Three questions were put on the table for discussion, each of them having been left unresolved by the controversy. First, the exegesis of Galatians 3: 19. When Melanchthon appealed to this text in his *Visitation Articles* to support the *usus politicus legis*, he must have realized that he was at variance with Luther's own exegesis of the passage in which it was interpreted along the lines of the *usus theologicus*.³² Agricola drew attention to this contradiction in his *censura*. However, although they disagreed on the exegesis of the passage, Melanchthon and Luther still agreed on the doctrine.

The second question discussed was the definition (or better: division) of repentance (*partitio poenitentiae*). The whole medieval tripartite schema of the sacrament of penance (*contritio cordis, confessio oris, satisfactio operum*) collapsed under the weight of Luther's radical assertion that repentance was the ground of the Christian's whole life. Melanchthon, with his penchant for tradition, brought the threefold schema back (minus the content) in his definition in the *Articles* and substituted the *passio Christi* for the *satisfactio operum*. Luther too can speak of the *partes poenitentiae* (*contritio, confessio, satisfactio, absolutio*; in his first *Thesenreihe* he will use a different definition), but he abolished the casual-redemptive relationship between the parts, purged away the Pelagianism, and reinstated God as the

³²CR 26, 28: *Primum igitur docenda est et urgenda [scil. lex], ut coherceantur rudes homines*; this is the later so-called political use, which he supported with Gal. 3: 19: *Iuxta illud: Lex est posita propter transgressionem, scilicet cavendas*. Of course Melanchthon also knew that the law was to be preached: *ut terreat conscientias*. His interpretation here however reflects his preference for a practical-ethical exegesis.

sole author of repentance in all its parts.³³

The third question for discussion, the origin and nature of *contritio*, goes to the center of the argument between Melanchthon and Agricola after the appearance of the *censura*. In the *Articles of Visitation* Melanchthon made *contritio* the *praecipua pars poenitentiae* and the presupposition for faith. In fact he goes so far as to single out one special part of *contritio*, the *timor Dei*, which he equates with the whole of repentance. Regrettably however he does not relate it to faith but sees it as the terror before God's judgment produced by the law.³⁴ Agricola, on the other hand, bases his doctrine of repentance exclusively on a christological foundation, and then sanctions it by appealing to Luther.³⁵ As we have already

³³Hammann, *Nomismus und Antinomismus*, 93-94; he suggests several reasons why Melanchthon thought his definition superior; most important: he considered it more comprehensible than Luther's definition (*mortificatio carnis*, *abnegatio sui*, and *cognitio peccati*) which was hardly understood by the people and not even by the theologians.

³⁴Even the distinction between *timor servilis* (without faith) and *timor filialis* (with faith) makes no difference, for in Melanchthon the *timor filialis* is still fear of God's judgment, as well as being both temporally and materially separated from faith. This *timor Dei* is not only the beginning of repentance, it is dependent on it as its first part, for without *metus divini iudicii* there can be no faith. It is precisely this emphasis that Agricola reacts against by grounding repentance in the gospel, in Christ, without *contritio*.

³⁵Luther in fact had never taught that there could be true repentance through a gospel separated from the law or through a *gratia* separated from *timor* (WA 7, 63, 34; 64, 7-12; 63, 38-64, 4; *Tractatus de libertate christiana*, 1520). Luther had rather spoken of repentance from grace and of repentance from the law at the same time, and he can speak like this because repentance was not a precondition for salvation but God's gracious action. For him it was not a question of either law or gospel, but only a question of preaching Christ. However, for him two things belong to this preaching, law and gospel, and indeed not as a temporal and material succession, but in an identity (cf. WA 39 I, 571, 10-575, 2; 3 AD, Arg. 36/9; WA 39 I, 484, 12-14; 2 AD, Arg. 29). Agricola attempted to again argue for the sequence gospel-law by adducing the argument of Jonah (3: 5):

seen, for Agricola it is not the injury of God's law (*violatio legis*) but the injury of God's Son (*violatio filii*) which is the authoritative basis for preaching repentance. But, as we will see later, a doctrine of repentance based solely on the gospel (*ex amore iustitiae*) cannot be defended and Luther will offer it no support. However, Melanchthon admits that Master Eisleben's use of the Augustinian term *amor iustitiae*, ambivalent as it is, does go back to Luther.³⁶

Hammann points out that there are two unevangelical aspects of Melanchthon's doctrine of repentance which are not in keeping with Reformation teaching. The first lies in the fact that the remorse of the heart occurs without any reference to Christ. Sin is no longer understood first and foremost as unbelief and defiance against God, but as the transgression of an objective, external norm, which is also inside the human heart, where it engenders either fear or trust. The second problem with Melanchthon's doctrine of *contritio* is the fact that the movements within the soul, which are produced by the word of the law, have now been made into a necessary presupposition for saving faith.³⁷

They believed and then repented. The *locus classicus* is Luke 24: 47.

³⁶Rogge, *Streitigkeiten*, 192, observes that Luther himself had learned about this a decade earlier from conversations with the superior of his order, John von Staupitz, who taught him that the love for righteousness and for God was the beginning of repentance and not its goal. Only after these conversations with Staupitz did that word *poenitentia*, which at first was utterly bitter for him, become sweet. Again we see how Agricola's theology is not only based in but is a continuation of Luther's early Augustinian way of thinking. For a comparison between Luther's and Agricola's use of the term *amor iustitiae*, see Kjeldgaard-Pedersen, *Gesetz, Evangelium und Busse*, 244-49.

³⁷Hammann, *Nomismus und Antinomismus*, 99-100. Proof of this is the characteristic phrase in which Melanchthon, following Luther's usage, describes faith first of all as *vivificatio*, but which he then reinterprets in his own way when he describes it as: "*seu consolatio*" (CR 1, 905). Luther could never say that the faith which springs from fear is comfort! Again: "*in animis ante vivificationem . . .*

It became clear in the course of the discussions that both Agricola and Melancthon had diverged from Luther, but each in a different direction. Each represented one side of Luther's theology so that neither retained the antithesis between law and gospel, which is the distinguishing mark of his theology. Melancthon thought that his position had been vindicated, and Agricola conceded that his advocacy of the younger Luther in favor of the older Luther found no support in the present phase of the discussions. Agricola accepted the idea of a *fides minarum* as a compromise, that is, he acknowledged that the divine threats are important for the sorrow that marks the beginning of repentance. Contrition presupposes terror in the face of God's threatening judgment.

In Luther's judgment, only that which comforts and justifies is to be called faith; the *fides minarum* or *fides generalis*, which is still bound to the divine *minae* producing terror, would be more aptly described by the word "*poenitentia*." The result was that Agricola's attempt at a solution by mixing together the terms *fides* and *minae* was effectively rejected. The consensus was that the forgiveness of sins and repentance belong together. It is impossible to preach the gospel without also preaching repentance. One, the one hand, the people (especially the uneducated) need to be warned, yet the pastor must never forget that the chief part of repentance is faith. This seems to have been said for Melancthon's benefit.

oportere pavorem et terrores et confusionem conscientiae existere" (CR 1, 905). Melancthon is saying that faith is possible only where these *motus* of the soul are present! *Vivificatio* can arise only in those souls where the law has first done its preparatory work; only where *pavor*, *terror*, and *confusio* are first produced by the law can *consolatio* be given afterwards. Melancthon of course knows that it is God who works all these *motus* in us. But, as Hammann concludes, the fact that Melancthon simply equates these effects of divine action, these works of *contritio*, with specific immanent events within the human soul, and the fact that he focus his whole attention on these *motus*, which are in the first instance human effects, means that in the end he makes faith dependent on human action.

On the other hand, Agricola's concern was also taken up. Nothing should be preached before faith, but it must be noted that "*busse*" follows "*aus und nach dem glauben.*" Agricola could be satisfied that repentance was to be taught from faith and that repentance and law were now to be regarded as part of "*gemeinen glauben*" (*fides generalis*). Certainly, for the "*gemeinen groben man*" this article of faith is better presented using the terms "*busse, gebot, gesetz, forcht.*"³⁸ However, it became apparent after the conference that the two opponents were far from being

³⁸See WA 26, 202, 1-203, 4; esp. 8-9, 21, 27-28, 33, 35, 37-38 (*Unterricht der Visitatoren an die Pfarrherrn im Kurfürstentum zu Sachsen*). Rogge, *Streitigkeiten*, 193-94. After the conclusion of the official negotiations, there was an additional debate over dinner on the topic of what was later called the *tertius usus legis*. Agricola told Melanchthon that there was one thing he could never do: follow only the one order of preaching the Decalogue (i. e., preaching the law before the gospel). Christians are free from the law (cf. *Fragestück* 130). The Decalogue is not to be taught, only the commands [parenesis] in Paul: "*non esse Decalogum exigendum: sed praecepta, quae sunt in Paulo*" (Kawerau, *Johannes Agricola*, 149). Melanchthon replied: The Decalogue cannot be given up especially since Christ taught it himself. Hammann, *Nomismus und Antinomismus*, 106, makes a very insightful observation here, and one which we will need to keep in mind as we study the disputations. Agricola, he says, does not simply reject the law, but preaches parenthesis to Christians instead of *nomos*. His decision, "*paulinische Paränese statt Gesetz,*" can only properly be understood from the fact that the law (*Gesetz*), which summoned the *vita christiana* of itself, was fundamentally overcome by the Pauline parenthesis (*Gebot*) because this summons people to new life by the gospel or by faith. Hence, Hammann concludes, we have no right to dismiss Agricola as an antinomian in the libertinistic sense. He fully concedes the need for the *vita christiana* to be put under the *praecepta*; only, in contrast to Melanchthon, he seeks to ground these commandments in the gospel and not outside it in an independent law divorced from Christ. At the same time it is clear that Agricola separates the Pauline parenthesis from the *lex*. He seems to have rather placed it alongside the law and the gospel as a *tertium quid*; cf. Althaus' proposal for a schema: *Gebot-Gesetz-Evangelium* to replace the traditional *Gesetz-Evangelium*; see Paul Althaus, "Gebot und Gesetz: Zum Thema Gesetz und Evangelium," in *Beiträge zur Förderung christlicher Theologie*, vol. 46, ed. Paul Althaus and Joachim Jeremias (Gütersloh: C. Bertelsmann Verlag, 1952, 7-8. We will need to return to this discussion in the final chapter after we have analyzed the theses and disputations.

united on their view of the law and the role it plays for faith. The new question that was emerging on the horizon concerned the role and place of the Decalogue in evangelical doctrine. While in 1527 the dispute was chiefly between Melanchthon and Agricola, in less than a decade Luther and Agricola will come to blows over just this very problem.³⁹ However, in 1527 Luther was still singularly unconcerned about the whole affair, and thought that it was nothing more than a *pugna verborum* which he refused to take seriously and hoped had now finally been settled so that the important work of the visitation could proceed.⁴⁰

This first movement of the First Antinomian Controversy has much to teach us. At least one thing has become clear. The way to correct an error or imbalance is not by emphasizing the extreme opposite. That is an inherently legalistic approach which will never arrive at the truth but only succeed in creating the same error in the opposite way. Both Melanchthon and Agricola are each guilty of basically the same error. In a word, as Hammann has convincingly shown, Agricola attempted to overthrow Melanchthon's nomian doctrine of repentance by means of his antinomian counter-doctrine, and not in the first instance by means of scriptural exegesis. And it is just the genius of Luther to have diagnosed the problem and to have proposed a solution which grounded repentance in the proper distinction between law and gospel.⁴¹

The onset of the second movement of the First Antinomian controversy

³⁹This is perceptively observed by Rogge, *Streitigkeiten*, 194.

⁴⁰WA Br 4, 295, 23-30 (Luther an Justus Jonas in Nordhausen; 10 December 1527).

⁴¹Hammann, *Nomismus und Antinomismus*, 96.

proper, a decade later, was preceded by the Cordatus controversy in 1536.⁴² Conrad Cordatus, who was a pastor in a village in the vicinity of Wittenberg, charged that Caspar Cruciger was teaching that human repentance is a necessary prerequisite of justification. When Cruciger defended himself by claiming he was doing no more than following his teacher Melanchthon, this threatened to draw attention to what appeared to be a serious difference between Melanchthon and Luther. Luther taught that repentance and contrition are not human actions but entirely God's doing which he accomplishes through the word. Therefore, it is improper to call them a necessary factor [*causa sine qua non*] of justification. Melanchthon, on the other hand, understood repentance psychologically and so viewed it as a human act, thus betraying a certain Erasmian influence. The matter came up indirectly for discussion in the graduation disputation of Jacob Schenk⁴³ and Philipp Motz on 10 October 1536.⁴⁴ Cruciger, who presided at the disputation, stated that the new obedience was a partial cause of justification, and thus differed from Luther who held that obedience was a consequence and evidence of justification but not its cause.⁴⁵ The Wittenberg theologians tried to

⁴²For details, see Martin Brecht, *Martin Luther: Dritter Band: Die Erhaltung der Kirche 1532-1546* (Stuttgart: Calwer Verlag, 1987), 150-54, which forms the basis of the following remarks. For the primary documents, see WA Br 7, 541-45.

⁴³The self-confident and independent theologian Jacob Schenk, who was a thorn in Luther's side, was the means whereby one of Melanchthon's doctrinal deviations came to light during 1537. Luther attributed Schenk's ability to ingratiate himself with people to his antinomian teaching. For details, see Brecht, *Luther 3*, 154-58.

⁴⁴The theses prepared by Luther on Rom. 3: 28 do not deal with the matter directly; see WA 39 I, 82-86.

settle the matter and prevent any further estrangement between Luther and Melanchthon. Their efforts resulted in a consensus: Justification is solely on account of God's mercy, not our works. Hence, works cannot be called a partial cause of justification but are rather the result of justification.⁴⁶ Furthermore, the commandments are fulfilled through faith.⁴⁷ Cruciger was happy that Luther had at least conceded that good works were a necessary result of justification, although he did not agree with him that such a philosophical term as "necessary" should be abandoned all together. Brecht is of the opinion that Melanchthon saw no essential difference between their positions and moreover regarded his own simply as a development and clarification of the Augustinian doctrine of justification. He concludes that while Luther may have achieved a temporary peace in the Cordatus dispute, the fact that he did not succeed in convincing his colleagues reveals the limits of his authority.⁴⁸

Agricola's opportunity to return to Wittenberg to rejoin Luther and his colleagues comes in December 1536, although due to a misunderstanding there was neither a position nor place for him to live. However, he and his wife Else and their nine children find a warm reception in Luther and Katy's home (the

⁴⁵See WA 39 I, 93, 18-96, 23 (Arg. 6) and 102, 2-105,9 (Arg. 10).

⁴⁶The matter of justification comes up again in the antinomian disputations, this time not in connection with works (but see WA 39 II, 307, 6-16; MF, Arg. 27) but with reference to the law. Thus, the antinomians argue that the law (hence, works) is necessary for justification (39 I, 381, 12-17; 1 AD, Arg. 14); that the law, as one of the causes of justification, cannot be useless (39 I, 469, 6-12; 2 AD, Arg. 17); or that the law justifies as the efficient cause of justification (39 I, 470, 15-18; 2 AD, Arg. 18).

⁴⁷For Luther's written statement, which was the basis of the consensus, see WA Br 7, 580, 1-581, 36.

⁴⁸Brecht, *Luther* 3, 154.

Black Cloister). In spite of some turbulent undercurrents,⁴⁹ at first there is no visible sign of any problems and for three months Agricola even acts as Luther's proxy both in the university and in the pulpit while Luther is away attending the meeting of the league in Schmalkalden.⁵⁰ The first inkling of trouble comes in May 1537 when Agricola, as court preacher, teaches his own peculiar views of the law in a sermon delivered to the evangelical princes of the league assembled in Zeitz. He criticizes the preaching of the law and teaches that the gospel (that is, Christ's passion and death) contains the revelation of God's wrath.⁵¹ Luther gradually becomes convinced of the antinomian nature of Agricola's views after reading the anonymous *positiones antinomicae*, which were circulating secretly in Wittenberg⁵² as well as Agricola's *Drey Sermon und Predigen*.⁵³ Bugenhagen,

⁴⁹Owing to Agricola's involvement in the earlier episode of the antinomian controversy, his arrival in Wittenberg was not greeted by all as a time of great rejoicing, for several influential people had already formed set opinions about him, which were not favorable. In Agricola's judgment Justus Jonas was one of the greatest of the "*falsi testes*," whom already during his time in Eisleben he had deemed as "*inflammantes contra me D. Lutherum*" (Thiele, *Denkwürdigkeiten*, 257).

⁵⁰As the year went on however the resentment against Agricola grew on the part of those closest to Luther. Cruciger called him *eĵmetevro* "spermolovgo" (CR 3, 386; Cruciger an Vitum Theodorum, 10 July 1537) and blamed him as the one most responsible for the confusion [*suvġcusi*] at that time. He is even ridiculed as having the *spiritum Muntzerianum* (Thiele, *Denkwürdigkeiten*, 257).

⁵¹See Kawerau, *Johann Agricola*, 173.

⁵²These theses are the "manifest" of the antinomians. Luther never says that Agricola wrote them but he no doubt realized that they represented his theology. In WA 39 I, 395, 5 (1 AD, Arg. 21) he mentions the "author" of the *propositiones*, presumably referring to the *positiones antinomicae*, but does not mention the name of Agricola. He later prints them together with his set of countertheses, as a basis for discussion at the disputation of 18 December 1537. They will be discussed later in our analysis of Agricola's theology. Luther's

Jonas, and Cruciger reject him, and Bugenhagen no longer allows him to deputize for him in the pulpit during his absence,⁵⁴ although Luther does not withdraw the privilege entirely, yet at the same time remains cautious.

In the summer of 1537 Luther spoke out publicly against the antinomians for the first time. In a sermon on Luke 5: 1-11 in July, in which he polemicizes against "*unsere Antinomer*,"⁵⁵ he addresses the question of the proper distinction

sermon of 1 July 1537 may have been preached with the *positiones* in mind. That the theses were known is clear from a letter of Cruciger to Veit Dietrich on 27 June 1537 when he says: "*tamen sparsae sunt, sed inter paucos, quaedam propositiones, quas tu tibi mitti petis*" (CR 3, 386). Kjeldgaard-Pedersen, *Gesetz, Evangelium und Busse*, 256 n. 33, suggests that these *propositiones* or *positiones* may also form the basis of Luther's remarks in his *Tischrede* of 21 March 1537. We read there: "*Post illud colloquium Magister Jobst demonstravit ei positiones legem non debere praedicari in ecclesia, quia non iustificaret*" (WA TR 3, 405, 4-5 [no. 3554]). What Luther says fits well with the *positiones antinomicae* which rejects the law precisely because it plays no role in justification. If 21 March 1537 is the correct date (see WA TR 3, 405, n. 1), there would be much to support the view that Luther knew the anonymous theses earlier than had previously been assumed. Cf. Kawerau, *Johannis Agricola*, 174 and Rogge, *Lutherverständnis*, 139. Clemen, WA Br 8, 121 follows Kawerau in this matter without discussion.

⁵³These sermons provided the impetus for the final break with the Wittenberg theologians; Kawerau, *Johann Agricola*, 173-75.

⁵⁴CR 3, 386 (Cruciger an Vitum Theodorum; 10 July 1537). Agricola for his part felt himself unjustly attacked from the outset (Thiele, *Denkwürdigkeiten*, 258).

⁵⁵WA 22, 74-92 (Evang. am 5. Sonntag nach Trinitatis; Crucigers Sommerpostille). The term "*unsere Antinomer*" (which also comes up in the disputations) signals that this is an internecine dispute and the antinomians belong to the evangelical wing of the church. For reasons of content it seems best to date the sermon 1 July 1537 (see note below). This dating is supported by Kjeldgaard-Pedersen, *Gesetz, Evangelium und Busse*, 256-62. However, it has been recently challenged by Brecht, *Luther* 3, 399, n. 4, for several reasons: 1) it is not in Röcher's list; 2) on that day Luther preached in the afternoon on a different text, which would apparently be very unusual; 3) Cruciger said on 10 July that Luther's attitude toward Agricola was not yet entirely clear. Be that as it may, for

between law and gospel, and under this rubric tackles also the issue of the proclamation of Christ's passion and death as *Bußpredigt*. He rejects the antinomian opinion that Romans 2: 4 provides the scriptural warrant for their inversion of law and gospel and for preaching repentance through the gospel (or the *violatio filii*, as they call it) instead of through the law. In opposition to their claim that one must first preach grace and comfort [*revelatio gratiae*] and only afterwards terrify with wrath [*revelatio irae*], Luther exclaims that they understand neither wrath nor grace, neither repentance nor the comfort of the conscience.⁵⁶ With a clarity that is hardly surpassed by any other statement in the following years Luther then formulates his own position in the following way: "Everything that preaches our sins and God's wrath is the preaching of the law, however and wherever this happens. Conversely, the gospel is a sermon which shows and gives nothing else but grace and forgiveness in Christ."⁵⁷ Luther does not mention Agricola by name in the sermon but it is clear that it is Agricola whom

our purposes the content is more important than the date.

⁵⁶WA 22, 86, 27-87, 2. The *duplex revelatio* of the gospel and the proclamation of the *violatio filii* to the exclusion of the *violatio legis* are two central features of antinomian theology. Luther refers to the idea of the "*violatio filii*" already in a *Tischrede* from 21 March 1537 and says that it is characteristic of Agricola: "*Valeat, qui dicit transgressores non peccare contra legem, sed violare Filium Dei*" (WA TR 3, 405, 14-15 [no, 3554]). It is also mentioned as characteristically Agricolian by Wendelin Faber in his Letter to Caspar Güttel in April 1540 in which he sums up Agricola's teaching in three theses (Förstemann, *Neues Urkundenbuch*, 332). Of course the term also appears in the first of the antinomian *positiones* (see sect. 2).

⁵⁷WA 22, 87, 3-6: Es ist alles des Gesetzes Predigt, was da von unsern sünden und Gottes zorn predigt, es geschehe, wie oder wenn es wolle. Widerumb ist das Euangelium solche Predigt, die nichts denn Gnade und vergebung in Christo zeigt und gibt. Cf. FC SD V, 12 (BSLK, 955).

he has in mind.⁵⁸ The polemic in the sermon indicates that Luther was probably familiar with his *Drey Sermon und Predigen* which he published in June 1537.⁵⁹

Tension between the two principal protagonists continues to escalate. This is evident from a letter that Agricola sent to Luther in early September.⁶⁰ It is the first of two important letters from Agricola to Luther in the fall of 1537. Its chief purpose is to lodge a complaint at Luther's refusal to allow him to publish the *Evangeliensummarien*, which he had earlier approved.⁶¹ Agricola affirms that it

⁵⁸Luther's earliest recorded reference to Agricola as an antinomian is to be found in *Tischrede* of 21 March 1537 (WA TR 3, 405-6). On the role of the sermon in the course of events that led to the open conflict between Luther and Agricola, see Kawerau, *Johann Agricola*, 168-76, and Rogge, *Lutherverständnis*, 136-42.

⁵⁹For a summary of Agricola's *Drey Sermon und Predigen*, see Rogge, *Lutherverständnis*, 140-41. It is here that he states that the law has been set aside with the coming of Christ. While Luther stresses that the gravest sin is lack of trust in God, Agricola rejects the idea of guilt before God. *Remissio peccatorum* means to have a good conscience and peace and joy in the heart. At no point in the documents is justification understood as *imputatio*, as *actus Deo*, or even as removal of sin and guilt before God. Koch, *Johann Agricola*, 147-49, notes that Agricola's interpretation of Mathew 15: 21-28 (one of the sermons) contains the most important themes of his theology and piety. The ductus of the argument shows surprising agreement with a sermon by Tauler on the same text, which is not surprising in view of the influential nature of mysticism in Wittenburg between 1516 and 1520 (*Ibid.*, 148, n. 125). There is no record of Luther's having preached on this pericope till 1523.

⁶⁰WA Br 8, 122-23 (Agricola an Luther; 2 September 1537). This letter is the first of a number of attempts to show that his teaching is in conformity with holy scripture, the apostles and Luther himself.

⁶¹Although it could possibly refer to the *Drey Sermon und Predigen* (thus, Kawerau [ZKG 4 (1881): 303 n. 1] and Rogge, *Lutherverständnis*, 142, n. 33), we follow Kjeldgaard-Pedersen, *Gesetz, Evangelium und Busse*, 215, in taking it as a reference to the *Evangeliensummarien*. See Clemens' introduction to the letter (cited above). In any case, the question is not of decisive importance. For a discussion of the contents of Agricola's *Summarien*, see Rogge, *Lutherverständnis*,

teaches the same as all his works: that the preaching of the death of Christ (= preaching repentance) terrifies the conscience, while the preaching of the resurrection of Christ (= preaching forgiveness) raises it up again. He points out that this is the teaching of all the apostles, especially of Paul and Barnabas, and that it is Luther's teaching too. He also includes a catalog of his previous teaching in order to demonstrate his orthodoxy.⁶² The problem however is that because Agricola attempts to justify himself in this letter, he avoids controversial ideas and formulations and thereby sweeps the real issues under the carpet.⁶³

In a sermon on 30 September (text: Matthew 22: 34-40) Luther sets out clearly his teaching on the law. The law will always prick the conscience for we do not love God as we ought. Christ did not dissolve the law but came to fulfill it. Yet it is not enough that Christ fulfilled the law, it must also be fulfilled in me. Luther stresses, no doubt with Agricola in mind, the indissolubility of law and gospel.⁶⁴

156-65.

⁶²Kawerau, "*Briefe und Urkunden zur Geschichte des antinomistischen Streits*," ZKG 4 (1881): 304-305; cf. 299-324, 437-62.

⁶³This is also the case with his *Lehrbekenntnis* written in September, which begins with the assertion: *Lex debet habere summam auctoritatem in iustitia carnis* (Kawerau, ZKG 4 [1881]: 304). The fact that the law is binding for the *publica pax et tranquillitas* was never at issue. Agricola's prime concern in this document is that the conscience must not be injured. He counsels that if the "*conciones Legis*" torments the conscience too much and drives it to despair, then the "*mens*" should rise up and say to the law what Christ says to Peter: "*Vade post me Sathana.*"

⁶⁴WA 45, 145-157 (Predigt am 18. Sonntag nach Trinitatis). In a passage clearly aimed at the antinomians he says:

Darumb ists unrecht und nicht zu leiden, so man wolt also predigen (wie etliche vorzeiten gethan haben, und auch noch etliche tolle geister thun): Ob du schon nicht die Gebot heltest, Gott und den Nehesten liebest, ja, ob du gleich ein

By the second half of October things seemed to have improved. Agricola could report to the elector that there was substantial agreement between Luther and himself and that all the problems had been due to a misunderstanding.⁶⁵ John Frederick, anxious for doctrinal unity, advised him not only to teach the substance of what Luther teaches but to use his words as well.⁶⁶ As an added precaution Chancellor Brück was asked to check if Luther had approved the publication of Agricola's *Evangeliensummarien*, which at that time were in the process of being printed.⁶⁷ When Luther found out about this he ordered the printing stopped and confiscated the manuscript and the copies already printed. He kept one for himself on which he later wrote down critical comments about

Ebrecher bist, das schadet nicht, so du allein glewbst, so wirstu selig. Nein, lieber man, da wird nichts aus, Du wirst das himel Reich nicht besitzen, es mus dazu komen, das du die Gebot haltest und jnn der Liebe seiest gegen Gott und dem Nehesten, Denn da stehets kurtz beschlossen: "Wiltu zum leben ein gehen, so halte die Gebot" (146, 38-147, 14).

Here he decisively rejects the relativization of sin, which is a hallmark of antinomian doctrine; cf. WA 39 I, 344, 26-29 (*Positiones: Item alii*).

⁶⁵Agricola felt that this gave him the authority to proceed with the printing of the *Evangeliensummarien*, even though Luther had earlier withdrawn permission (see Kawerau, *Johann Agricola*, 180-81).

⁶⁶Förstemann, *Neues Urkundenbuch*, 312 (Johann Friedrich an Agricola, 30 October 1537): "Weil Ir dan mit Doctori Marthino der lehre in der substanz ainigk seit," you should also pay attention "off die worth", that Agricola's doctrine "Doctoris Marthini in den worten auch gleich sey."

⁶⁷Kawerau, "Briefe und Urkunden," 205-206; Förstemann, *Neues Urkundenbuch*, 313 (Johann Friederich an Brück; 30 October 1537). Cruciger sums up their gist as follows: "*De postillis ita est, ut audisti; nam cum animadversum esset, eum statim initio asperisse sua illa de revelatione iustitiae, praecedente revelationem irae, item quod in novo Testamento non sit docenda violatio legis, sed violatio fidei, praeter alias nugas, d. doctor inhibuit, ne porro excuderetur liber*" (CR 3, 454; Cruciger ad Vitum Theodorum, 27 November 1537 [see also the note in WA 39 I, 334].

Agricola's view of the law.⁶⁸ His action showed that despite all Agricola's protestation to the contrary, the difference between them was not just one of words but of substance.

Agricola's reaction was not long in coming. He wrote to Luther at the end of November⁶⁹ (the second important letter mentioned above) pointing out to him that in his books he teaches repentance and forgiveness in two ways, one through the law and faith [*legem et euangelium*], the other solely through the gospel [*sine lege per euangelium tantum*].⁷⁰ The latter kind of teaching is now

⁶⁸The *Evangeliumsummarien* was the occasion for a battle that lasted nearly three years and which resulted in the end of a close friendship between Luther and Agricola. It was probably the *Summarien* that Luther had most in mind when at the end of April 1540, in the closing stages of the controversy, he handed the elector his defense against the charges brought by Agricola. In support of his counter-accusations Luther enclosed his annotated copy of the *Evangeliumsummarien*. He reminded the elector that Agricola had sent the manuscript off to the printers without first having had it vetted: ". . . Gibt ynn den druck seine postillen hinder [ohne] wissen vnd willen des Rectors [der Universität] wider meins gtz herrn [des Kurfürsten] gebott, das man nichts drucken sol, der Rector sols zuuor besehen" (WA 51, 431, 14-16; *Wider den Eisleben*, 1540). Luther accused him of acting in a deceitful way and using the printing of the Postil to fire the first volley of shots against the doctrine of the Wittenberg theologians (WA 51, 431, 16-432, 5). He was annoyed that Agricola, in spite of his ambition, jealousy, and desire to lord it over others, always pretended to be friendly, laughed and ate with his Wittenberg friends and yet "*verretherlich seine feindschafft wider vns verborgen*" (WA 51, 432, 12-13).

⁶⁹WA Br 8, 279; cf. WA Br 13, 265. The problem of the dating is discussed below. Brecht, *Luther* 3, 410, n. 11, suggests that this is the letter Melancthon refers to on 25 November (CR 3, 452-54 = MBW 2, no. 1968).

⁷⁰WA Br 8, 279, 4-5: *In libris vestris existunt duo modi docendae poenitentiae et remissionis peccatorum, hoc est, docendae iustificationis*. For Agricola then *poenitentia + remissio peccatorum = iustificatio*. Although this does not go beyond anything he has already said, it is important if only because he hardly ever mentions the doctrine of justification.

defined in the same way as the double sermon mentioned in the other letter. In connection with this Agricola refers to Luther's 1519 *Ein Sermon von der Betrachtung des heiligen Leidens Christi* and points out that the double sermon expresses the fact that Christ is to be both *sacramentum* and *exemplum* at the same time.⁷¹ The important thing here is that Agricola claims that Luther's doctrine of repentance is inconsistent, that it contains two irreconcilable lines of thought. The letter could be seen as a request for an answer to the question: which of the two ways of teaching repentance agrees with apostolic doctrine, so that a *certa forma doctrinae* can be handed down to the next generation.⁷²

This letter proved highly provocative and set off such a reaction that he said later in retrospect that it set the Rhine on fire.⁷³ Up till this time Luther had

⁷¹WA Br 8, 279, 5-9: *Alter modus est per legem et euangelium, sine lege per euangelium tantum alter, adeo ut docenda sit ecclesia de morte et resurrectione Christi, id quod est cernere maxime in sermone vom Leiden Christi, item Quod sit Christus sacramentum et exemplum.* This is a central aspect of his basic theological position. To preach Christ as *sacramentum et exemplum* = to preach *mors et resurrectio Christi* = to preach *euangelium sine lege*. Not until we have completed our analysis of the disputations will it be clear how Agricola's understanding of repentance along with *sacramentum et exemplum* differs from that of Luther's.

⁷²Rogge, *Lutherverständnis*, 168-69, stresses that Agricola's intentions in the letter are positive not negative, conciliatory not polemical, and that rather than being argumentative he genuinely wants to reach a consensus on one of the cardinal points of Reformation theology (cf. *Haec simplici animo sentio et scribo*; WA Br 8, 279, 17). Luther, on the other hand, found in the letter a further confirmation of Agricola's theological idiosyncrasy and his persistent unwillingness to bring his teaching into line with that of the Wittenberg theologians.

⁷³Therefore, it was no exaggeration when Agricola says in a gloss: "*Dieser Brief, den ich aufs einfältigst geschrieben, hat den Rhein entbrannt*" (WA Br 8, 279, 20). The dating of this letter is problematical. The date given by the WA editor is August 1538. However, Rogge, *Lutherverständnis*, 165, points out that the chief argument against such a dating is the gloss that the letter set the Rhine on fire, for there is no known event that it could refer to. A more likely explanation is that the letter was written in December 1537 in which case the

refrained from publishing the *positiones antinomicae*, although he came close to it after Agricola had gone ahead and published the *Summarien*. However, the letter was the last straw. He now sent them to the printers, probably between 4 and 6 December, and published them together with his own countertheses in order to make it absolutely clear that he dissociated himself from them entirely.⁷⁴

Luther's action had enormous repercussions on the Wittenberg theological

gloss would refer to the publication of the *Positiones antinomicae*. The Weimarer editor however defends the August 1538 dating by taking the gloss as a reference to Luther's *Thesen der fünften Reihe contra antinomos*, which were written either at the end of August or at the beginning of September 1538. However, it seems that a far more compelling reason for adopting the earlier dating (Rogge, *Lutherverständnis*, 280, n. 20) is the verbal correspondence between Agricola's letter to Luther and Cruciger's letter to Veit Dietrich (7 December 1537). In the crucial sentences Cruciger confirms that it was Agricola's letter with his cardinal objections to Luther's doctrine that really started the ball rolling: ". . . quia ipse duplici modo uteretur docendi poenitentiam, alias ex Evangelio tantum, alias ex lege et Evangelio. Hoc idem nuper semel atque iterum doctori scripsit, et is hoc ipso magis offensus est, quod videretur nostram doctrinam incertam reddere." Given the close similarity of this passage to the corresponding one in Agricola's letter (cf. the text of WA Br 8, 279, 4-9 above), one can only conclude that Agricola's letter was written just prior to Cruciger's. Heinrich Ebeling, *Der Streitpunkt zwischen Luther und Agricola. Zur Datierung eines Agricola-Briefes und noch einige andere Datierungen*, ZKG 56 (1937): 364-66, thinks that he can prove from Agricola's letter that it was Luther's publication of 6 December 1537 of the anonymous theses, which until then had been circulating in secret, that set the Rhine on fire. Ebeling proposes an early date (between 24 November and 7 December) based on the fact that in the second *Thesenreihe* and its associated disputation (12 January 1538) Luther goes into precisely the question of the *sacramentum-exemplum* christology and its relation to repentance and the law (*ibid.*, 362).

⁷⁴Luther is never one to enter into public controversy too quickly. That is amply demonstrated by the history of the Reformation and the way in which he renounced the use of force to implement evangelical doctrine. The antinomian controversy is no exception. This is proven already by Luther's refusal to become involved in the preliminary dispute between Agricola and Melanchthon. It was only at the request of the elector that he intervened to bring about a settlement. When he does enter the debate finally in 1537 it is only because he is forced to do so for the sake of the gospel.

circle, especially on Agricola. Even though his colleagues encouraged him to try to reach agreement through discussion he would no longer let himself be dissuaded from coming out against Agricola publicly. Agricola for his part still clung tenaciously to the view that there was no serious theological difference between himself and Luther but simply personal ill-will and misunderstanding.⁷⁵ Although Luther did not allow his personal feelings to get in the way, he openly acknowledged the anguish of losing a dear friend.⁷⁶

⁷⁵This is clear from an autobiographical statement (Thiele, *Denkwürdigkeiten*, 258, noted by Rogge, *Lutherverständnis*, 170). Moreover, Cruciger, in the same letter cited above, reports that Agricola in his lectures was obviously trying to formulate his doctrine of the law in such a way as to satisfy Luther but that the result was only confusion. Thus he writes (following on from the citation in the preceding note): "*Heri in praelectione audivi [Cruciger] eum [Agricola] hoc ponentem, quod Evangelium utatur ministerio legis ad arguendum peccatum.* (CR 3, 461). This is a very significant passage because it reflects just how far Agricola's understanding of law and gospel differs from that of Luther's, even though he was attempting to go as far as he could to accommodate Luther's doctrine. The problem is that the doctrine he was trying to accommodate was Luther's early pre-Reformation view of law and gospel, which was still firmly grounded in the Augustinian tradition. On the one hand, he can say that the *ministerium legis* no longer has anything to do with the *lex Mosaica*, which Luther would readily agree to (although we will see later that the antinomians in fact consistently reference the law to Moses and thus argue that it has been abolished), but on the other hand, he says nothing about the fundamental task of the law as *lex accusans* but instead makes the equation *Evangelium = nova lex*. This, as we will see later, is a basic tenet of antinomian theology.

⁷⁶This is reflected in Luther's *Tischrede*: "*Amicissimi mei [Rogge, Lutherverständnis, 280, n. 25, thinks the plural may include others who do not agree with the action he has taken against Agricola] me pedibus calcare volunt et euangelium turbare. Ideo instituiam disputationes ad provocandos antagonistas*" (WA TR 3, 480, 37-481, 2 [no. 3650a]; *Tischrede vor dem 18. 12. 1537*). He was determined to uncover any falsehood because as far as he was concerned this business was no joking matter ["*es gielt nicht also schertzens*"]. He tells his table guests, with deep emotion, that it is no small thing to lose a friend, whom one has loved most dearly ["*quem summo amore diligit*"]. Cf. the title of the chapter on Agricola in H. G. Haile, *Luther: An Experiment in Biography* (Princeton, New

Soon after the antinomian *positiones* were published, Luther formulated and published his own thirty-nine theses, which formed the basis of the First Disputation held on 18 December 1537 in the presence of a large audience. Since Agricola did not take part in the disputation,⁷⁷ even though it was his theology that was being debated, it took the form of a regular *Schuldisputation* in which Luther, as well as presiding, represented one side, while other members of the faculty took turns at representing the antinomian side. The only participants

Jersey: Princeton University Press, 1983), 223-37: "Loss of a Friend." In this same *Tischrede* Luther says that he ate and laughed with him, and yet at the same time he opposed him behind his back. He cannot bear it any longer, "*nam crassissimus est error reicere legem. Wan doch andere errores und scandala gingen, esset tolerabilius. Sed legem reicere, sine qua neque ecclesia neque politica neque oeconomia aut quisque hominum potest esse, daß heist dem faß den boden ausgestoßen.*" The time to enter the fray has come: "*Da ist tzeit wehrens. Ich kan noch mags nicht leiden*" (481, 4-12). Later Luther spoke further about Agricola. He again blamed much of the trouble on Agricola's pride and ambition: "*Ach, die schändliche hoffart und vermessenheit, was richtet sie an? Sie ist ein Mutter aller Ketzerei.*" He then reflects on the years since the beginning of the Reformation. He had hoped that after all the turmoil of the 1520s he would finally have peace and quiet and be able to sing *Te Deum laudamus* and thank God for all that had been accomplished, but it turns out that was not the case: "*so wird ein Zeit des Zankens und Kiffelns draus.*" Death would be better, he says, than this suffering. "*Es heißt ein martyrium interpretativum, geistlich Leiden, das ohne Blut zugehet, darinnen sich einer bratet und ängstet. Das muß ich auch leiden in solchen Aergernissen und Vermessenheit meiner Jünger und Schüler, daß ich viel lieber den Tod leiden wollte und meinem Blut beschließen!*" (481, 32-482, 2).

⁷⁷WA TR 3, 483, 17-20 [3650b]: "*Contra antinomos. Anno 37. 18. Decembris Doctor Martinus habuit disputationem contra antinomos et Μωσημαστιγας magna cum frequentia auditorum, provocans etiam nomine athletam [Agricola] in arenam, sed hic nullus prodire voluit.*" Rogge, *Lutherverständnis*, 173, says that we can conclude from this that there was no one in the audience prepared to step forward in the place of Agricola and defend his teaching. In the absence of hard evidence we can only guess at the reason for Agricola's absence. There is nothing to suggest that he was inferior to Luther in dialectics and rhetoric (he participated in the *Zirkulardisputation de veste nuptiali* on 15 June 1537; see WA 39 I, 322, Arg. 45). Perhaps he wanted to avoid upsetting Luther further by having to disagree with him publicly and at the same time was afraid of being embarrassed or humiliated himself.

whose names are in the record are Justus Jonas and Conrad Cordatus.

Melanchthon, ever eager to work for peace and harmony, persuaded Agricola to write to Luther on 26 December to seek a reconciliation.⁷⁸ In this letter he declares his willingness to submit to Luther's authority, admits his error, and refers to an the agreement that he and Luther had reached earlier in the church sacristy. In addition to the letter, he also used the services of Frau Katy, Melanchthon, and even Jonas to intercede for him.⁷⁹ Nevertheless, in spite of all

⁷⁸WA Br 8, 343 (26 December 1538?). It is puzzling why the editor, O. Clemen, allows the letter to remain in its present place even when he himself is reluctant to accept the 1538 dating. Following ZKG 56 (1937): 365, n. 28, and Rogge, *Lutherverständnis*, 281 nn. 43 and 44, who date the letter 26 December 1537, the WA, in its *Nachträge und Berichtigungen* to WA Br 8 (WA Br 13, 267) now recommends that the letter be repositioned behind no. 3203 to bring it into correct chronological sequence. It appears to follow Agricola's letter to Luther on 7 December 1537. In lines 7-8 Agricola repeats the assurance given there that he will submit to Luther's authority: *Alioquin quod ad genus doctrinae attinet, sancte confirmo me futurum esse in vestra potestate*. Even the superscription over his signature is the same: V. P. dd. [*Vestrae Paternitati deditissimus*]; only *filius* is missing. However, perhaps the most compelling piece of evidence comes from Thiele's *Denkwürdigkeiten*, 258-9, especially the following:

Nam conciliatus mihi Lutherus . . . Iterum coepit mutare animum . . . Et ecce agitatedum est, vt etiam lectione priuarer. Admonitus autem per Philippum M. scripsi me futurum in eius potestate [vide supra]. Conuenit me in templo [on that, see l. 6 of the letter in question] et dedit manus societatis. Ego promisi illi meum offitium. und solt alles hingelegt sein. Et tamen iterum Coepit eius animus contra me recrudescere . . . Iterum scribo Hortatu Philippi [that would then be the letter in question]. Die brieffe wil er nicht lesen sed aspernatur . . . Tandem legit mane nondum vino Calefactus, priusquam iret Torgam ipso die Innocentium [28 December 1537]. Et dixit se velle, vt sim in offitio . . . Postremo scripsit mihi Lutherus altera Epiphaniae, vt abstinerem in vniuersum a sacra lectione.

⁷⁹Agricola knew the influence that Kate wielded over Luther: "*Do hat die Domina Ketha reatrix Coeli et terrae, Iuno Coniunx et soror Ionis.*" So he asked her to use her good offices to put in "*eyn mal eyn gutt wort*" on his behalf (Thiele, *Denkwürdigkeiten*, 259).

these conciliatory efforts Luther, as dean of the faculty, informed him by letter on the Day of Epiphany 1538 that he had revoked his permission to lecture in theology at the university and that subsequently he would need to apply to the senate for permission if he wanted to continue to teach.⁸⁰ Melanchthon, recognizing the gravity of the situation now that Agricola's means of livelihood had been cut off, advised his friend to send Frau Else to Luther (whom he regarded quite highly) to plead on his behalf. The mission proved successful,⁸¹ but before restoring his *facultas legendi* at the university Luther demanded that Agricola fulfill two requirements. First, he had to cease using his strange new terminology. Secondly, he had to participate in a public disputation with Luther the following Saturday.

Luther formulated the second *Thesenreihe contra antinomios* before the end of December 1537, followed by the third and fourth at the beginning of January.⁸² The disputation on the second set of theses was to be held on 12 January 1538. According to the agreement made earlier, this time Agricola was to be present.⁸³

⁸⁰WA Br 8, 186, 2-9 (Luther an Agricola, 6 Jan. 1538). Luther gave no specific reason for his action but perhaps he hoped that the revocation of the *venia legendi* would force Agricola to stop hiding behind his anonymity and argue with him face to face: "*Deinde si que contra nos in angulis loqueris, non equidem impediam, Sed tu vide, vt tibi parcas.*"

⁸¹Thiele, *Denkwürdigkeiten*, 259. Agricola says of her: "*Venit, rogauit et Impetrauit.*" It was agreed that he should use "*pro reuelatione irae . . . Vocabulum Legis.*"

⁸²WA Br 8, 188, 3-18; WA 39 I, 347-54 (cf. the editor's introduction, p. 335). See also our translations along with the introduction to the respective disputations in ch. 3.

⁸³This time when Luther, who once again presided and acted as chief respondent, summoned him with the words: "*Numquid adest dominus Magister*

Nonetheless, we still do not hear from him in person until *argumentum* 14, and even then he only presents two *argumenta*.⁸⁴ At the conclusion of the *responsio* to *argumentum* 15 Luther made a short speech *coram publico* in which he acknowledged the suspicion that he had harbored earlier toward Agricola and announced that he was now satisfied with what he had heard and that therefore he and Agricola were no longer in disagreement but were once again friends. Luther concluded by making a heartfelt plea to the audience for unanimity and sincerity in order to give no ground to the "*explorates*" sent by his enemies, who would be happy to see them start fighting again.⁸⁵ He was obviously relieved that the painful controversy had been resolved even if privately he may have doubted whether the matter had really been settled.⁸⁶ Consequently, there was no need to hold another disputation to debate the third and fourth *Thesenreihen* which Luther had already published. He could only hope that no more *disputationes contra antinomias* would be necessary. Agricola for his part seems to have taken

Isleben?" he knew he would not be calling in vain; see WA 39 I, 457, 6 (2 AD, Arg. 14).

⁸⁴The two arguments put forward by Agricola correspond to Arg. 14 (WA 39 I, 458, 17-26) and Ag. 15 (WA 39 I, 461, 20-462, 13). This agrees with an independent report of the proceedings *ex literis Vencelai Arpinatis ad Vitum [Dietericum]* dated 14 January 1538 (CR 3, 482-3) cited by the editor below Arg. 14 (WA 39 I, 457, n. 2) as well as with an autobiographical fragment from Agricola's handwritten notes in his Hebrew Bible preserved in Wernigerode (cf. ThStKr 80 (1907): 259-60).

⁸⁵See WA 39 I, 466, 23-468, 2. This *Aussöhnungsrede* is attested by two sources besides the MSS containing the entire disputation: one is a handwritten account from the Agricola Bible (see above note), and is printed in 466, 23-467, 17 (right col.); the second is also noted by the Weimarer editor (see 466, n. 3). A comparison shows that there is no essential difference between the accounts.

⁸⁶Thiele, *Denkwürdigkeiten*, 261-62; WA TR 3, 570, 11-571, 14 (no. 3729), 1538.

the reconciliation as a vindication and proof of his innocence.⁸⁷

The reconciliation did not last long. Luther soon found it necessary to criticize Agricola again for his presumption, error and intrigues. An uneasy peace prevailed between the two camps,⁸⁸ but there was no longer any real intimacy between Luther and Agricola like there had been before the onset of the controversy.⁸⁹ On 23 April 1538 (the third *Osterfeiertag*) at the behest of the elector,⁹⁰ Agricola was to preach publicly before the congregation in order to

⁸⁷Thus Rogge, *Lutherverständnis*, 182. He bases this on Agricola's remarks in Thiele, *Denkwürdigkeiten*, 261. On the other hand, Rogge notes that in Spalatin's judgment (which he cites from *Spalatin's Annales*, 312) Agricola's admission of error was insincere as before and that at heart his opinion never changed. Opinions on the reconciliation were divided. In contrast to Spalatin, Bugenhagen and Jonas, Cruciger was convinced of the honesty of both parties for he reports on the outcome of the disputation two days later without any criticism at all (CR 3, 482-3; Cruciger an Vitum Theodorum, and Venecelai Arpinatis an denselben, 14 January 1538).

⁸⁸The electoral court greeted the news of the reconciliation with joy but Chancellor Brück and Spalatin remained skeptical. It was an uneasy "truce" and the Wittenberg theologians viewed it negatively and doubted it would last. According to Agricola's own report (Thiele, *Denkwürdigkeiten*, 263) on the 25 August 1538 (Dominica post Bartholomei), when Brück, Jonas and Melanchthon were gathered at Luther's home, Melanchthon himself fell under suspicion because he "*fideliter*" stood up for him.

⁸⁹Kawerau, *Johann Agricola*, 195. Luther pulled back even further from Agricola after a confidential talk with Armsdorf, three weeks after the disputation, for the latter was convinced that Agricola could not be trusted and that it would be an error of judgment to give up all suspicion against him. Luther complained that the antinomian controversy had almost been the death of him. Weaknesses in people he can forgive, but "*malitia ex propositio*" is unbearable, especially in theologians, for arrogance in theology is the source of all evils (WA TR 3, 571, 38-573, 10 [no. 3729]; 3 February 1538).

⁹⁰Luther asked Dr. Brück to reinstate Agricola in his office as teacher and preacher (Thiele, *Denkwürdigkeiten*, 261). It seems that Brück informed Luther that while Agricola's public teaching was in agreement with his, privately

show that *in puncto Buße und Gesetz* he was in full agreement with Luther and the Wittenberg theologians and that he repudiated the contrary doctrine. We do not know exactly what happened except that Luther was not satisfied and became increasingly angered by the situation. In September he decided to proceed with a third disputation against the antinomians. This does not seem to have been triggered by any one thing in particular, but a growing number of little things that kept fueling Luther's disgruntlement, not least of which was the claim made by the Mansfeld castle preacher, Michael Coelius, that Agricola was only waiting for Luther to die so that then he could teach whatever he pleased.⁹¹ The Third

he was spreading his old antinomian opinions. Luther disbelieved this (publicly at least) and called it slander. However, Agricola was unable to resume preaching in St. Mary's because Bugenhagen had not yet lifted the interdict which barred him from preaching, despite all Luther's efforts to persuade him to change his mind. The elector however thought it was time for Agricola to preach in order to give proof of his sound doctrine (Thiele, *Denkwürdigkeiten*, 262), and so at his behest he delivered two sermons on 23 April. Although Cruciger reports that Agricola set forth his corrected doctrine of the law (CR 3, 513; Cruciger an Vitum Theodorum; 23 April 1538), it cut no ice with Luther. In spite of the amendments to his doctrine Agricola still fell back on his old formulations. Thus the sermon was permeated with his old thesis: "*Cur Christus diceret poenitentiam et remissionem peccatorum docendam esse in suo nomine.*" On top of that he could not shake off the habit of using the word "*oportet*" (cf. Jonas' letter to Luther on 18 August 1538 alerting him to Agricola's propensity to use *Muss*; WA TR 4, 39, 22-28 [no. 3966]).

⁹¹When Luther decided to take action against Agricola in the light of the new accusations, Melanchthon and Jonas were instructed to speak to him. "While Melanchthon sought to resolve the issue, Jonas was interested in exacerbating it" (Brecht, *Luther* 3, 166). On 3 September Luther demanded a public retraction from Agricola even though he continued to reaffirm his willingness to submit to him (WA TR 4, 205, 22-32 [no. 4307]; WA 50, 469, 26-29; *Wider die Antinomer*, 1539). Eventually Agricola did draft a retraction which Melanchthon then reworked, presumably to make it more acceptable. He had been specifically requested to state precisely in what respect he had changed his doctrine of the law. Above all, he was called on to affirm what he had previously denied, that the preaching of the law is: *ad conterendos pios homines* (Thiele, *Denkwürdigkeiten*,

Disputation took place within the framework of Cyriacus Gericke's licentiate examination on 6 September 1538,⁹² although the length of the debate, which extended into the afternoon, makes it more like a *Zirkulardisputation* than a *Promotionsdisputation*.⁹³ Although there were still two sets of theses which had not been debated as a result of the reconciliation, Luther wrote a fifth *Thesenreihe*, perhaps because he was looking for a new point of departure.⁹⁴ Predictably,

263). However, what Agricola finally presented--Luther calls it a "palinode"--only confirms Luther's impression of "Grickel's" superficiality. He was hoping Luther would help him frame the retraction as mildly as possible WA TR 4, 88, 1-42 [no. 4030]; 30 September 1538), or as Brecht says (*Luther* 3, 167), meet him half-way, theologically.

⁹²The exact date on which the disputation was held has been a bone of contention among the experts. Since the question of dating is not so important for our purposes, we will accept the decision of Hermelink (WA 39 I, 486-87) without discussion. He can see no other date possible than 6 September 1538, which of course coincides with the *Promotionsdisputation* of Cyriacus Gericke.

⁹³WA 39 I, 496, 25-584, 5 (*Promotionsdisputation des Cyriacus Gerichius*). Normally in the the opening address of a licentiate disputation the candidate would be mentioned by name, but in this case Gericke's name does not occur once in this unusually long *praefatio* (see 489, 1-496, 24). Luther once again acted as president as well as chief respondent before a large audience, and once again the man at the center of the storm, Magister Johann Agricola, was conspicuously absent. In a *Tischrede* Luther says that he proceeded to hold forth "*aufs Gewaltigste wider die neuen Lehrer*" in a five hour discussion of doctrine. ". . . 'Die das Gesetz durchs Euangelium verwürfen und das Gesetz wollten aufheben und den Leuten, die sonst allzu sicher wären, heuchlen zum Bösen, denselben . . . wollte er [Luther] widerstehen bis an sein Ende, sollte er auch drüber sterben. Man sollts ihm auch nachsagen nach seinem Tode'" (WA TR 4, 211, 13-14, 15-18 [no. 4310]; 13 September 1538). It is here too for the first time that Luther lumps the antinomians together with the Arians of the ancient church because of the grave danger both pose to the whole church (211, 24-34).

⁹⁴For an analysis of the content of the theses, see our discussion of the Third Disputation in ch. 3. Normally the theses were posted prior to the disputation but in this case they were not sent out until 15 September (Thiele, *Denkwürdigkeiten*, 263). This is another fact that makes this disputation different

Agricola (even though he was not present at the disputation) later claimed that peace had once more been achieved. Luther, on the other hand, continued to denounce the antinomian heresy both publicly and privately, even though Agricola continued to affirm his allegiance to him.⁹⁵

In December 1538 Agricola approached Luther once more for a reconciliation, motivated partly no doubt by the prospect that if he remained at odds with him the elector might cut off his stipend. To avoid any possibility of this backfiring he sought Melanchthon's help in drafting the text of a recantation. However, this proved to be too irenic so that he drafted an outline of his own which he then asked Melanchthon to rework. He then went to Luther and instead of showing it to him asked him how he should best formulate a retraction. Luther however considered him a hypocrite and wanted nothing more to do with him. He did in fact respond to Agricola's request but in a way that he had never expected. It took the form of an open letter to Caspar Güttel, one of Agricola's arch-enemies in Eisleben. The letter, published in January 1539 bearing the title *Wider die Antinomer*, is full of satire and polemic directed against Agricola. In it Luther inserted one sentence, which no doubt amounted to the promised retraction.⁹⁶ His purpose in writing this, apart from wanting to humble Agricola, from a regular *Promotionsdisputation*.

⁹⁵Cf. WA TR 4, 67, 16-68, 2 (no. 4002); 10 September 1538. See Brecht, *Luther* 3, 400, n. 29 for other references. WA Br 8, 292; CR 3, 587-8=MBW 2, no. 2093. Cf. WA 43, 34, 10-17; 46, 15-49, 14 (*Vorlesungen über 1. Mose von 1535-45*). Förstemann, *Neues Urkundenbuch*, 314. In a *Tischrede* on 7 October 1538 Luther reports that Agricola still tries to preach God's wrath while denying the law; that, says Luther, is about as silly as if I were to say: *Vom tode sol man nicht predigen, vom [=sondern von] sterben mag man predigen*. Over against this he affirms the fundamental inseparability of the law and wrath (WA TR 4, 97, 10; 98, 4-12 [no. 4043]).

was to make it perfectly clear that he categorically rejected antinomianism lest anybody should come along after his death and conclude from what Agricola had written that he supported it. To those who believed that Luther shared the views of the antinomians, based on his earlier writings (this of course is what Agricola said), he points to his later writings, his sermons, and his hymns based on the Commandments.⁹⁷ Also in January Luther requested Agricola to prepare a set of theses for debate within the arts faculty on 1 February. However, Luther was critical of them because they did not address the real issues that were at stake and offered no clear proof that Agricola had abandoned his false view.⁹⁸ He regretted having dealt so gently with him in *Wider die Antinomer*.⁹⁹ Although a final break was avoided, the writing was on the wall.¹⁰⁰

⁹⁶[Nemlich also,] "das Er Magister Johannes Eisleben wil widderrufft haben, was er wider das gesetz oder zehen gebot geleret oder geschrieben hat, und mit uns (wie wir hie zu Wittemberg), wie auch zu Augspurg fur dem Keiser die Confessio und Apologia vermag, halten, Und ob er anders wurde hernach halten oder leren, sol es nichts und verdampft sein" (WA 50, 470, 1-5).

⁹⁷There are several important points which Luther makes in this letter which echo what he has already argued in the antinomian disputations. He stresses especially the inextricable connection between sin and Christ as well as the impossibility of eliminating the law entirely because we need the law in order to know what Christ has done for us.

⁹⁸The theses were drafted in two sets: the first, theses 1-9, which Luther objected to the most, represented Agricola's attempt to justify his actions by using an allegory based on 1 Sam. 14: 24-27). The second set, 10-17, corresponded basically to Luther's teaching, except for a few theses which are typically Agricolian. See Rogge, *Lutherverständnis*, 198, for details.

⁹⁹WA Br 12, 276-79 (*Luther, Stellungnahme zu Thesen Agricolas*, 31 January 1539); WA TR 6, no. 6880; WA Br 8, 362, 21-25 (Luther an Melanchthon in Weimar); Thiele, *Denkwürdigkeiten*, 265-66.

¹⁰⁰Rogge, *Lutherverständnis*, 191-92, is not interested in justifying Luther's stance but in discovering its basis. An undated *Tischrede* from 1539 (WA

This publication marked a sudden turning-point in the relationship between Luther and Agricola. Not only did Agricola and his followers take exception to it, but the theologians around Luther also thought that he failed to strike the right balance in his choice of words.¹⁰¹ Moreover, Agricola's colleagues at the university showed their support for him by promising to elect him dean of the arts faculty. Only Luther's vehement objections halted the process.¹⁰² As the conflict escalated, Agricola appealed first to the rector of the university

TR 4, 512, 5-513, 8 [no. 4790; an original parallel to no. 4724], possibly from the second half of February) yields useful information on Luther's view of the nature and dangers of antinomianism. He lumps the antinomians together with the papists insofar as both attack the gospel: "*Et Christum a dextris vexant [antinomi] sicut papistae a sinistris. Nam illi docendo Christum Christum impugnant*" (10-12). Likewise, Karlstadt, Müntzer and Eisleben are normally lumped together by Luther, and yet Agricola stands out in Luther's estimate as the one who has deceived him the most (WA TR 4, 433, 26-27; 3 July 1539). In either case nothing less than Christ is at stake. Luther is concerned that if antinomianism was allowed to spread it could seriously endanger the church. Melanchthon reports on the struggle against antinomianism at the conference of Frankfurt. Luther's fear is that if the antinomians succeeded in removing the law from the church then the government would say: "*Nos etiam sumus christiani; lex non ad nos pertinet*" (4, 468, 10-17 [no. 4756]; par. to the above from Collection B); see also 101, 25-26 (10 or 11 October 1538); 97, 28 (7 October 1538); 452, 8-17. Indeed, even the hangman will then appeal to the fact that he is a Christian in order to throw off the law. Luther fears that the result would be nothing but sweet grace or unbounded libertinism: ". . . so wirdt eitel süß gnadt, id est, infinita licentia folgen" (512, 26-27). This is exactly how Müntzer argued in 1525 and it had dire consequences.

¹⁰¹Nevertheless, Jonas, Bugenhagen, Amsdorf and Melanchthon wanted to make it clear to the elector in their *Gutachten* of April 1540 that Luther spoke as harshly as he did not just on account of Eisleben but for the sake of doctrine (Förstemann, *Neues Urkundenbuch*, 320-21, 325-27).

¹⁰²Luther threatened to preach publicly against the members of the faculty if they did not abide by his decision. In his opinion, Agricola's appointment would have only caused dissensions in church and school. Luther's reasons for blocking him are twofold: a) doctrinal differences; b) Agricola's insincerity (WA TR 4, 361, 1-19 [no. 4521]).

and then, on 31 March 1540, to the elector for an impartial investigation of the matter. This infuriated Luther and provoked him to write a personal attack against Agricola in which he incorporated the evidence collected against him and handed it to Chancellor Brück as proof that Agricola was an enemy of Wittenberg because his teaching was incompatible with the sound evangelical doctrine of its theologians.¹⁰³

The elector finally initiated an inquiry and ordered Agricola confined to the city until the dispute was settled. However, in mid-August he fled Wittenberg and went to Berlin where he took up the position of court preacher to the Elector Joachim II of Brandenburg. Luther did not let this pass without comment. He used the doctoral examination of Joachim Mörlin on 10 September 1540 as a final opportunity to denounce the antinomians as instruments of the devil. This time Luther himself played only a relatively minor part in the disputation. Some weeks later Agricola was prompted by his new prince to make peace with Luther. On 1 October, Melanchthon, acting as an mediator (this role was taken over by Bugenhagen when he had to attend the colloquy in Worms), advised Joachim II that Luther was not prepared to make any concessions and that there could be no peace unless Agricola made a full retraction of his criticism of *Wider die Antinomer* and withdrew his complaints against Luther. Agricola complied with the request and also asked Elector John Frederick to forgive him for breaking his promise and leaving Wittenberg.¹⁰⁴ The first draft of the revocation had to be sent back because it would not have satisfied Luther, after which

¹⁰³*Wider den Eisleben* (WA 51, 429-44).

¹⁰⁴Kawerau, "Briefe und Urkunden," 442-45, 445-48=MBW 3, nos. 2520-21; Förstemann, *Neues Urkundenbuch*, 347-48, 351-54.

Joachim II saw to it that the draft was improved. By mid-December the printed recantation was in his hands ready to send to Wittenberg.¹⁰⁵ Unlike his colleagues however Luther was never able to let go of his old distrust. He continued to see Agricola as man driven by the quest for power and glory. Even at the risk of insulting Joachim II Luther refused to receive Agricola when he visited Wittenberg in 1545, although he was glad to see his wife Else. What he heard from Berlin confirmed his opinion that Agricola had not changed and was still an unrepentant hypocrite. He was supported in his stance by his prince.¹⁰⁶

The question that must finally be answered is whether Luther's assessment of Agricola was correct and the harsh condemnation of his teaching warranted? Luther would claim of course that his action was always motivated by doctrine and not personality. That may well be true in general, but given the former close friendship between these two men, Agricola's obvious ambition, Luther's perception of himself as the chief theologian in Wittenberg, and the teacher-student

¹⁰⁵In his "*Confession und Bekenntnis vom Gesetz Gottes*," which basically follows Melancthon's outline, Agricola puts the blame for his antinomian teaching on the nomistic preaching of George Witzel, the preacher in Eisleben who returned to papal obedience. It is instructive to observe the difference in reaction between Luther and Agricola to Catholic legalism. See Vogt, Bugenhagens *Briefwechsel*, nos. 90, 92. Förstemann, *Neues Urkundenbuch*, 349-51. Kawerau, "Briefe und Urkunden," 453-54, 457-60.

¹⁰⁶WA Br 10, 388, 4-389, 15 (Luther an Georg Buchholzer in Berlin, c. 1 Sept. 1543 [no. 3909]); WA 40 III, 727, 6-20 (Enarratio 53. capitis Esaiæ [1544] 1550; WA 49, 526, 1-2 (Predigt am 8. Sonntag nach Trinitatis); WA Br. 11, 81-83; 84, 10-85, 16; 86, 5-15; 95-100 (Luther an Kurfürst Joachim II von Brandenburg, 2 May 1545 [no. 4098]). Shortly before his death Luther warned the Wittenberg theologians a final time against the errors of "Eisleben" whom he claimed was possessed by the devil; see WA 51, 443, 17-23 (Wider den Eisleben, 1540): . . . *Sondern aber hütet euch für dem Eisleben, denn er wirt nicht allein vom Teuffel geritten, Sonder der Teuffel wonet selbs in jm*; on Agricola's reaction to Luther's death, see Rogge, *Lutherverständnis*, 233-35.

relationship that stamped their friendship from the beginning, it would be a bold person who would conclude that the human element played no part in Luther's reaction to Agricola's teaching. Brecht concludes that while Agricola remained faithful in large part to the Wittenberg doctrine, he failed to understand Luther's theology at its very center, the situation of human beings *coram Deo* in judgment and grace.¹⁰⁷ And precisely because he misunderstood the heart of Luther's theology he misunderstood it completely. It is conceivable that had he not stood outside the doctrinal consensus of the Wittenberg theologians by turning the gospel into a new law, he may have become one of the most capable and articulate exponents of the evangelical faith.¹⁰⁸

The antinomian controversy did not stop in 1540, although this marks the end of one important phase: the dispute between Agricola and Luther. It breaks out again in a new form after Luther's death in the form of the Second and the Third Antinomian Controversy. The later antinomians, who included men such as Poach, Otho, Michael, Neander, and Musculus, were mainly embroiled in controversy with the Philippists and the Gnesio-Lutherans over the question of the third use of the law.¹⁰⁹ It is important to note however that there is no

¹⁰⁷Brecht, *Luther* 3, 172.

¹⁰⁸For an illuminating comparison Agricola and Melanchthon, see the Hammann, *Nomismus und Antinomismus*, esp. 137-43.

¹⁰⁹The best summary of this later controversy is presented by Wilfred Joest, *Gesetz und Freiheit: Das Problem des tertius usus legis bei Luther und die neutestamentliche Parainese*, 4th ed. (Göttingen: Vandenhoeck & Ruprecht, 1968), 45-55, in an excursus. For a thorough study of the Second Antinomian Controversy, see Matthias Richter, *Gesetz und Heil: eine Untersuchung zur Vorgeschichte und zum Verlauf des sogenannten Zweiten Antinomistischen Streits* (Leipzig Diss., 1994).

unbroken line of continuity between the earlier and later antinomian controversies.¹¹⁰ The later antinomians all insisted that the law plays a vital role in the Christian life, albeit not a "third-use" role.

The Theology of the Antinomians

This section will be divided into two parts. First, we will consider the theology of the antinomians on the basis of our chief source, the anonymous theses [*propositiones antinomicae*] which were circulating in Wittenberg in 1537. While Agricola himself was probably not the actual author, the theology is his,¹¹¹ and to that extent he is at least the intellectual author. Since Luther published them together with his own set of theses, which was to be the basis of the first disputation, we need to examine them in order to develop a picture of antinomian theology. After our analysis of the *positiones antinomicae*, we will examine the major themes of Agricola's own theology as they relate to the topic of our study.

The method we will follow is first to offer a translation of each of the *positiones antinomicae* and then our comments. These will be comparatively brief because the theology of the theses will be discussed further in our next chapter. Although the intention here is to outline antinomian doctrinal teaching, we will

¹¹⁰Johannes Seehawer, *Zur Lehre vom Brauch des Gesetzes und zur Geschichte des späteren Antinomismus* (Rostock Diss., 1887) shows (supported by Joest) that the later antinomians, who were united by their common rejection of the *tertius usus legis*, all strove to distance themselves from Agricola. The later antinomians, unlike Agricola, maintained that it is the law that drives people to repentance, and thus prepares for the gospel. It is clear that they taught the *usus elencticus*, partly in reaction to Agricola.

¹¹¹Some comments will be made on the question of the authorship of the theses as we discuss them below. See also the letter WA BR 8, 159, 3-5 (Johannes Agricola an Luther, before 7 December 1537).

also attempt comparisons (however limited) with Luther's theology wherever possible. In publishing the antinomian theses, Luther makes it clear in a brief preface that he is taking this action in order publicly to dissociate himself from them lest his silence be taken as approval.¹¹² He promises to explain the reason for his stance against the antinomians at the disputation which would follow in a few weeks.

The Antinomian Theses Circulated among the Brethren by an Unknown Author¹¹³

1. Repentance is to be taught, neither from the Decalogue, nor from any law of Moses, but on the basis of the injury done to the Son through the gospel.

2. For Christ says in the last chapter of Luke: Thus it was necessary for the Christ to die, and in this way to enter into his glory that repentance and the forgiveness of sins be preached in his name [Luke 24: 46-47].

3. And Christ in John says: The Spirit convicts the world of sin, not the law [John 16: 8].

4. The last words of Christ teach the same: Go, preach the gospel to every creature [Mark 16: 15].

5. Paul, when he speaks to the Philippians (Have this mind in you, which is also in Christ Jesus, that you might work out your salvation with fear and trembling) [Phil. 2: 5, 12], states very clearly that repentance (which he calls fear and trembling) is to be taught from remembering Christ, not from the law.

6. From the sermons of Paul and Barnabas [Acts 13-14] it is clear enough that there is no need for the law in any part of justification.

The first proposition presents what is central to antinomian theology, if

¹¹²For the argument that Luther may have known of the anonymous theses earlier than has been traditionally assumed (following Kawerau), see Kjeldgaard-Pedersen, *Gesetz, Evangelium und Busse*, 256, n. 33.

¹¹³WA 39 I, 342, 1-345, 13: *Positiones antinomicae incerto autore inter fratres sparsae*. These theses, which were circulating in secret, were published by Luther in December 1537 as part of his response [*Ad incerti cuiusdam autoris positiones D. Martini Lutheri Responsio*] to the growing antinomian controversy.

not its chief doctrine: *poenitentia* is to be taught, *non ex Decalogo, aut ulla lege Mosi, sed ex violatione filii per Evangelium*. This is a recurrent theme in the theology of Agricola and also comes up three times in the First Disputation.¹¹⁴ The doctrine is then substantiated and elaborated in *propositiones* 2-7. In other words, unlike Luther, he does not teach that repentance has its origin in the *violatio legis* but in the *violatio filii*.¹¹⁵ The two keys texts used to support this teaching are Luke 24: 46-47¹¹⁶ and John 16: 8,¹¹⁷ each of which is taken up in the disputation by both Luther and the antinomians.¹¹⁸ Mark 16: 15, on the other hand, does not come up in the disputations at all, probably because Jesus' commission here does not contain the crucial word *μετάνοια* [*poenitentia*] even though the text itself is a further confirmation of the fact that Jesus mandated the disciples to preach the

¹¹⁴See WA 39 I, 384, 4-6 (Arg. 15), 399, 8-9 (Arg. 22), 400, 2-3 (Arg. 23). On the prior use of the term *violatio filii*, see our note above on the same in connection with Luther's sermon on 1 July 1537. On the meaning of *ex violatione filii*, see the lengthy note in W² 20, 1624, n. 2.

¹¹⁵Cf. also WA 39 I, 343, 33-34, where the *positiones* list this under the "*puri*" as taught by Luther, and 345, 5-6, where Luther in turn lists it in his *responsio* as a characteristically antinomian teaching.

¹¹⁶Ernst Koch, *Johannes Agricola neben Luther*, (141) points out that Agricola finds in Luke 24: 47 the classical proof for his view that the action of regeneration = the action of renewal, and this action leads, via repentance, to the forgiveness of sins. Koch sees this as further proof that Agricola is operating under the influence of Melanchthon's early theology.

¹¹⁷Although John 16: 8 does not contain the term *metavnoia* either, the idea of repentance is implied by the words: *καὶ ἐλθὼν ἐλέγξει ὁ παράκλητοξ τὸν κόσμον περὶ ἁμαρτίας*

¹¹⁸On Luke 24: see WA 39 I, 392, 17-20 (1 AD, Arg. 19); 414, 2-5 (1 AD, Arg. 35); 416, 1-3 (1 AD, Arg. 36); 485, 9-15 (2 AD, concl.); 572, 3-7 (3 AD, Arg. 9). On John 16: 403, 9-10 (1 AD, Arg. 16); 414, 13-14 (1 AD, Arg. 35).

gospel and not the law. Agricola does not consider the fact that the term "gospel" may be used here, not in the proper sense of the promise of the forgiveness of sins, but in the more general sense of God's word, containing both law and gospel. Philippians 2: 13 is used only once in the disputations, and then not in connection with repentance but good works, the emphasis being on the *bonum proponere* and our inability to do that *ex se sibi*. While it is true that Paul's exhortation *salutem vestram operari* (which is related to the idea of πίστις δι' ἀγάπης ἐνεργουμένη in Gal. 5: 6, according to the interpretation evident here) is based on the *exemplum* (our word) of Christ as the model of humility and self-sacrifice (Phil. 2: 5-11), nevertheless, verse thirteen makes it clear that this is possible only because God himself is working in and through us [Ὡστε . . . μετὰ φόβου καὶ τρόμου τὴν ἑαυτῶν σωτηρίαν κατεργάζεσθε¹¹⁹ θεὸς γὰρ ἐστὶν ὁ ἐνεργῶν ἐν ὑμῖν καὶ τὸ θέλειν καὶ ἐνεργεῖν ὑπὲρ τῆς εὐδοκίας]. Therefore, this weakens the antinomian claim that repentance (which in our opinion is not the issue here anyway) is to be taught *ex memoria Christi, non ex lege* (Th. 5).¹¹⁹ The antinomians also appeal to the sermons of Paul and Barnabas as proof of their thesis that repentance is *ex evangelio* and not *ex lege*. The main passage in question here seems to be Paul's sermon at Pisidian Antioch (Acts 13: 16-41).¹²⁰ Now certainly almost the whole sermon there is a recounting of what the Lord

¹¹⁹Rogge, *Lutherverständnis*, 148, notes that the phrase *ex memoria Christi*, while it agrees factually with Agricola's teaching, is virtually never used by him (another indicator that he may not be the primary author). It is more common for him to use the term *beneficia Christi*, which he took over from Melancthon.

¹²⁰Since Acts gives us no record of any sermons preached by Barnabas, we can only assume that the author means the sermons preached by Paul on his first missionary journey with Barnabas. And the only such sermon recorded is the one in Acts 13: 16-41.

did for his people and is supported by several Old Testament passages. In Agricola's language, this would constitute the *beneficia Dei* or alternatively the *violatio Christi*. Yet the sermon does end on a note of warning [βλέπετε οὐν] (13: 40) which could certainly be taken as a call to repentance based on the law in the form of the scriptural testimony of Habakkuk 1: 5. Therefore, although the greater part of the sermon recounts God's dealings with his people Israel and finally the redemptive work of his Son, it still contains law even if it follows gospel. Moreover, we will see when we come to the disputations that Luther will argue that the gospel statements which condemn sin do not in fact function as gospel but as law.

7. Without any [prior] thing whatever, the Holy Spirit is given and people are justified; it is not necessary that the law be taught, either for the beginning, the middle, or the end of justification.

8. Moreover, the Holy Spirit was given once and is continually given, and people are justified without the law, alone through the gospel of Christ.

9. Therefore, it is not necessary for the law of Moses to be taught, either for the beginning, the middle, or the end of justification.¹²¹

If the first six points presented a thesis (#1) followed by its scriptural proof (#2-6), the next three represent the familiar syllogism of the school disputation with a major premise (#7), minor premise (#8) and conclusion (#9). The theme is justification, which, as we have seen, was already at the center of a controversy between Cruciger (a disciple of Melanchthon) and Cordatus in 1536. As far as we know, Agricola does not use the term *iustificatio* thetically since for him the content of justification is bound up with all that is conveyed by the terms *poenitentia* and *remissio peccatorum*.¹²² He asserts in the *propositio maior* that the

¹²¹See the Disputation *De iustificatione* (1536), WA 39 I, 78-126.

¹²²Thus Rogge, *Lutherverständnis*, 148. It seems that this may be further

law [*ea res*] is not to be applied to either the beginning, middle or end of justification.¹²³ The *propositio minor* asserts that people are justified *sine lege, per solum Evangelium de Christo*. The *conclusio* finally eliminates the *lex Mosi* all together because it is not necessary for it to be taught at any stage of justification. Luther, for his part, rejects completely the scholastic division of justification into *partes* and contends that the antinomians who employ this division do not themselves understand what they mean by such high-flown terms as *principium, medium, and finis*.¹²⁴ Furthermore, although he holds that the law is not "necessary" for justification in a material sense, he maintains that it still plays a preparatory role and hence cannot be eliminated from the context of justification.¹²⁵

10. The major premise is certain based on what we know from the work of Paul and Barnabas [Acts 13: 38-39].

11. You will conclude the same from the minor premise, for the Holy Spirit fell in visible form on the Gentiles [Acts 10: 44-45].

proof that Agricola was not the primary author of the *positiones antinomicae*.

¹²³Luther takes this up in Thesis 15 of his Fourth *Thesenreihe*: *Argumentatio ista: Quicquid non est necessarium ad iustificationem neque in principio, neque in medio, neque in fine, id non est docendum etc., nihil est* (WA 39 I, 352, 36-38). He exposes the absurdity of such an argument by showing that in the final analysis nothing would be taught. On the other hand (Th. 21): *Si syllogismus vult, haec non esse docenda ad iustificationem necessaria, quid novi affertur?* (353, 13-14).

¹²⁴In the fourth *Thesenreihe* he says: *Primum si interrogas, quid istae verborum ampullae principium, medium, finis sibi velint, invenias nec ipsos intelligere* (WA 39 I, 353, 1-2).

¹²⁵Again, Luther makes this clear: *Ex hoc non sequitur, legem esse tollendam aut non docendam, etiam si nihil prosit ad iustificationem* (WA 39 I, 353, 15-16; ATh, IV, Th. 22). He also stresses the givenness of the law as a fact of life: *Lex enim nulla nostra necessitate, sed de facto iam invitis nobis adest, ante et in principio, medio, fine et post iustificationem* (353, 37-38; ATh, IV, Th. 33).

Luther refutes the minor premise (Th. 8) in his fourth *Thesenreihe* where he argues that there can be no justification without the law because it is the task of the law to show that we are sinners and in need of justification.¹²⁶ He denies that the "*experientia*" of Paul and Barnabas would have been such that the Holy Spirit fell on the heathen without the preaching of the law.¹²⁷ In fact, although he does not say it in so many words, the same applies to Peter's sermon in the home of Cornelius. Agricola would have us believe that the Spirit came without the preaching of the law at all. However, even a cursory look at what Peter said

¹²⁶WA 39 I, 353, 17-18 (ATh, IV, Th. 23): *Falso allegatur in minore experientia a Paulo et Barnaba, per quorum ministerium sine lege, gentes sunt iustificatae.* Moreover, in Th. 26 he agrees with Augustine that "without the law" means "without the help of the law: "*Sine lege*" *ubique in Paulo intellegi debet, ut Augustinus recte exponit, lege adiuvante id quod semper secuti sumus* (353, 23-24).

¹²⁷This is an exegetical more than a theological conclusion. Admittedly, the account of Paul's sermon at Pisidian Antioch does not contain an overt proclamation of the law such as we find in Peter's Pentecost sermons in Acts 2 where he reminds them twice that they crucified Jesus but God raised him up (vv. 23-24; 36), although it is implicit in 13: 38-39 where there is an indissoluble connection between the ἄφεσις ἀμαρτιῶν καταγγέλλεται and the ἀπὸ πάντων ὧν οὐκ ἠδυνήθητε ἐν νόμῳ Μωϋσέως δικαιοθῆναι. In other words, the fact that justification bestows what cannot be obtained *ex lege Mosi* presupposes the prior claim of the law. This fact is completely overlooked by the "proof" offered for the *propositio maior* of the antinomian *positiones*. Furthermore, it is inadmissible to arbitrarily confine one's attention to the missionary kerygma of Paul and Barnabas. When one looks at the other sermons in Acts, the preaching of the law is not just implicit but explicit. In Acts 2 Peter concludes by stressing that God has made him both Lord and Christ, τοῦτον τὸν Ἰησοῦν ὃν ὑμεῖς ἐσταυρώσατε (v. 36), and in the following verse we are told the reaction of his hearers: Ἀκούσαντες δὲ κατενύγησαν τὴν καρδίαν That this was more than mere contrition is evident from the fact that they were baptized. In Acts 13 the outcome is different, but they too were eager to hear again the λόγος τοῦ κυρίου the following sabbath.

shows that he preached the law (Acts 10: 42) as well as gospel (v. 43).¹²⁸

12. Why then do certain persons, without the word, indeed contrary to the word of Christ, and contrary to the example of the apostles, make the law the first part, and indeed a necessary part, of the doctrine of justification?

13. Therefore, in order to preserve the purity of the doctrine, we must oppose those who teach that the gospel is not to be preached unless souls have first been shaken and made contrite by the law.

14. Those who improperly add this preachment to the words of Christ and teach that first the law, then the gospel, is to be taught, are distorters of Christ's words, for they do stand firm on the simplicity of his words.

15. For just as we must to stand firm on the simple sense of those words: This is my body, so we will have to stand firm on the simplicity of those words: Go, preach the gospel, baptizing etc [Matt. 28: 19; Mark 16: 15-16].

16. All the law does is convict sins, and indeed without the Holy Spirit, therefore it convicts to damnation.

17. However, we need a doctrine that not only condemns with great effect but also saves at the same time. That however is the gospel, which teaches repentance and the forgiveness of sins conjointly.

18. For the gospel of Christ teaches the wrath of God from heaven, and at the same time the righteousness of God (Rom. 1 [: 17, 18]). It is a preaching of repentance, conjoined with a promise, which reason cannot grasp naturally, but through divine revelation.

If the *quidam* in Thesis 12 is an oblique reference to Luther (and it is hard to see how it could be anything else), then the author is either ignorant of Luther's teaching on justification or he is deliberately attributing falsehood to him

¹²⁸A parenthetical comment about the "Gentile Pentecost" in Acts 10: 44-45. The fact that the Spirit fell on Cornelius and his household while Peter was still preaching, and before they were baptized, is of special *heilsgeschichtlich* importance and indeed contrary to the normal order of things in Acts. It is proof to the reluctant Jews that it is God's will that the Gentiles are also to be received into the church. This is the conclusion that the Jews themselves finally come to when Peter reports the event to the leaders of the church in Jerusalem (Acts 11: 15-18). This narrative is descriptive of the way in which the Spirit leads and guides the mission in Acts, especially at certain crucial points, such as when the gospel crosses over the boundaries of Judaism and is preached on Gentile soil. It does not represent the normal way in which the Spirit is given, even in Acts, and should not be used prescriptively as is often the case in Pentecostal circles.

for scurrilous purposes.¹²⁹ Luther certainly does speak of the *partes* of repentance, as we see from his own theses,¹³⁰ but he would never say that the teaching of the law is the *prima pars* of justification.¹³¹ Furthermore, he has also made it plain that the term *necessaria* should not be used in theology, and especially not in the article of justification.¹³²

Thesis 13, with its criticism of those who teach that the gospel should not be preached *nisi animis prius quassatis et contritis per legem*, seems to be aimed especially at Melancthon and may hark back to the controversy of 1527.¹³³

Thesis 14 declares that those who teach this way, insisting that the law must be preached before the gospel, are only *verborum Christi contortores*, for they are superimposing their own system on the clear words of Christ which he spoke when he commanded that the gospel be preached in all the world. The important thing for the *incertus autor* is the *simplicitas verborum Christi*, which could be lost if one does not stay strictly with his commission, *Ite, praedicate Evangelium*. The author supports his position by comparing these words with the *verba Domini*

¹²⁹We agree with Rogge, *Lutherverständnis*, 147, that this is yet another indicator that Agricola himself was probably not the author of the theses.

¹³⁰See, for instance, WA 39 I, 345, 22-23 (ATh, I, Th. 4): *Poenitentiae prior pars, scilicet dolor, est ex lege tantum. Altera pars, scilicet propositum bonum, non potest ex lege esse.*

¹³¹This is already clear from the Theses on Rom. 3: 28 and Disputation of 1536 *de iustificatione* (WA 39 I, 82-126).

¹³²See, for instance, his *Responsio* to *Argumentum* 13 in the *Promotionsdisputation von Palladius und Tilemann* (1 June 1537), WA 39 I, 224, 22-226, 17.

¹³³Rogge, *Lutherverständnis*, 147, n. 52, notes that Luther writes in the margin of his copy: *Da ist die gifft heraus,*" see Förstemann, *Neues Urkundenbuch*, 314. For more, see above our comments on the controversy.

spoken at the institution of the Lord's Supper: *Hoc est corpus meum*. However, the antinomians, by insisting that the word "gospel" can only have one sense, came to the text with just as preconceived a notion as to what it means as did the Sacramentarians who, for purely rational or philosophical reasons, ruled out the literal sense of *corpus* and proceeded to interpret it symbolically. Already the fact that the dominical mandate in Matthew 28: 20 does not use τὸ εὐαγγέλιον, but rather charges the disciples to teach all people to keep πάντα ὅσα ἐνετειλάμην ὑμῖν, should make one wary about too quickly identifying τὸ εὐαγγέλιον in Mark 16: 15 with ἄφεσις ἁμαρτιῶν. This will be discussed further in the course of our analysis of the disputations.

Thesis 16 expresses one of the chief objections that Agricola has to the preaching of the law. He agrees with Luther, *lex semper accusat*, or *lex arguit peccata*, but he makes a significant addition: he adds the word "*tantum*." Thus, Agricola teaches: *Lex tantum arguit peccata*--and qualifies that further by adding: *et quidem sine Spiritu sancto*, and concludes: *ergo arguit ad damnationem*. We will see later that Luther, in one of his responses, refers specifically to this thesis and rejects it as nonsense saying that it is impossible for the law to reveal sin without the Holy Spirit, but that the Spirit who works through the law is not doing the same as the Spirit who works through the gospel.¹³⁴ The other point we will see Luther making is that the true purpose of the law finally is not to drive to damnation--hence the law does not only [*tantum*] condemn--but to be our "paidagwov" in leading us to Christ.

Theses 17 and 18 express the heart of Agricola's theology. In place of the two antithetical words of God, law and gospel, which for Luther must always be

¹³⁴See WA 39 I, 370, 3-371, 16 (1 AD, Arg. 4).

distinguished but never separated, Agricola wants to speak only of one word. That in turn means that instead of having the law to condemn and the gospel to forgive, he wants the gospel, as the one word, to do double duty and thus to forgive as well as to condemn. Hence, he maintains that gospel *coniunctim docet poenitentiam et remissionem peccatorum* (Th. 18), which is why he can use Jesus' words in Luke 24: 46-47 as a mandate to preach solely the gospel. Underlying this is the assumption, central to Agricola's theology, of a *duplex revelatio*, where the gospel reveals not only God's wrath but also his righteousness: *Evangelium Christi docet iram Dei et coelo, et simul iustitiam Dei* (Th. 18). As we will see in the next chapter, Luther demonstrates that this central tenet of antinomian theology rests on a false exegesis of Romans 1: 18¹³⁵ (and they make a similar error in their interpretation of the account of Paul's conversion¹³⁶). The antinomians claim that they can still teach God's wrath even without teaching the law. First they preach grace and then the revelation of wrath. In fact they have made this into a new method of preaching which they then claim to find everywhere in scripture. Luther rejects this new method as well as the claim that one can preach wrath without preaching the law. He insists that it is impossible to separate them because the law brings wrath (Rom. 4: 15).¹³⁷

Although not mentioned in *positiones antinomicae*, a correlative to the

¹³⁵See WA 39 I, 423, 3- 424, 3 (2 AD, Arg. 1).

¹³⁶See WA 39 I, 405, 7-11 (1 AD, Arg. 27); 406, 19-407, 15 (1 AD, Arg. 28); 566, 12-567, 14 (3 AD, Arg. 33/6). A third text to be used by the antinomians in support of their teaching that the gospel bestows forgiveness and salvation and at the same time reveals sin, is Ps. 19: 2.

¹³⁷See WA 39 I, 348, 27-30 (ATh II, Th. 19, 20); WA 50, 474, 9-27 (*Wider die Antinomer*, 1539).

notion of the *duplex revelatio* of the gospel is the *Begriffspaar sacramentum-exemplum*. When we encounter this in this disputations, we will see that while Luther distinguishes here between law and gospel, Agricola uses this *modus loquendi* in Luther to corroborate his teaching that the law is in the gospel and that therefore the *lex Mosaica* has been abolished to make way for the gospel as the *nova lex*.¹³⁸

Finally, we observe that this idea of a *duplex revelatio* is also the presupposition for the first thesis which asserts that repentance does not arise *ex lege* but *ex violatione filii per Evangelium*. The antinomians find additional support for their thesis in Paul's statement in Romans 2: 4 that the *benignitas Dei* is meant to lead us to repentance.¹³⁹

The *positiones antinomicae* now begin a new section. The next two sets of articles provide a sampling of several important Reformation sources that have been categorized as either "*puri*" (sound) or "*impuri*" (unsound), judged from an antinomian point of view. After the a brief introduction, the first of these two sets of articles offers with approval five passages from the writings of Luther and one from Melanchthon under the heading: *Puri sunt ex multis pauci isti*. It is worth noting that the majority of the so-called "*puri articuli*" belong to the period of the young Luther. In each case we will first cite the passage in translation and then comment on it.

The commentaries of the earlier men are in scant agreement with us, for

¹³⁸On *sacramentum-exemplum*, see WA 39 I, 461, 20-466, 21 (2 AD, Arg. 15).

¹³⁹This is also taken up in WA 39 I, 536, 3-537, 13 (3 AD, Arg. 18); 580, 4-16 (3 AD, Arg. 42/15).

the manner of justification is taught purely in some places and impurely in others.

From the Many These Few are Sound¹⁴⁰

1. Luther in the Preface to Romans where he says: "God's wrath from heaven over all mankind is revealed through the gospel, because of their godlessness and wickedness."

When Luther wrote this in his *Epistelvorreden* to the *Septemberbibel* in 1522,¹⁴¹ he was innocent of any latent antinomianism, and as we saw above, later rejected the notion that the gospel is the revelation of God's wrath. As we said above, this idea figures prominently in Agricola's theology and will be further discussed in the next chapter.

2. Luther in his Preface to James: "He wants to do with the law what the apostles do with the appeal to love." In this name it is condemned, even if the epistle of James is apostolic.

This passage also comes from Luther's Preface in the "September Bible." The antinomian author, for obvious reasons, shares Luther's dislike for the Epistle of James. However, Luther's criticism of James is not antinomian in outlook. He does not polemicize against James simply because of its predominately nomistic character (we today would call it parenesis as opposed to *nomos*), but because it lacks the clear proclamation of Christ, since for Luther the chief criterion of canonicity is finally christological [*was Christum treibet*].

3. In his Epistle to the Romans Philipp is always stressing that in the New Testament it is the offence against the Son which is to be emphasized,

¹⁴⁰WA 39 I, 343, 27-344, 13.

¹⁴¹WA DB 7, 13, 34-35, 27-34.

not the breaking of the law.

This passage is strictly not a citation but rather an attempt to give the gist of Melanchthon's work.¹⁴² However, there is no doubt that he would never have written: *In novo testamento esse urgendam violationem filii, non violationem legis*. There are certainly plenty of passages which could be construed in that way, especially if they were taken out of context.¹⁴³ But there are also many other passages which would not support an antinomian reading of Melanchthon's work.¹⁴⁴ To cite Melanchthon in support of a position which he himself fiercely opposed only a decade earlier does nothing to advance the antinomian cause.

4. Luther in summaries of the Psalter says on the psalm [19]: The heavens proclaim: And with that he sets aside at the same time the old law, which etc.¹⁴⁵ And in his notes on the psalm he compares the glory of the law with that of the gospel, considering carefully why the heavens reveal the honor of God. And among other things he says: "Because the doctrine of

¹⁴²The Weimarer editor (Hermelink) notes that the first edition of Melanchthon's Roman's commentary, *Commentarii in epist. Pauli ad Romanos, recens scripti a Philippo Melan. anno 1532*, does not appear in CR.

¹⁴³Rogge, *Lutherverständnis*, 148, gives examples: "*Euangelium praedicat poenitentiam (see Rogge, 277 n. 58) , et arguit peccata, et offert remissionem peccatorum et iustificationem.*" Again: "*Reuelatur ira Dei de coelo, hoc est praedicatur in Euangelio super omnem impietatem . . .*" Agricola no doubt felt vindicated when Melanchthon, in expounding Rom. 1: 18, elucidated it by drawing on his key passage, Luke 24: 46-47: "*. . . summam suae doctrinae aptissime complexus est Christus ipse, cum inquit, Lucae ultimo. Ite praedicantes poenitentiam in nomine meo et remissionem peccatorum.*"

¹⁴⁴Again, Rogge, *Lutherverständnis*, 149, offers examples. "*Lex est doctrina requires a nobis perfectam obedientiam erga Deum . . . condemnans hos, qui non sunt tales, quales ipsa esse praecipit.*" Again: "*Et tamen interim non sola fides, sed etiam obedientia erga legem adesse debet.*"

¹⁴⁵See WA 38, 24, 20-21 (*Summarien über die Psalmen und Ursachen des Dolmetschens; 1531-1533*).

the law rather leads to the honor of men and the dishonor of God, while through the works of the law either they are proud or those in despair hate God, this is a proclamation of the heavens.¹⁴⁶

The antinomians say that it is impossible to proclaim the honor [*gloria*] of God without at the same time telling of the dishonor of mankind. Does Luther's exegesis (in his *Operationes*) lead him to conclude that both the salvation and sin of mankind are revealed through the one gospel, as in Agricola?¹⁴⁷ It seems not. When Luther says with Psalm 19: 2 (Eng., v. 1) that the honor of God [*gloria*] cannot be proclaimed unless the dishonor of man is proclaimed at the same time, he is not saying that the gospel reveals sin. What he says is that where the gospel prevails the law also has exercised its function. Kjeldgaard-Pedersen has shown in his analysis of Luther's interpretation of Psalm 19 that Luther, unlike Agricola, does not relate the gospel to the revelation of sin. To proclaim the honor of God means to proclaim his mercy (which means ultimately Jesus), which is the only basis for the glory of man, and through which God himself is glorified. When Luther speaks of the proclamation of the glory, there is nothing to suggest that the gospel is also the means of the revelation of sin.

Since the *positiones antinomicae* refer to Psalm 19 in Luther's *Psalmensummarien*, we should also comment on that. While Luther's exegesis of the psalm might at first sight lend support to the antinomian idea that the gospel is really the *lex nova*, a careful look at his other writings will reveal that that is not the way he speaks once he has extricated himself from Augustine and learned to dis-

¹⁴⁶WA 5, 543, 23-26 (*Operationes in Psalmos*; 1519-1521).

¹⁴⁷This is the question that Kjeldgaard-Pedersen, *Gesetz, Evangelium und Busse*, 278-79, attempts to answer. For a comparative exegesis of Ps. 19 to establish the theological divergence between Luther and Agricola, see pp. 226-43.

tinguish properly between law and gospel.¹⁴⁸ Another passage from the same *Summarien* also appears to validate antinomian teaching: "*Eben so solle auch das neue gesetz des Euangelij leuchten, alles [alle Welt] allerley leren, erleuchten, trösten, reinigen etc. Und damit hebt er zu gleich auff das alte gesetz, welchs nicht so rein, helle, lieblich und unvergenglich war etc.*"¹⁴⁹ However, the fact that this passage, in spite of its late dating, is more reminiscent of the early Luther than of late Luther, does explain why it could be misinterpreted in an antinomian direction.

This may be a good point to make some observations about Luther's early theology, since most of the *Luthertexte* cited in support of antinomian doctrine (the "*puri*") come from the earlier part of his career. We may date Luther's decisive *Durchbruch* around 1518/19.¹⁵⁰ By this time he has already parted

¹⁴⁸On Luther and Augustine, see Leif Grane, "*Divus Paulus et S. Augustinus, Interpres eius fidelissimus: über Luthers Verhältnis zu Augustin,*" in *Festschrift für Ernst Fuchs*, ed. G. Ebeling, E. Jüngel, and G. Schunack (Tübingen: Mohr, 1973), 133-46. Grane makes the point that Luther was not interested in Augustine's theology per se but only insofar as it assisted him in his interpretation of Paul to grasp the *modus loquendi Apostoli*. He concludes with a very telling passage from Luther's *Tischreden*, cited according to Clement's ed., Cl. 8, 45, 34ff. (No. 347 in Veit Dietrichs Sammlung): "*Sind [seit] ich Paulus verstanden hab, so hab ich keinen Doctor können achten. Sie sind mir gar gering worden. Principio Augustinum vorabam, non legebam, sed da mir in Paulo die thur auffgieng, das ich wuste, was iustificatio fidei ward, da ward es aus mit yhm.*" See also Uuras Saarnivaara, *Luther Discovers the Gospel: New Light Upon Luther's Way from Medieval Catholicism to Evangelical faith* (St. Louis: Concordia Publishing House, 1951), esp. 9-18.

¹⁴⁹WA 38, 24, 19-23 (*Summarien über die Psalmen und Ursachen des Dolmetschens*; 1531-1533). This psalm was important to Agricola and it also played a role in his refutation of Müntzer's commentary. Therefore, thesis #4 no doubt goes back to Agricola.

¹⁵⁰Generally speaking, we accept the position of Ernst Bizer, *Fides ex Auditu: Eine Untersuchung über Entdeckung der Gerechtigkeit Gottes durch Martin Luther* (Neukirchen: Verlag der Buchhandlung des Erziehungsvereins

company with scholastic theology, is beginning to distinguish between law and gospel, and is gradually weaning himself off Augustine.¹⁵¹ Furthermore, we work with the assumption that there is a radical difference between the theology of the young Luther and the mature Luther. Even if the same term is used later, it will be now used in a different way.

The contrast between the old law and the new law, instead of between law and gospel, is typical of the young Luther for whom the gospel is really the new, spiritual law.¹⁵² Hence, the equation *evangelium = nova lex* or *lex spiritualis*. This

Neukirchen Kreis Moers, 1958). A similar position is adopted by Saarnivaara, *Luther Discovers the Gospel*, and Brecht in his three-volume biography, *Martin Luther*. Bizer's position has been seriously challenged. For instance, see Kjeldgaard-Pedersen, *Gesetz, Evangelium und Busse*, esp. 332-52. Leif Grane, *Modus loquendi theologicus. Luthers Kampf um die Erneuerung der Theologie (1515-1518)* (Leiden: E. J. Brill, 1975), does not see Luther's breakthrough occurring at a particular date but understands it rather as a new way of thinking and speaking theologically, a transformation of language, as Luther gradually comes to reject medieval scholasticism.

¹⁵¹In a nutshell, the core difference between Augustine and the mature Luther is that Augustine understands the gospel as the *nova lex* or *lex spiritualis* and therefore distinguishes between two laws instead of between law and gospel. This has profound theological implications. It means that for Augustine justification is understood as renewal or gradual transformation of the believer into the image of God, while for Luther it is the forgiveness of sins and the imputation of righteousness *propter Christum per fidem*. Broadly speaking, Luther puts the emphasis on the *externum verbum* and the *Christus pro nobis*, while Augustine speaks of the inner word and the *Christus in nobis*. For Luther sanctification (though he does not use the term as such) is the fruit of justification, for Augustine justification is sanctification.

¹⁵²Both the young Luther and Agricola use Ps. 19: 11 (Eng., v. 10) to illustrate the meaning of the *lex spiritualis*. However, in his *Operationes* Luther makes a distinction here. The knowledge of the law in its character as *spiritualis* is not the same as knowing the *lex domini spiritualiter* (WA 5, 556, 15-16). To know the law spiritually (which is akin to Jesus taking the law into his own hands) means understanding it as the demand that we can in no way fulfill and which in turn leads to the fact that we feel tormented in our conscience. But that

equation is consistent with the Augustinian and scholastic terminology, according to which *lex* was an *Oberbegriff* for law and gospel. Consequently, whereas in the mature Luther the contrast is *lex-evangelium*; *lex-promissio*, in the young Luther (following Augustine) it is rather *lex vetus-lex nova*; *lex literalis-lex spiritualis*.

Hence, the early Luther operates with two laws (*lex litterae* and *lex spiritualis*), the older Luther speaks rather of two uses of the one law.¹⁵³

The above passage from Luther's *Operationes* is quoted in Agricola's *Evangelien summarien*,¹⁵⁴ which is probably the best source for the theology of the

is still to understand that law as *litera*. To understand the law *spiritualiter* as *lex domini* is to understand it as the law fulfilled in Christ. Agricola reserves the term *lex spiritualis* for the law fulfilled in love. However, he has no understanding of the spiritual function of the law (revealing sin and wrath) even though he says that we only come to the knowledge of the real character of the law in the light of grace. Therefore, Agricola cannot say that the law in its theological function leads directly to its goal (Christ) when it is understood *spiritualiter*, since for him the law (as *lex arguens*) and the Spirit work in opposite directions. Where the Spirit is present the law cannot function "spiritually." In Agricola then the gospel also, and not only the law, leads to a knowledge of sin in the Christian. For an instructive comparison of Luther and Agricola in their exegesis of Psalm 19 (although we cannot accept all his conclusions), see Kjeldgaard-Pedersen, *Gesetz, Evangelium und Busse*, 226-243. It is useful to note how comparatively seldom Luther uses the term *lex spiritualis* in his later years, and even when he does, he speaks like Paul in Rom. 7: 14: *Lex est spiritualis, id est, requirit spiritualia* (WA 39 II, 138, 15; Arg. 25, Mörlin); cf. 39 I, 460, 1-2 (2 AD, Arg. 14). These are the only two times that the two words *lex* and *spiritualis* occur in a sentence (which is not the same as the term *lex spiritualis*) in the Antinomian Disputations, and in fact in the later disputations as a whole. A glance at the *Registerband* of the WA (Latin works) will also confirm the relatively infrequent occurrence of this concept in the mature Luther.

¹⁵³This point is also observed by Martin Schloemann, *Natürliches und gepredigttes Gesetz bei Luther* (Berlin: Verlag Alfred Töpelmann, 1961), 20.

¹⁵⁴Förstemann, *Neues Urkundenbuch*, 299. It is quoted in somewhat more detail and in German translation. Cf. WA 5, 543, 21-26: *Haec fides et scientia domini facit nos amare, gloriari et glorificare. Hanc gloriam Moses et prophetae etsi cognoverunt, non tamen enarraverunt, sed enarrandam aliquando praedixerunt, cum*

later Agricola.¹⁵⁵ Now what makes this passage as cited in the *Summarien* (in contrast to the way it stands in the *positiones antinomicae*) so important for the light that it sheds on both Agricola and Luther is the fact that Luther has underlined it and made marginal notes on two sentences: on Agricola's addition and on the words "*Sonst hat das Gesetz Gottes vnehre gewirckt.*"¹⁵⁶ Luther is probably not even aware that these are his own words from the *Operationes* that he is commenting on¹⁵⁷ and that from Agricola's point of view he is even contradicting himself when he remarks: "*Das leugestu, quia iram operatur lex, non blasphemiam.*"¹⁵⁸ Then with regard to the words that Agricola adds at the end of the paragraph: "*an welchen Gott kein ehr kan* (in the sense that the law can never serve the honor of God) Luther comments: "*Ecce Satanam, Contritorum enim Deus est.*"¹⁵⁹ It is clear from this that Luther does not hold that the law causes security

doctrina legis potius gloriam hominum et ignomiam dei operaretur, dum per opera legis aut superbi praesumerent aut desperati deum odirent homines.

¹⁵⁵This is not intended to suggest that there is a decisive shift in thinking between the young and the old Agricola. In fact in our opinion (and that is all that it is, an opinion, because this question lies outside the scope of our research) Agricola's theology is fairly well settled by 1525. On the *Evangelien-summarien*, see Rogge, *Lutherverständnis*, 156-65. For an analysis of his teaching up to 1527, see Kjeldgaard-Pedersen, *Gesetz, Evangelium und Busse*, esp. 37-212.

¹⁵⁶It was pointed out in the historical section that when Luther learned that Agricola was having the *Evangelien-summarien* printed without his approval, he ordered the presses stopped and confiscated the copies already printed, keeping one for himself.

¹⁵⁷Agricola does not acknowledge the words as being Luther's but simply embeds them in his own writing so that the reader assumes they are his.

¹⁵⁸Förstemann, *Neues Urkundenbuch*, 299, n. 2; cf. WA 50, 674, 1-2 (*Luthers Randbemerkungen zu den Summarien des Agricola*).

¹⁵⁹Förstemann, *Neues Urkundenbuch*, 299, n. 3; cf. WA 50, 674, 3-4

and blasphemy, nor does he see it as the chief purpose of the law to bring about the honor of God, but teaches that the law works wrath (Rom. 4: 15). The question raised here of course is whether Luther really does contradict himself with his *marginalia* or whether the original context of this passage in the *Operationes* supports such an understanding. It will become clear as our analysis unfolds why we believe that Luther's *Randbemerkungen* do in fact constitute a real contradiction and that furthermore this is indicative of a decisive change in the understanding of the law that distinguishes the mature Luther from the young Luther.¹⁶⁰

5. Isaiah 40: The law must be a pedagogue of the body. But those who seek righteousness through it make of it a pedagogue of the conscience. But as far as the heavens are removed from the earth, so far must we separate the law from the conscience.

The law must be bound¹⁶¹ to the body and external members in order that it may govern external actions. This is the true and proper use of the law. However, those who use it for justification abuse the law to their damnation.

Luther, in passage cited here by the antinomians and which they agree with, is at great pains to stress that the law belongs to the domain of the body, not in the conscience [*lex esse paedagogus corporis*]. This theme comes out very strongly in Luther's 1531/1535 Galatians commentary, where he stresses that the law is to rule the body but not the conscience.¹⁶² To say that the law must not be

(*Luthers Randbemerkungen zu den Summarien des Agricola*).

¹⁶⁰Kjeldgaard-Pedersen, *Gesetz, Evangelium und Busse*, 226-243, take the opposite view.

¹⁶¹WA 25, 250, 1 reads "*ablegenda*" instead of "*alliganda*" as in the *Positiones antinomicae*.

¹⁶²See WA 40 I, 213, 28-214, 24 (Galatervorlesung, 1531/35). Although Luther expresses it in different ways, one of the most common is the phrase *conscientia in evangelio--caro in lege*. See Joest, *Gesetz und Freiheit*, 101-109.

permitted to rule the conscience is the same as saying that the law, and hence works, must be excluded from the article of justification. In other words, Luther like Paul insists that justification is *sola fide*, without the works of the law. To use the law for justification is to abuse the law. The statement that the law is the *paedagogus corporis* is simply another way of stating the *usus legis politicus*, which is the only use of the law that the antinomians will countenance.¹⁶³ Because Luther says nothing about the *usus theologicus* here but rather affirms the need to expel the law from the conscience whenever it is used as a way of salvation (or as a *paedagogus conscientiae*), the antinomians claim these passages in support of their own position.

These are Impure¹⁶⁴

1. In *Visitatio Saxonica*: Christ gave command that we should proclaim repentance and the forgiveness of sins in his name, therefore the Decalogue is to be taught.¹⁶⁵

This statement begins the second set of articles which are intended to draw attention to Luther's errors (the first certainly reflects Luther's theology even if the document is not his), understood from the antinomian point of view. Hence the title: *Impuri sunt*. Conversely, one could say that these statements, from

¹⁶³On the problem of the Melanchthonian equation of the *usus politicus* and the *usus paedagogicus*, where *paedagogia* is understood as *disciplina* in a Calvinistic sense, see our discussion of conclusion to the Second Disputation (WA 39 I, 485, 9-24). However, this idea does not occur in Agricola.

¹⁶⁴WA 39 I, 344, 15-23.

¹⁶⁵*Die Evang. Kirchenordnungen des XVI Jahrhunderts*, ed. Em. Sehling, I, 1, p. 152.

Luther's standpoint, highlight certain errors in antinomian theology.

The first of the *impuri articuli* begins with a polemic against the visitation articles and the *Visitationsordnung* that arose from it. For Agricola the introduction to the order of visitation, "*Von der Lere*,"¹⁶⁶ meant a *contradictio in adiecto* when, for instance, it is taught there: "*Christus mandat nobis praedicandam esse poenitentiam et remissionem peccatorum in suo nomine, ergo docendus est Decalogus.*" For him the "*ergo*" was unacceptable, and it was precisely this kind of thinking that he wanted to eradicate through his peculiar exegesis of Luke 24: 46-47, which is a recurring theme of his theology.¹⁶⁷

2. Again concerning the fact that the cross is to be borne: Thus the gospel teaches that the law has been given to humble us in order that we may seek Christ etc.

This statement at first sounds as though it has been misplaced and should rather be listed under the *puri articuli* since it sounds more antinomian in tenor than Lutheran. However, appearances can deceive and we will see in our analyses that in fact it is thoroughly Lutheran.¹⁶⁸ Consider again the way the

¹⁶⁶Here especially WA 26, 202, 6-7 (*Unterricht der Visitatoren an die Pfarrherren*, 1528). Later in the article "*Von der Lere*" Luther makes the point, *contra antinomios*, that repentance and law belong to the "*gemeinen glauben*" for one must first believe that God is the one who threatens, commands, and frightens etc. He holds that it is best for the sake of the unschooled, common people, to retain the terms repentance, command, commandment, law, fear [*busse, gebot, gesetz, forcht*] etc. to describe that way of speaking, in order that there be no confusion between that and the justifying faith that makes righteous and takes away sin--something that the faith that arises from commandments and repentance can never do (202, 32-203, 4).

¹⁶⁷For references to where this passage comes up in the disputations, see our discussion above of the first set of theses of the *Positiones antinomicae*.

¹⁶⁸Rogge, *Lutherverständnis*, thinks that the formulation is too unusual for

statement is formulated: *Sic igitur Evangelium docet, legem datam esse, ut humiliet nos, ut quaeramus Christum etc.* The decisive word is *docere*. It does not say: *Evangelium humiliat nos . . .*, but: *Evangelium docet, legem datam esse, ut humiliet nos . . .* The gospel itself does not do the humbling but it teaches us that the law does that.¹⁶⁹ Agricola, on the other hand, teaches that it is precisely the gospel that humbles us and brings us to repentance.¹⁷⁰

3. In Galatians Luther says that it is indeed the office of the law to harass the conscience and terrify it in order that it might the more readily know Christ.¹⁷¹ Many such passages are to be found in the same commentary, which we reject as errors that the purity of doctrine may be preserved.

The final article in this set is an allusion, if not a direct quotation, from Luther's 1531/1535 Galatians Commentary. His earlier 1519 commentary was still a favorite with the antinomians as it provided a fund of proof-passages for a whole host of points which his latter exegesis of Galatians regarded as suspect: "*Tales loci multi sunt in eodem commentario, quos ut erroneos improbamus,*¹⁷² *ut*

Agricola and that it probably is the work of a student who could not quite bring himself to deny all that he learned from Luther. Its independent formulation (it is the only article that cannot be sourced) is another reason why Rogge is of the opinion that it does not come from Agricola.

¹⁶⁹There is an echo of this also in the Formula of Concord: cf. FC SD V, 18: *Es ist aber gleichwohl dies auch wahr, daß das Gesetze mit seiner Lehre durchs Evangelium illustriert und erklärt wird, und bleibet dennoch des Gesetzes eigentlich Ampt, die Sünde strafen und von guten Werken lehren* (BSLK, 957).

¹⁷⁰See. above, *Positiones antinomicae*, Th. 17 and 18.

¹⁷¹WA 40 I, 257, 29 (Galatervorlesung, 1531/35), et passim.

¹⁷²Rogge, *Lutherverständnis*, 278, n. 77, again thinks that the plural points to a plurality of authors. He notes that Agricola never speaks in the third person in any passage. The observation that Luther's 1519 Galatians Commentary was a veritable *gefundenes Fressen* for the antinomians further confirms our thesis that by and large they continue themes that are found in Luther's pre-

puritas doctrinae conservari possit." The passage cited, which is typical of so much of his later lectures on Galatians, clearly asserts that the *officium legis* is to harass and terrify consciences, indeed to expose and condemn sin, but not for its own sake, as the antinomians claimed, but to clear the way for the penitent to Christ.

Likewise Others¹⁷³

With this heading we come to the final section of the *positiones*, which comprises two subsets of theses (A and B) totaling eleven in all.¹⁷⁴ However, neither subset probably belongs to the *positiones antinomicae* but they were most likely added by Luther (or his disciples) as a warning against antinomian doctrine, and in a sense constitute his own preliminary refutation.¹⁷⁵

A1. The law is not worthy to be called the word of God.

It is conceivable that Luther, as the final redactor, made this thesis serve

Reformation theology before he discovered how to properly distinguish between law and gospel.

¹⁷³WA 39 I, 344, 25-345, 13.

¹⁷⁴The heading is misleading in two ways: First, the "*Item alii*" obviously refers back to the preceding articles from Luther, yet at least one of the first subset is clearly Agricola's (as we will see); secondly, Luther himself claims that the eight theses from the second subset can be traced back to Agricola. Förstmann, 314: "*Ista duas [Theses 2 and 3] potest negare fortasse, tamen nescio. Nec sunt Islebio imputati, sed aliis vt suis discipulis, vt titulus indicat. Omnes alie sunt M. Grickls, vt aliis probatur.*"

¹⁷⁵Again the problem of authorship arises. Hermelink (WA 39 I, 335) thinks that they are conclusions drawn by Luther from statements of Agricola which he either heard or read. Rogge, *Lutherverständnis*, 152, on the other hand, thinks that it is more likely the joint work of Luther's disciples (possibly Jonas, Cruciger and Melanchthon). He includes Melanchthon because theses 2 and 3 of the first subset could very well hark back to a letter once addressed to him.

both as heading and summary of all that follows.¹⁷⁶

A2. If you are a harlot, rogue, adulterer, or some other sort of sinner, ask if you are in the path of blessedness.

A3. If you are in the midst of sin, up to your ears in it, and you are, believe, then you are in the midst of blessedness.

Luther says that he added these theses himself and did not want people attributing them to Agricola, although he confirms that all the rest are his.¹⁷⁷ Nevertheless, even if they do not come from Agricola himself, the statements confirm the judgment often made that the antinomian movement associated with Agricola was marked by not only doctrinal error but also moral laxity and libertinism. The truth of this will become even more patent when we examine the disputations and hear Luther's own testimony.¹⁷⁸ Alternatively, could it be that

¹⁷⁶Thus, Rogge, *Lutherverständnis*, 153. He conjectures that the statement itself probably comes from the hand of Agricola's disciples and that, although the master himself had never dared say this in so many words, it is quite consistent with all that he did say.

¹⁷⁷See Förstemann, *Neues Urkundenbuch*, 314, which we cited above. This statement of his to that effect also seems to provide the key to understanding the puzzle of the dual numbering system used in this last section, which we have been referring to as two subsets. See Rogge, *Lutherverständnis*, 154.

¹⁷⁸Luther himself makes somewhat similar assertions, apparently based on reliable sources, in a sermon of 1537: ". . . ob du gleich ein Ebrecher bist, das schadet nicht, so du allein gleubest, so wirstu selig" (WA 45, 146, 40-147, 1; *Predigt am 18. Sonntag nach Trinitatis*). Rogge, *Lutherverständnis*, 76, makes the helpful suggestion that Agricola, although he denied ever having said: "Bistu ein hure, bube, ehebrecher, oder sonst ein sunder, gleubstu, so bistu im wege der seligkeit" (Th. #2 above), apparently wanted to counteract the well-known Catholic danger of putting too much store by the *peccata actualia*. It is not individual sins that separate us from God so much as the lack of trust in God as a result of the fall. Obviously, this emphasis was taken too far and Luther's sharp polemic was in place.

Luther here is mocking the loose way that Agricola, in antinomian fashion, talks about faith? Or is Agricola perhaps quoting early Luther here?

B1. The Decalogue belongs in the town hall, not in the pulpit.

Strangely enough, this thesis, which for many is the classical catchword of antinomianism, is not to be found in any of the writings of Agricola.¹⁷⁹ Yet it accurately describes one of the central doctrines of antinomian theology: that only the civil law [*usus politicus*] is binding on Christians and that the Decalogue or moral law [*usus theologicus*] is not to be taught in the church for it has already been fulfilled by Christ.¹⁸⁰

B2. All who follow Moses will surely to go to the devil. To the gallows with Moses!

This follows directly from the previous thesis and provides further proof that the antinomians see no place for the *lex condemnatrix* or the law of Moses in the Christian life.¹⁸¹ As we will see later, they hold that the law belonged to the first "dispensation," before Christ (here they understand the law in the *heils-geschichtlich* way), and ever since his birth has been terminated.

¹⁷⁹Thus Rogge, *Lutherverständnis*, 154-55. This fact does not conflict with Luther claim (mentioned above) that "*omnes alie* [theses]" are to be attributed to Master Eisleben.

¹⁸⁰Cf. #1 and #3 above of the "*impuri articuli*."

¹⁸¹Again, this thesis also, according to Rogge, *Lutherverständnis*, 155, does not come from Agricola but from the pen of Jakob Schenk from Freiberg i. Sa. who later was always lumped together with Agricola. He used this thesis in a sermon to demonstrate his support for a group of antinomians in Wittenberg. A similar saying is cited by Luther in hi *Responsio* to 3 AD, Arg. 23 (39 I, 545, 14): *ut ipsi loquuntur, ad corvos relegai* (see editor's notes), only here he agrees with the saying insofar as the law is not necessary for justification, neither is it useful or possible.

B3. It is not our task to prepare people for the gospel through the preaching of the law; God has to do that, it is his work.

The substance of this thesis has already been covered above in the *positiones antinomicae* (Th. 14 and 15) where it was posited by the anonymous author that those who preach the law first and then the gospel are distorting Christ's words. As we will see again and again as we progress, Luther rejects all attempts to collapse the law into the gospel because in the final analysis the gospel is then destroyed and transformed into a new law. Here something else has to be said as well. Luther would never say, as the above thesis suggests, that by our preaching of the law first we prepare people for the gospel. He too would say that only God does that, and that he does indeed do it through the law.

B4. The offense against the law must not be dealt with in the gospel, but the offense against the Son.

This thesis also has been stated earlier as one of the "*puri articuli*" (Th. 3). The fact that Luther saw fit to repeat it no doubt reflects the central role it plays in antinomian doctrine and the serious threat that he sees the substitution of the *violatii filii* for the *violatio legis* poses for the gospel, as we have just observed in connection with the previous thesis.

B5. To hear the word and to live according to it, that is the way of the law.

It is difficult to see how this statement applies to Agricola, since he himself does not teach the law (*audire verbum* here will mean *audire lex*). Perhaps, however, that is precisely the point. Since he does not teach the law, this thesis is not a description of antinomian doctrine but an oblique criticism of it. Hearing the word (which would include doctrine) was as far as Agricola would go. When it came to living the word [*vivere*], Agricola could set aside all the instructions

and admonitions of scripture as a *consequentia legis* and thus use this (antinomianism) as a pretext to cloak his libertinism.¹⁸²

B6. Hear the word and perceive it in your heart--that is the order of things unique to the gospel.

This thesis forms the antithesis to the preceding, but it is not a true law-gospel antithesis. Because Agricola does not teach the law, neither can he teach the gospel. If he rejects the *audire verbum et ita vivere* as a statement of law, which no longer applies to Christians, then it is not surprising that the *audire verbum et sentire in corde* as a statement of gospel, is for that very reason vague and weak and finally no gospel at all. Luther too can talk about the "*sentire in corde*," but in connection with the law not the gospel. Since however for Agricola, as we will see later, the gospel ends up doing the work of the law, he must posit this *sentire in corde* as an effect of the gospel. Furthermore, he calls this the *proprium Evangelii in methodo*, which we translate as the order of things unique to the gospel. In other words, for Agricola, the *proprium* of the gospel is the reverse of the law-gospel sequence. First the gospel is heard as gospel and then experienced as law. And because the Christian as sinner is no longer bound by the law, this *sentire in corde* has no way of confronting libertinism with the judgment of God.

B7. Peter did not know Christian freedom, [hence] his words: Making your calling certain through good works does not hold.

Taking no doubt as his point of departure the fact that Peter was to preach the gospel to the Jews while Paul was to go to the Gentiles, and that their clash at Antioch showed that Peter and his party were not ὀρθοδοῦσιν πρὸς τὴν ἀλήθειαν τοῦ εὐαγγελίου (Gal. 2: 14), Agricola concludes that Peter did not

¹⁸²Thus Rogge, *Lutherverständnis*, 155. We also follow his line of interpretation in the next thesis but enlarge on it.

know freedom, that is, that he was still living *κατὰ νόμον*, and that therefore his counsel: *Certam facientes vocationem vestram per bona opera*, is not to be followed (cf. 2 Peter 1: 10).¹⁸³ The truth is however that Agricola himself is still living *κατὰ νόμον* because his monistic understanding of the gospel fails to allow the gospel to be the gospel and hence forces it to function as law.

8. As soon as you think, such and such ought to happen in the church, people should be good, upright, virtuous, holy, chaste, you have already lost the gospel (Luke 6).

This final thesis, which is a crowning argument for Luther, is a literal quotation from Agricola's *Lukaskommentar*.¹⁸⁴ Here the complete divorce of doctrine and life becomes clearly apparent, which we will have occasion to ob-

¹⁸³The text, 2 Peter 1: 10: διὸ μᾶλλον, ἀδελφοί, σπουδάσατε βεβαίαν ὑμῶν τὴν κλησίν καὶ ἐκλογὴν ποιῆσθαι, is here cited with Luther's elaboration (or interpretation) where the *certam facere* is answered by *per bona opera*.

¹⁸⁴Agricola, *In Euangelium Lucae annotationes . . .*, I 5; noted by Rogge, *Lutherverständnis*, 156, although he points out that the passage has been cited out of context and as a result almost stood on its head (which leads him to suspect that the *Agricola* text was found by students and not by Luther himself), for just after this passage Agricola writes: ". . . dann got braucht darumb solchs kampfstick, das eyner heute ein engel sey, morgen ein teufel." He points to the example of Matt. 16: First Peter is blessed (v. 17) and a little later he is called Satan (v. 23), who does not understand Jesus. One could be holy today and unholy tomorrow, one moment in heaven, and afterwards in hell. It should be noted that this is the characteristic way in which Agricola talks about sin. Instead of saying that a Christian is *simul iustus et peccator*, he rather says that he is an angel one day and a devil the next. Back to the quotation: Rogge makes the point that since this passage is quoted in isolation, it betrays a marked tendency toward libertinism, whereas the actual intent of the passage (in light of the context) is quite the opposite: Agricola wants to use just this thesis against *securitas*. We agree with Rogge that the passage is quoted out of context, but in our opinion it is inconsequential because this is not the only passage that presents the antinomians as having libertine tendencies. As we work through the disputations we will see that Luther warns them on many occasions that by condoning immoral behavior they are opening a window to Satan who will come in and destroy the church.

serve several times in the disputations. Clearly, for Agricola the law is the enemy of the gospel so that any admonition to holiness of life is seen already as a denial of the gospel. Agricola wants to take his stand on the gospel as an evangelical theologian. Yet paradoxically, we argue that it is precisely through his denial of the law that he lost the gospel. The great enemy to the gospel is that *securitas*, which is so deluded by Satan, that like the false prophets of the Old Testament, it calls out: peace! peace! when in fact there is only war and destruction. Luther has to often to warn his hearers during the disputations to be alert and to watch at all times in order not to be deceived by Satan. In the conclusion to his preface to the third disputation he reminds them that we are daily harassed by sin, the devil and the law and that we can expect no peace here on earth because we are called to serve in the Lord's army (the Lord of Sebaoth). Therefore the church in this life is called *militans* and not *triumphans*.¹⁸⁵ In Luther's judgment, the antinomians are making people an easy prey for Satan by lulling them into a false security [*securitas*], encouraging them to be self-indulgent, licentious and libertine. In the final analysis, Luther contends, the antinomians must be opposed because they are opening a window to every kind of security, and where the law is removed, the gospel is removed also.¹⁸⁶ This point is made in various ways in the course of the disputations, as we will see in the next chapter, and goes to the heart of our thesis--which is nothing other than Luther's thesis: Christ will be of

¹⁸⁵See WA 39 I, 496, 12-18. Luther also warns in his open letter, *Wider die Antinomer* (1539) that the devil devotes himself to making people secure, teaching them to heed neither the law nor sin, so that if at some time they should suddenly be overtaken by death or a bad conscience they sink helplessly into hell because they have grown accustomed to nothing but *susse sicherheit* (WA 50, 471, 31-37).

¹⁸⁶WA TR 3, 483, 30-31 [no. 3650c] (21 December 1537).

no benefit to people who are secure in themselves and lack all knowledge of their sin. For only sinners can receive his gifts since it is for sinners that he came.¹⁸⁷

Agricola's Theology of the Law

Having looked at the theology of the antinomians on the basis of their own *positiones antinomicae*, we now wish to conclude by considering Agricola's theology, and particularly his understanding of the law. We will basically confine ourselves to his 1525 *Lukaskommentar* because it presents the clearest summary we have of his view of the law. Gustav Hammann has carefully analyzed this work to gain a picture of his early theology,¹⁸⁸ which has its roots and center in Luther's theology and does not undergo any fundamental change during the period we are considering.¹⁸⁹ First of all a summary of the main points he makes in his preface, which is a more general outline of his theology.¹⁹⁰

¹⁸⁷Luther develops this argument especially in 3 AD, Arg. 23 (39 I, 545, 8-548, 23) where he also speaks very sternly about the antinomians, calling them proud, insolent, treacherous and wicked, but he does this, not in the first instance to reprove them for their failure to live an ethical life, but to warn them that they are in danger of losing Christ through their security and presumption because Christ has nothing to give those who are sufficient in themselves, but only those who look to him for life and every blessing.

¹⁸⁸Gustav Hammann, *Nomismus und Antinomismus*, 12-48. A comparison and discussion of the various treatments of Agricola's work, particularly his *Lukaskommentar*, lies beyond the scope of our research. While Rogge's work remains the standard, the more recent study of the young Agricola done by Steffen Kjeldgaard-Pedersen, *Gesetz, Evangelium, und Busse*, is certainly superior and far more comprehensive in the areas that it treats. For K.-Pedersen's treatment of the *Lukaskommentar*, see pp. 71-106.

¹⁸⁹This is the general consensus. Rogge, *Lutherverständnis*, 254; Steffen Kjeldgaard-Pedersen, *Gesetz, Evangelium und Busse*, 281; Koch, *Johann Agricola*, 132.

1. This thought follows a *heilsgeschichtlich* pattern. After the *vetus homo*, whom the law had left helpless in *peccatum originale*, comes Christ (according to a former promise) who makes it possible for us to believe (faith here being understood as *unio* with himself) and to be reborn to eternal life. In other words, the struggle between the remnant of sin and grace does not play any significant role for Agricola. Before the incarnation of the Son of God the *caro* was subject to sin, but since then grace reigns.

2. Agricola describes the *unio* of the soul with Christ as the center of his whole theological project. For it means liberation from the old nature of Adam and participation in the new nature of Christ. Agricola therefore stands closer to Luther here than most of his other pupils, both then and later.

3. At the same time however it must be said that the vital connection between this center and the other articles is endangered in several respects: Sin, viewed as a natural habitus, has become a sickness, indeed the *natura* of man and

¹⁹⁰Hammann, *Nomismus und Antinomismus*, 12-26, compares the preface to Agricola's *Lukaskommentar* with Luther's *tractatus de libertate Christiana* because both were written about the same time and seem to have a common purpose. However, the goal of the preface to the *tractatus* is somewhat different: While Luther wants to present the "*vera fides Christiana* as the *vita in salute*," Agricola rather speaks of the "*verus usus Christi in sacra scriptura as the via ad salutem*" (15). Consequently, we might expect Agricola to go beyond speaking about the "predisposing work of the law in the hearts of sinners" (Kawerau, *Johann Agricola*, 135) leading them to the gospel, and to talk about the role of the law in the Christian life. Agricola however appears to know practically nothing about the preaching of the law today. Whatever he does say about the law is only peripheral (Hammann, 31). We look in vain for a statement such as we find in Luther: "*Non enim alterum tantum sed utrunque verbum dei praedicandum est, nova et vetera proferenda de thesauro, tam vox legis quam verbum gratiae*" (WA 7, 63, 34-35; cf. 52, 24-5 and 53, 3: Luther stresses that both words are to be preached, because scripture itself consists of *praecepta* und *promissa*, of two different words. The following points basically represent Hammann's summary of his comparison of the preface to the *Lukaskommentar* and the *tractus de libertate Christiana*.

thus has lost its character as guilt before the holy God. Conversely, through a similar natural, material conception, grace takes on a metaphysical aspect. Because it is thought of as working almost irresistibly, it can even be said that the *beneficia Christi* have already been given to us "in" the historical Jesus. Here then we see an evident historicizing tendency in this theology: Christ along with his gifts is pushed into the remoteness of the years 1-30; hence, faith is conveyed to us today essentially through direct *tactus de coelo*, without the mediation of the preached word. That however means that in repentance, seen from a human perspective: we gain faith "*non tam lectione quam meditatione harum rerum.*"¹⁹¹

4. Therefore the center of Agricola's view is even further removed from Luther's understanding of faith than it might at first appear. For faith is finally above all *fruitio Christi*; *crux*, *inanitio* and *opera* of the Christian in the world all but fade into the background, indeed are almost absent. Certain mystical features are clearly apparent: The *unio* of the soul with Christ no longer arises from the *verbum externum*, but from an inner immediacy. However both this mysticism in the center and that rational, natural-material and historicizing element in the other aspects of his theology are mutually exclusive.¹⁹²

¹⁹¹Meditation plays an important role in Agricola's thought. According to Oswald Bayer, *Promissio. Geschichte der reformatorischen Wende in Luther's Theologie* (Göttingen: n.p., 1971), 37, Luther's *sieben Bußpsalmen* of 1517 represents "*das authentische Kompendium seiner frühen Theologie.*" Koch, *Johann Agricola*, 145, observes that Agricola's theology is a theology of spiritual experience, which has as its basis the *meditatio passionis Christi*. Luther's theme of the *contemplatio* or *meditatio carnis Christi* was influential on Agricola for it was the path by which he came to the *usus Christi* (Agricola's term for the method of bridging the hermeneutical gap between then and now) and to repentance.

¹⁹²Hammann, *Nomismus und Antinomismus*, 25, n. 51, notes that this juxtaposition of *unio mystica* and *ratio* also occurs in later high orthodoxy. One of the essential differences certainly is that in Agricola the *unio* is still a lived reality,

We will now concentrate more closely on Agricola's view of the law as he expresses it in his 1525 *Lukaskommentar*, before he is forced, under the pressure of counter-arguments, to harden his position by emphasizing certain aspects of his theology. A fuller and more coherent picture of Agricola's view of the law will provide valuable background for our attempt to understand the position which Luther is opposing in the disputations of 1537-38. This background is all the more necessary since the only primary source of information about antinomian (and hence Agricola's) theology in the disputations themselves comes in the form of the propositions or syllogisms. The rest must be inferred. In the following analysis, we are once again guided by the valuable work of Gustav Hammann who is particularly interested in discovering whether the beginnings of Agricola's later antinomianism (1527-1530) can be recognized already in 1525.¹⁹³

The first thing that can be said is that Agricola focuses more strongly on the incarnation of Christ than on the cross, a point confirmed in his Colossians Commentary, where he even says that the devil was the author of Christ's crucifixion. While he can make traditional statements about Christ's death being necessary to fulfill the law and turn away God's wrath, these do not predominate. The cross becomes the great demonstration of salvation lying beyond the cross and hidden in the *deus absconditus*; it is not the decisive event of salvation. Agricola has not seen with the same clarity as Luther that it is the will of God that Christ go to the cross and that God precisely in this *opus alienum* accomplished

while Orthodoxy made of it a *locus de doctrina* (cf. Werner Elert, *Morphologie des Luthertums*, vol. 1, 3d ed. [Munich: n.p., 1965], 135, n. 1).

¹⁹³*Nomismus und Antinomismus*, 27-48. Since it is a summary of Hammann's analysis we will not provide the references to Agricola's *Lukaskommentar*.

his *opus proprium*. Agricola says God carried out his *opus proprium* only after the law as the *opus alienum*. In Luther Christ is the work of God. For this reason he does not see that even today God does nothing else in his children than accomplish in them the same *paradoxe opus*. For Luther therefore Christ was the *opus dei*, because in him and his cross the two actions of God took place together in the same deed. For Agricola, on the other hand, Christ is only one *opus dei*, which God carries out in opposition--and in *heilsgeschichtlich* succession--to his other *opus*, the law. It was not clear to him that Christ was the *tevlo*" of the law in a double sense. In other words, he knows only a *simplex finis legis* whereas Luther speaks of a *duplex finis legis*.¹⁹⁴

Agricola hardly says anything about the law even in connection with repentance in his *Lukaskommentar*.¹⁹⁵ For him there is no preaching of the law today. Christ is the end of the law. Since the year one, God acts only through Christ, through *beneficia* and *gratia*, when he wants to draw people to himself.

¹⁹⁴Ibid., 28-30. For Luther's view, see WA 40 I, 550, 20-29 (Galater-vorlesung, 1531/35): *Tempus autem legis dupliciter finitur: Primum per adventum Christi in carnem . . . Deinde ille idem Christus . . . quotidie et singularis horis ad nos in spiritu venit . . . et indies magis magisque absolvit tempus praefinitum a patre* (cf. 523, 11). Luther too knows of a temporal succession: first the law, then Christ; however, unlike Agricola, Luther maintains that this one advent of Christ keeps happening again and again.

¹⁹⁵Ibid., 33-34. He looks at Agricola's exegesis of Luke 24: 47, which for him is a key text. Several times he describes the preaching of the gospel as *praedicatio poenitentiae et remissionis peccatorum*. This may not trouble us too much if we did not already know that this preaching excludes the law. Agricola further tells us that the two *officia* of the gospel are 1) "*damnare quicquid est excelsum, sublime, sanctum, breuiter demoliri omnem altitudinem*" and 2) "*nunciare remissionem peccatorum per Christum*"; and that Christ himself "*utrunque habet, et uim terrendi, augendi peccata . . . et uim condonandi delictum*"; and that the gospel, before the "*uis resurrectionis*," also has the "*uis ruinae*"; and that the "*uerbum Euangelii vocale iudicabit omnem carnem*."

Hence, the judging, punishing and condemning function of the law, which in Luther belongs to repentance, in Agricola passes over to the gospel. He knows only a repentance arising from the gospel.¹⁹⁶ The new era of the Son follows the old era of the law because the law utterly drives people to despair. Agricola asserts that God's way of bringing people to himself through the law turned out to be a failure; hence he had to find a new way. Again we meet the temporal separation (unknown to Luther) in God's actions: the way he once acted in the law is different from the way he now acts in Christ. Except for a very few special instructions of Christ, Agricola lumps the whole Old Testament under the category of law and conversely sees the New Testament as grace. Nothing is said here any longer about the fact that the law works daily in the *vetus homo* (perhaps even *materialiter* through the gospel itself¹⁹⁷). To put it pointedly, Agricola says that God changed his mind and found a new way to overcome human obstinacy solely through his *beneficia*.¹⁹⁸ This new order of things, where he wins people

¹⁹⁶Hammann asks what makes Agricola cut repentance, the *mortificatio* of the *vetus homo*, adrift from the law and tie it solely to the gospel. It seems that in the final analysis he doubts the law's capacity to overcome human obstinacy and bring us to God, for the law (not the *abusus legis*) only makes hypocrites. Rather, it is Christ alone, through his gifts to us, who can bring us to the decisive turn, for the revelation of God's goodness ought and can lead us to repentance (Rom. 2: 4). Agricola holds that when repentance is preached based *ex lege* the result is hypocrisy, a disparity between the outer (appearance) and the inner (being).

¹⁹⁷That happens even if "gospel" texts can become law *in concreto* in their effect; cf. WA 39 I, 348 (ATh II, Th. 18); 351 (ATh IV, Th. 17 and 18; 535, 15-536, 2 (3 AD, Arg. 18): *Peccatum autem ostendit praedicatio legis . . . Et hoc posset etiam fieri ostensis beneficiis Christi*.

¹⁹⁸Humans in their obstinacy insisted on using (misusing!) the law as a means of salvation (*lex Dei* as a *lex ad vitam*). Hammann, *Nomismus und Antinomismus*, 32. Luther however says that we cannot be free of the *opinio in operibus*

for himself, has taken effect since the incarnation. Therefore, we find nothing in Agricola either about the *lex naturae* or about the preaching of the law. Just as with Christ the cross recedes behind the incarnation, so for the Christian almost any preaching of the law is superfluous, for the *novitas vitae* is now given to them through God's *beneficia* (cf. Rom. 2: 4).

The disregard for the law in Agricola is accompanied by dangerous consequences. For it is surely a mixing of law and gospel when after the law has been removed from the sphere of God's salvific action, it is brought back again by transferring its function to the gospel. And it is just this mixture after prior separation that leads to a patent uncertainty in Agricola's statements.¹⁹⁹ It is clear that with his understanding of the gospel, which basically expands the functions of the law (previously removed) and to that extent mixes the law and the gospel,

(that works justify) until *fides vastatrix eius veniat et regnet in corde*; 70, 14-15: *Non enim liberi sumus per fidem Christi ab operibus, sed ab opinionibus operum, idest a stulta praesumptione iustificationis per opera quaesitae* WA 7, 63, 22- 24 (Tractatus de libertate christiana, 1520).

¹⁹⁹Hamann, *Nomismus und Antinomismus*, 35-36, illustrates this from passages in his commentary where he clearly teaches repentance from the gospel before the forgiveness of sins. It emerges very clearly when he says: "*Haec est . . . Evangelii forma, Poenitentia primum praedicanda est in nomine Christi, deinde remissio peccatorum, haec duo pariter ire debent. Poenitentia homines ab errore reuocat in uiam, prohibens peccandi licentiam Remissio peccatorum in uiam reuocatos, id est, uere poenitentes consolatur.*" Hamann rightly argues that the fact that Agricola comes close to the Lutheran *simul* when he says "*haec duo pariter ire debent,*" does not constitute any objection to his thesis, for here this "*pariter*"—although it can also mean "at the same time"—has to mean "in the same way, to same extent," because the *remissio* comforts only the "*in uiam reuocatos*" (35, n. 26). Another passage cited by Hamann, 39, also shows that Agricola understands the *simul* only in terms of temporal simultaneity; both law and gospel are to be preached, but in clear contrast to Luther, they are no longer directed to the same person. The *simul* has no reference to the Christian but the connection is broken by virtue of the fact that the law is to be preached (*urgendo*) alone to the heathen (*gentes*), the gospel only to Christians (*consolando*).

Agricola paradoxically comes close to just that schema which he was shortly to attack in Melanchthon, where the events of salvation were understood in terms of a temporal succession (that is, an *ordo salutis*). First comes repentance from the gospel, then the forgiveness of sins, which here begins to comfort the inner man! Making repentance temporally prior to forgiveness has profound theological consequences: It means now that repentance is made into a spiritual achievement which comes before the forgiveness and which is on the point of becoming a condition for God's action.

On the other hand, as a result of the mixing of the gospel with the functions of the law, Agricola's uncertainty is also to be seen from the fact that he can just as easily put the *poenitentia*, which has absorbed into the gospel, behind the *remissio* by interpreting it in terms of the sanctification of the Christian. In fact in many places he makes *poenitentia* the mark of the new life of the Christian (in the world!).²⁰⁰ Through his confusion of law and gospel, he arrives at the same point in his subdivision of the law into a second and third use as another more famous person was to reach through the separation of law and gospel. While of course Melanchthon later separated the law from the gospel in such a way that he still retained it in the proclamation of the church as a valid, independent word of God today, separate from the gospel, Agricola removed the law from the gospel in such a way that he had to have it abrogated in the year one once and for all only at the same time to assign its functions to the gospel and in this way to mix them both. To that extent we would have to say that Agricola has a second and third *usus legis in Euangelio* (over against a second and third *usus legis* in Melanchthon),

²⁰⁰See *ibid.*, 36, n. 28 for passages that reflect the *novae creaturae vocabulum*.

or even more concisely, a "second and third *usus Euangelii legalis*."²⁰¹

We conclude this summary of Agricola's theology with a short discussion of his anthropology. This has already been touched on above. Hammann points to passages in Agricola which indicate that the *regnum Dei* and the *verbum Dei* are repeatedly referred to the to the inner person so that faith for him looks inwards rather than outwards.²⁰² Koch observes that spiritual experience is an important factor in Agricola's theology. Spiritual experience, according to Agricola, is the constant process of moving from *Anfechtung* through repentance to regeneration and new life.²⁰³ This process is an event in which inner prayer wrought by the Spirit plays a decisive role.²⁰⁴ The significance of the inner spiritual reality of the Holy Spirit in the process of *Anfechtung*, repentance and rebirth gives Agricola's theology a strong spiritualizing tendency. Finally, Koch notes that Agricola's interest in this inner process means that his theology is marked by a special con-

²⁰¹Ibid., 36.

²⁰²Ibid, 42-43. In Hammann's opinion, one of Agricola's greatest problems was his failure to understand that the Christian as *opus Dei per verbum*. Instead, he thought that becoming a Christian meant coming to faith directly by oneself, and to a *unio* with Christ which, since it bypasses the *verbum externum*, has more in common with mysticism than with Luther. From this perspective, he had come to the point of assigning the *homo novus* above all to the inner realm for he saw in the new man first and foremost the *homo spiritualis*; on the other hand, the *homo externus* receded significantly into the background.

²⁰³Koch, *Johann Agricola*, 145-46.

²⁰⁴See Koch, *Johann Agricola*, 146, n. 112. Koch, 136, notes that Rom. 8: 26 especially played an important part in Agricola's thinking; cf. WA Br 4, 562-65, esp. 564, 80-82 (Agricola an Luther Mitte September 1528); and Regin Prenter, *Spiritus creator. Studien zu Luthers Theologie* (Munich: n.p., 1954), 34, observes that Rom. 8: 26 is the orientation point for the young Luther's thinking about the Holy Spirit.

cern for the human affects.

As we have already seen Agricola's view of the *simul iustus et peccator* tends to be interpreted dualistically insofar as he regards Christians now in heaven, now in hell. Rather than applying the *simul* to the whole person he applies the *iustus* to the new nature and the *peccator* to the old nature in temporal sequence so that at one moment they are wholly sinners and at the next wholly saints. This also results in lack of certainty.²⁰⁵ Compared to Luther's statements in any case we see Agricola on the verge of giving up the paradox of the unity of the two persons in the one Christian. Certainly, it must be said in Agricola's defense that he does not speak of two different persons but of the one Christian, and that he too wants to hold to the unity of the old and new man in Christ, to the unity of Adam and Christ in the believer. However, in Hammann's judgment he fails, even though the separation that he made in other areas (between Old and New Testament, between the believer as heathen and Christian) is not made here with the same emphasis. Nevertheless, it can easily serve as a point of entry for antinomianism, indeed libertinism, into theology.²⁰⁶

²⁰⁵Koch, *Johann Agricola*, 145, notes that Agricola's theology retains the characteristic *Zwischensituation* of Luther's early theology, which alternated between certainty and uncertainty. Oswald Bayer, *Promissio*, 40-41, observes that Luther himself overcame this uncertainty in 1521. But Agricola, even in 1537 and later, still has recourse to Luther's statement of 1516 that the saints are continually *in fieri*. Thus in his *Drey Sermon*, we read: "*Inns factum esse bringen sie es nimer mehr.*" On Luther, 1516: WA 56, 441, 23-442, 26 (on Rom. 12: 2). Nachschrift: WA 57 I, 216, 16-20. Note how Gen. 1: 2 is mentioned in both texts: The Spirit does not rest but hovers over the waters! On the work of the holy Spirit in the process of renewal in Agricola, see Koch, 142-44. He also shows that one of the interpretative combinations that characterizes Agricola's exegesis is his use of Gen. 1: 2 as an allegory for justification in conjunction with Rom. 8: 26 (τὸ πνεῦμα ὑπερεντυγχάνει στεναγμοῖς ἀλαλήτοις).

On the basis of his analysis of the *Lukaskommentar*, Hammann concludes that the roots of Agricola's antinomianism (although in 1525 we can still only talk of tendencies) are to be found in the way he takes over statements from Luther's theology without understanding how in them Luther distinguished between law and gospel.²⁰⁷ This total dependence on Luther (and to some extent Melancthon) instead of on the scriptures is already an unreformational element of his theology.²⁰⁸ Furthermore, if in Luther the scriptures in all their fullness had been unlocked by a new encounter with their center, with Christ, that is only because through the scriptures Luther was dragged to the *Christus extra nos*, the Christ who is alone and altogether our savior, not dependent on anything referenced to us. Hammann makes a very perceptive observation when he concludes then that Luther's protest against Rome and the Roman preaching of the law could never be the *principium*, but only a secondary consequence of his theology.²⁰⁹

For Luther the law was abolished only "in Christ," that is, for faith, and even then only insofar as the *pious* is *homo novus*, a "*vere*" *christianus*. Insofar as this

²⁰⁶Ibid., 39-42.

²⁰⁷Gustav Hammann, *Nomismus und Antinomismus*, 140, argues that although Agricola did not properly understand the Luther he was attempting to defend, nevertheless his problem in the early stage of his career was not antinomianism. Thus, "*sicher ist, daß wir den frühen Agricola noch nicht als einen Antinomisten im prinzipiellen Sinne bezeichnen können.*" Hammann is convinced that the term "antinomian" can only properly be applied to Agricola following the outcome of the controversy of 1527.

²⁰⁸When Agricola chose certain scriptural statements from the multitude that had been opened up by Luther's exegesis, already this selection paved the way for a definite rationalizing tendency in his theology, which is particularly evident in the question of the law.

²⁰⁹Hamann, *Nomismus und Antinomismus*, 44.

person at the same time still remains a *homo vetus*, the law also remains in force (also according to the young Luther!). The Reformation struggle for the freedom of the gospel was the freedom from the law which accuses and condemns the sinner. The battle was for the freedom of the gospel which Roman had made into law. Agricola however failed to understand that and therefore immediately applied the thesis about the end of God's law in Christ in its inner-worldly sense. In attempting to make his explanation accessible to reason, he asserted that the abrogation of the law for all time "in Christ" refers to the birth of the historical Jesus. As a result, Luther's "the end of the law *in Christo extra nos*" became in Agricola "the end of the law *in Christo ante nos* and in his birth" together with all its consequences.

It is Hammann's contention that if the taking over of theses from others (primarily from Luther) forms more the formal basis for the rise of antinomian tendencies in the young Agricola, then the material roots of all shifts are to be found in the center of his theology. In Luther word and Christ always flow into each other. And this *verbum* is really only then the word of Christ and only so long as it is at the same time the word of the cross, the message of the Crucified. In Agricola, on the other hand, this unity of external word (as law and gospel), Christ, and the cross has been lost, which means that it was never central for him in the first place. And where this center of Reformation theology, the unity of *verbum externum*, *Christus*, and *crux* is no long firmly held to and believed, everything falls apart.²¹⁰ Hammann has demonstrated that this is the root of Agricola's antinomianism, which is implicit already there in his *Lukaskommentar* of 1525, and which becomes explicit in the first phase of the first antinomian

²¹⁰Ibid., 46-48.

controversy in 1527.

Irrespective of whether Hammann's interpretation is always correct, his work has brought to our attention specific ideas, terms, and emphases which are typical of Agricola's way of doing theology in contrast to Luther's. Whether these same motifs that we have mentioned above carry over to the 1537-1538 disputations would need to be investigated. We however will not pursue this question ourselves. At any rate, this chapter on the historical background to antinomianism has not only provided a discussion of the *positiones antinomicae*, which is the primary background document for the disputations which we are about to turn to, but it has also afforded a glimpse at some of the key themes in Agricola's own writings. An appreciation of these two theological vistas, as well as of the main developments in the history of the early stages of the controversy, which we have outlined, should provide us with a vantage point as we consider Luther's responses to the antinomian arguments.

CHAPTER 3

LUTHER'S ANTINOMIAN THESES AND DISPUTATIONS

Introduction

All told Luther formulated six *Thesenreihen* with the intention of debating these with Agricola in six separate disputations. However, for various reasons only four eventuated, and even then only the first and second, which were held on 18 December 1537 and the on 12 January 1538 respectively, were set up specifically for the purpose of debating the given theses with Agricola. As it turns out these two disputations, which were based on the first and second *Thesenreihe*, ended up being held in Agricola's absence, except for a part of the second disputation. Owing to the apparent reconciliation between Agricola and Luther, the disputations that were to have dealt with the third and fourth sets of theses lapsed. The next public disputation against the antinomians, on 6 September 1538 (after it was plain that Agricola had acted insincerely), was actually the Doctoral Disputation of Cyriacus Gerichius, which took up the theses of the fifth *Thesenreihe*. And again the final disputation, on 10 September 1540, was the occasion of another doctoral disputation, this time that of Joachim Mörlin, where the theses from the sixth *Thesenreihe* were debated. However, this disputation of 1540 will not be analyzed.

This inordinately long chapter is divided into three parts, each of which deals with one of the three disputations against the antinomians of

1537-1538 held in Wittenberg. The analysis of each disputation will be preceded by a translation, structural outline, and summary of the respective *Thesenreihe*. A summary of Luther's preface to each disputation will also be included.

PART 1
The First Disputation against the Antinomians
18 December 1537

Introduction

It is quite clear from the *Disputationsnachschriften* that Luther held a public disputation against the antinomians on 18 December 1537 at which he not only presided but was also the sole respondent. The names of the opponents are mentioned in two instances: Jonas in *argumentum* 27 and Cordatus in *argumentum* 35. Luther had wanted to debate the theses with Agricola and was annoyed that he absented himself.¹ Hermelink is convinced that the unnamed opponents at the disputation, who stood in for Agricola, were not his followers. Therefore, instead of being a proper antinomian debate between Luther and Agricola it became the occasion for a genuine academic disputation on the topic *lex et evangelium*.² This however was not a lost cause for, as Luther mentions in his preface, one of his chief aims was to reinforce in his students the *sana doctrina scripturae* and to provide them with a sure method for teaching others. Hermelink opines that in the disputations, in contrast to the *Tischreden*, Luther remains purely objective and refrains

¹CR 3, 482.

²WA 39 I, 359 (editor's introduction). From here on all references will omit the letters WA.

from personal attack. That of course does not prevent him from being passionate. The theses for the debate are set out below in translation and this is followed by a structural analysis and summary.

Theses³

Translation

1. Repentance, by the testimony of all, is indeed sorrow for sin in conjunction with an intention to lead a better life.
2. This sorrow is properly nothing else, nor can it be, than a feeling or sensation of the law in the heart or conscience.
3. For many indeed hear the law, but since they do not feel its sensation or power, they do not suffer pain at all and do not repent.
4. Only the first part of repentance, namely, sorrow, arises from the law. The second part, namely, the good intention, cannot arise from the law.
5. For people who are terrified at the sight of sin cannot purpose to do good by their own powers, since not even those who are secure and at peace can do that.
6. But troubled and overwhelmed by the power of sin, they fall into despair and hatred of God, or they descend into hell, as scripture says.
7. Therefore, the promise or the gospel must be added to the law to pacify and raise up the terrified conscience that it may purpose to do good.
8. Repentance arising only from the law is half or the beginning of repentance, or repentance by synecdoche, because it lacks a good intention.
9. And if it persists, it becomes the repentance of Cain, Saul, Judas, and of all who lack trust in God's mercy and despair of it, that is, those who are perishing.

³39 I, 345-347: *Disputatio D. Mart. Lutheri. Contra quosdam Antinomos.*

10. The sophists taught the definition of repentance, that is, sorrow and intention etc., which they had gotten from the fathers.

11. But they did not understand, nor could they teach, the parts of the definition: sorrow, sin, intention.

12. They imagined that sorrow is the act elicited by the power of the free will to detest sin as often as one wishes.

13. Because this sorrow is suffering or affliction, whether the conscience wants it or not, it is forced to suffer when it is struck and tormented by the law.

14. They thought sin is that which is contrary to human traditions, more seldom, what is contrary to the moral law.

15. In fact, originally, they thought that after baptism there is no sin at all, especially not against the First Table.

16. Compared with these straws, the hammer of God's law (as Jeremiah [23: 29] says) that smashes rocks, shuts all people up under sin [Rom. 11: 32].

17. They used to think that a good intention is a resolve made by human powers in connection with sin to be avoided in the future.

18. Although according to the gospel there is an impulse of the Holy Spirit that heartily detests one sin after another, they however boldly permit the sin in the flesh to rebel.

19. This ignorance of theirs should not surprise us, for with scripture not being very highly esteemed, it was impossible for them to know neither what the law is nor what the gospel is.

20. That is to say, having been so thoroughly immersed in human precepts and commandments, they judged holy and divine things as nonsense.

21. Contrary to these useless teachers of despair, the gospel begins to teach that repentance should not only be despair.

22. But penitent people ought to begin to hope, and thus prompted by a God's love to hate sin; that truly is a good intention.

23. Some, not considering our reasons for saying this, or the matter, thought that this was speaking against the law of God.

24. And they wickedly teach that the law of God must simply be removed from the church; that is blasphemy and sacrilege.

25. For the whole of scripture teaches that repentance is to be begun by the law; this is also shown by experience and the order of things itself.

26. Let all who forget God (he says) turn back to hell; and: Put a ruler over them, Lord, that they may know that they are but mere men etc. [Ps. 19: 18, 21].

27. Fill their faces with shame and they will seek your name, Lord [Ps. 83: 17]. And: the sinner is caught in the work of his own hands [Ps. 9: 17].

28. The order of things is such that death and sin are in nature before life and righteousness.

29. For we are not righteous or alive, to be given over to sin or death, but we are already sinners, and dead through Adam, and must be justified and vivified by Christ.

30. Therefore, Adam (that is, sin and death) is to be taught first; he is the form of the future Christ, who is to be taught after this.

31. Indeed, sin and death must be revealed, not through the word of grace and comfort, but through the law.

32. We know from experience that Adam is first exposed as a transgressor of the law, afterwards he is raised up by the promised seed of the woman [Gen. 3: 17, 15].

33. And David is first killed by the law through Nathan, who says: You are the man etc., afterwards he is saved by the gospel: You will not die etc.

34. Paul is first prostrated by the law as he hears: Why are you persecuting me? Afterwards, he is enlivened through the gospel: Rise etc [Acts 9: 4-6].

35. And Christ himself says in Mark 1: Repent and believe the gospel, for the kingdom of God has drawn near.

36. Again, repentance and the forgiveness of sins was to be preached in his name [Luke 24: 47].

37. Thus, the Spirit also first convicts the world of sin that he may teach faith in Christ, that is, the forgiveness of sins [John 16: 8].

38. Paul, in his epistle to the Romans, follows this pattern: first, he teaches all are sinners and need to be justified through Christ [Rom. 3: 9-24].

39. Luke testifies to the same in Acts: Paul taught both Jews and Gentiles that no one can be justified except through Christ. And those things follow [Acts 13: 38; 15: 11; 16: 31 etc.].

Structure

Theme: True and False Repentance

A. True Repentance (1-9)

I. Definition: repentance consists of two parts (1)

1. sorrow for sin
2. the intention to lead a better life

II. Explanation of definition (2-3)

1. sorrow is *tactus* or *sensus legis* (2)
2. repentance presupposes an awareness (*sensus*) of the power of the law (3)

III. Repentance springs from law and gospel (4-8)

1. law (4-6)
 - a) gives rise to sorrow (the first part) alone (4)
 - b) does not produce the good intention (second part)
 - aa) the good intention cannot arise in a heart terrified by the law because of sin (5)
 - bb) those troubled by sin are driven by the law to despair and to hate God (6)
2. gospel (7)

the gospel or promise must be added to the law to produce true repentance: sorrow and a good intention
3. conclusion (8-9)
 - a) repentance arises from law and gospel (8)

- aa) without a good intention repentance is only half or inchoate or it is by synecdoche
- bb) partial repentance, if allowed to persist, will cause people to despair of God's mercy and perish (9)

B. False Repentance (10-24)

I. The sophists (10-22)

1. the sophists' definition of repentance (10-11)
 - a) the definition is correct because it comes from the fathers (10)
 - b) but they do not understand or teach correctly the parts: sorrow, sin, intention (11)
2. the error of the sophists (12-18)
 - a) sorrow (12-13)
 - aa) sorrow, as suffering or pain, is an act grounded in the free will (12)
 - bb) but: when the conscience is struck by the law it has no choice but to suffer (13)
 - b) sin (14-15)
 - aa) sin is primarily the transgression of human traditions (14)
 - bb) it was originally taught: no sin after baptism, especially against the First Table (15)
 - cc) but: scripture teaches that the law is like God's hammer, and shuts all people up under sin (16)
 - c) good intention (17-18)
 - aa) the good intention is a human resolve to avoid sin in the future (17)
 - bb) although the Spirit removes sin from the heart, it is permitted to flourish in the flesh (18)
3. the reason for and the result of the sophists' error (19-20)
 - a) reason: the neglect of scripture, and ignorance of law and gospel (19)
 - b) result: human precepts are exalted and divine things are trivialized (20)
4. contra the sophists (21-22)
 - a) the gospel teaches repentance is not only despair (21)
 - b) the good intention is to hate sin out of love for God (22)

II. The antinomians (23-24)

1. Luther's emphasis on the gospel in repentance was misunderstood as being a denigration of the law (23)

2. the antinomians (therefore) teach that the law has no place in the church and must be removed (24)

C. The Scriptural Pattern of Teaching Repentance (25-39)

- I. The order of repentance (25-31)
 1. repentance is begun by the law (25)
 - a) examples (26-27)
 - b) the order of things: sin and death in nature precede life and righteousness (28)
 - c) illustrations (29-30)
 - d) summary: sin and death is to be shown through the law, not through the gospel (31)
- II. The experience of repentance (32-39)
 1. Adam is first exposed as a transgressor of the law, then he is raised up by the promise (32)
 2. further examples (33-37)
 3. summary: Paul teaches that all are sinners and need to be justified through Christ (38-39)

Summary

The fact that this first set of theses deals with the theme of repentance is not without significance. This was one of the key issues at stake in the controversy between Luther and the antinomians. The first thesis of the *positiones*, which also deals with repentance, already shows the fundamental difference between them. For the antinomians repentance arises *ex violatione filii per Evangelium*,⁴ whereas for Luther⁵ the first part of repentance, defined as *dolor* or as *tactus seu sensus legis* (Th. 2) or as *vis legis* (Th. 3) in the heart or conscience, can only arise *ex lege* (Th. 4). The second part, the

⁴39 I, 342, 9-10 (Pos, Th. 1).

⁵The following summary is drawn from the first *Thesenreihe* above.

propositum bonum, on the other hand, cannot arise *ex lege* (Th. 4) for a *homo territus a facie peccati* cannot *bonum proponere*, that is, produce a *propositum bonum* (Th. 5). In other words, true repentance, consisting as it does of sorrow and the intention to amend one's life, is effected by both law and gospel (Th. 7) for *poenitentia solum ex lege* is merely *dimidium vel initium poenitentiae* because it lacks the *bonum propositum* (Th. 8), and if allowed to persist will inevitably lead one to despair of God's mercy (Th. 9).

In his struggle for the correct understanding of repentance Luther also engaged the sophists or scholastics who, while they had the right definition of repentance (Th. 10), were yet unable correctly to understand or teach it (Th. 11). Because they neglected the scripture and were ignorant of law and gospel (Th. 19) they trivialized sin (Th. 14 and 15), domesticated the law (cf. Th. 16),⁶ and put unwarranted confidence in the power of the free will to exercise contrition (Th. 12). Because the Roman Church did not understand law and gospel and based penitence on the law, the sophists viewed the *propositum bonum* as nothing more than a human resolve to refrain from sinning (Th. 17). The result was that they knew nothing of the *impetus Spiritus sancti*, born of the gospel, who removes sin from the heart, and so they gave sin full reign in the flesh (Th. 18). When Luther began to preach the gospel over against these teachers of despair (aptly named, because their teaching drove people to despair of God), he stressed that repentance should not only be despair (Th. 21) but also hope *ex amore Dei* so that people hate sin, which is a

⁶By way of comparison Luther cites Jer. 23: 29, where God's law is likened to the *malleus Dei* that breaks the rocks into pieces, and Rom. 11: 32, where Paul says that the law shuts all people up under sin.

good intention(Th. 22). In other words, Luther preached the gospel where previously only the law had been preached. However, this was misconstrued by the antinomians⁷ and taken as an indication that Luther had come out against the law pure and simple. This was a serious error of judgment based on a lack of consideration being given to the *causas dicendi seu materiam subiectam* (Th. 23). The immediate consequence of this was the pernicious doctrine which has come to be one of the chief hallmarks of antinomianism: *legem Dei simpliciter tollendam esse ab Ecclesia* (Th. 24).

In the last part of the *Thesenreihe* Luther provides the scriptural proof (Th. 26 and 27) that repentance begins with the preaching of the law (Th. 25). Since the *ordo rei ipsius* is such that *mors et peccatum est in natura ante vitam et iustitiam* (Th. 28), it follows that sin must be made manifest *per legem* and not *per verbum gratiae et solatii* (Th. 31). Likewise, *experientia* shows that the law is to be preached before the gospel, for Adam is first exposed as a *transgressor legis*, and only afterwards is he raised up [*erigitur*] by the *promissio* of the *semen mulieris* (Th. 32). In summary, Paul teaches that no person can be justified except *per Christum* (Th. 39).

Luther's Preface⁸

Luther reminds his audience that Satan will do all in his power to destroy the doctrine of justification so that it is all the more urgent that it be soundly taught and faithfully transmitted to future generations. There is no

⁷Although the text just has *aliqui* there can be no doubt as to its referent, as is clear already from the heading: *Contra quosdam Antinomios* (see above).

⁸WA 39 I, 360-364.

better way of teaching and preserving pure doctrine, he suggests, than the method they follow, that is, to divide Christian doctrine into two parts, law and gospel, just as there are two things set before us in God's word, namely, wrath and grace, sin and righteousness, death and life. The former, that is, sin, death and God's wrath, is born in us and inherited from our first parents. The latter, namely, grace, forgiveness of sins, righteousness and life has indeed been begun in us through Christ's *beneficium* but has not yet been brought to completion, nor will it be until the day of resurrection.

Luther emphasizes that if we adhere to these two things we cannot go astray. The former is taught through the law, the knowledge of which is especially necessary for the human race, for not only were we conceived and born in sin and live in it, but also our human nature is so corrupt and blind that it neither sees nor feels the magnitude of sin. Admittedly, all people have some knowledge of the law by nature, but it is very weak and veiled. But since human nature has been so corrupted and blinded by the venom of the devil in paradise that we cannot understand the magnitude nor feel and dread the punishment of sin, God's wrath, and eternal death, the doctrine that reveals and manifests these evils must be preserved in the church. That is the law. On the other hand, Luther points out, another doctrine must also be preserved in the church for these same evils, once they have been revealed and shown to us through the law, in order that we do not despair. This doctrine teaches comfort in the face of the accusation and terrors of the law, grace in the face of God's wrath, forgiveness of sins and righteousness over against sin, and life in the face of death. That is the doctrine of the gospel, which teaches that God through his word has confined all people under sin in

order that he may have mercy on all, for he most certainly desires to forgive all people their sins, to free them from death, and to give righteousness and life to those who know their sin. And he wants to do all this freely, without any merit on our part, so that for Christ's sake these benefits might flow to believers.

Luther draws attention to the fact that Paul himself used this method in all his letters, especially Romans. In the first three chapters he does nothing else than inculcate the fact that all human beings are godless and unrighteous, and that not only the Gentiles but also the Jews are under sin. When he has inculcated this, he then sets forth the other part of Christian doctrine, namely, that we are justified freely by God's grace through the redemption in Christ.

Moreover, not only do we find this method in Paul but Christ himself, John the Baptist, the apostles and prophets all retained the same method. For Christ says in Matthew 5: I have not come to abolish the law but to fulfill it, which shows that my office is not to abrogate the law but to fulfill it--and to fulfill it in such a way that those who believe that they have been redeemed from the curse of the law through my fulfillment of the law may also know that here they must fulfill the law themselves, especially since they have now received the first fruits of the Holy Spirit. Thus, Paul says in Romans 3: We do not overthrow the law through faith but uphold it, and in chapter 8: What was impossible for the law etc., in order that the justification of the law [*iustificatio legis*] might be fulfilled in us. Therefore, the law cannot be abolished. Prior to Christ it remains unfulfilled, and after Christ it must be fulfilled, though in this life that never happens perfectly even among the

justified, for it demands that we love God with our whole heart and our neighbor like ourselves. However, this will happen perfectly in the future life.

Since therefore the prophets, Christ, and the apostles adhered to this pattern, Luther recommends that we too should follow them and admonish all people, especially the untaught and impenitent, in order that they may learn to know the magnitude of their sin for which they deserve God's wrath and eternal death. But when this is done through the law, we have a divine mandate to console the timid again through the gospel, to lift up and encourage those terrified by the law and to support them. Thus, the true and proper office of the law is to accuse and to kill, while that of the gospel is to give life.

Luther concludes by addressing his students: He tells them that these disputations have been set up for them that they may be confirmed in sound doctrine and hold to the sure way of teaching it to others, which will not let them go astray or be deceived. This doctrine teaches true repentance, which endures throughout our whole life.

Disputation Translation and Analysis Arguments

Introduction

The arguments of the antinomians brought forward for discussion mainly center on the nature of repentance and attempt to show that the law is unable to produce repentance and hence ought not be taught. Of the thirty

seven arguments in the first disputation twenty four fall into this category.⁹ Apart from two arguments which really belong to the locus on justification,¹⁰ the remaining eleven deal directly with the law and attempt to show that it has already been abolished in Christ or, for various reasons, should be.¹¹ These are the two major groups of arguments. Of the twenty four arguments challenging Luther's doctrine of repentance, six are specifically aimed against Thesis 4 (*dolor is ex lege*, but not the *bonum propositum*);¹² similarly of the eleven arguments concerned directly with the law, six are aimed specifically against Thesis 24 (to teach that *legem Dei tollendam esse ab ecclesia is blasphemum et sacrilegum*).¹³ Nine of the remaining eighteen arguments in the first group are unspecified¹⁴ and nine are directed against specific theses.¹⁵ On

⁹Args. 3, 4, 6, 8, 11, 15-32, 35. All references are to Relation A unless otherwise indicated.

¹⁰Args. 5, 14.

¹¹Args. 1, 2, 7, 9, 10, 12, 13, 33, 34, 36, 37.

¹²Args. 3, 6, 16, 17, 21, 32.

¹³Args. 2, 7, 9, 10, 12, 33.

¹⁴Args. 15, 18, 19, 20, 22, 23, 24, 28, 35. Arg. 14 on justification also belong here.

¹⁵Args. 4 (contra 25), 8 (contra 1), 11 (contra 22), 25 (contra 21), 26 (contra 1 and 2), 27 (contra *solutionem*), 29 (contra 16), 30 (contra *scopum*), 31 (contra *solutionem*).

the other hand, three arguments in the second group are unspecified¹⁶ and two are specifically targeted.¹⁷

The order of the arguments will be the order in which they appear in the *Weimarer Ausgabe*. First, we present our translation of the Latin text,¹⁸ and then follow this with an analysis of Luther's argumentation in response to the antinomian.¹⁹ Our objective at this stage is not to engage in lengthy discussion with the secondary literature, but to understand the logic of his counterarguments within the immediate context of the argument advanced by the antinomians, as well as within the broader framework of his own *Thesenreihen* and the antinomian *positiones*.²⁰ The secondary literature will be used here only to elucidate the text.

¹⁶Args. 34, 36, 37.

¹⁷Arg. 1: *contra totam disputationem*, and Arg. 13: *contra scopum disputationis*.

¹⁸As at the time of writing, no translation of the Antinomian Disputations exists either in English or German.

¹⁹While most of the time Luther's response [*responsio* or *solutio*] will take the form of a refutation and defense of his own position as enunciated in the *Thesenreihen*, there are some arguments that he can agree with or almost agree with, though usually with qualification. Where Luther's *responsio* is preceded by another briefer one, we take it to be that of a student's, for as we pointed out earlier, the disputation is in effect a *Schuldisputation*.

²⁰Luther's *Thesenreihen* will be presented in translation at the beginning of each section dealing with the respective disputation. Those sets of theses for which there is no corresponding disputation will be presented separately.

Argument 1²¹

Against the Whole Disputation

We are not obligated to do the impossible. The law is impossible. Therefore, we are not obligated to it.

Response: It is improper, that is, wrong and infelicitous, to say that through the law we are obligated to do the impossible. When Adam was first created, not only was the law possible for him, but it was also delightful. He performed this obedience, which the law required, with a perfect will and a cheerful heart, and indeed perfectly. But the fact that now after the fall it is impossible, is not its, that is, the law's fault, but our fault; it is not the fault of the obligee, but of the sinner. Therefore, the assertion that the law urges us to do the impossible, needs to be understood properly, because if you want to keep strictly to the sense of the words, it sounds as if God himself is being blamed for burdening us with an impossible law. But it is rather sin and Satan who turned the law from something possible and delightful into something impossible and terrifying. Nevertheless, because Christ willingly submitted himself to his own law and endured all its curses, through it he obtained the Spirit for all who believe in him. Impelled by him, they begin to fulfill the law also in this life, and in the future life their obedience of the law will be supremely delightful and perfect, that is, they will do it with body and soul, as the angels do now.

This argument, in which the antinomians argue for the abolition of the law in general rather than against any particular thesis of Luther's, is based on the idea that because the demands of the law are impossible we are exonerated from having to fulfill them.²² Underlying this thinking is the classical philosophical axiom that if something ought to be done [*debere*] it can be done [*posse*].²³ The inference they drew from this is that if something is impossible

²¹39 I, 364, 7-365, 6.

²²In 1 AD, Arg. 7 we will consider how Luther approaches the question of whether the law has been abrogated. He does not deal with that matter specifically here, but concentrates on an antecedent argument: *Lex est impossibilis*.

²³In other words, *Sollen* presupposes *Können*. This is also the basis of Kant's categorical imperative: you can because you must. Elsewhere, 39 I,

it cannot be (made) obligatory. Luther rejects their argument as *improprae*, that is to say, it is *non recte et incommode* to assert that *per legem ad impossibilia obligamur* (364, 9-10).²⁴ To argue in such a way is to run the risk of implying that God is unjust because he commands impossible things. Hence, according to that way of thinking, God is to blame for sin not we. However, precisely this refusal to accept responsibility for one's guilt *coram Deo* belongs to the very nature of sin as we see already from our first parents in Eden. He therefore stresses that before sin entered the world the law was not only *possibilis* for Adam, but also *iucunda*. He obeyed God *summa voluntate ac laetitia animi* (364, 10-12), but he did not do it to please God; he was already pleasing to God and so keeping the law came naturally.²⁵ Hence,

178, 23; 180,9-10 (De hom., Fragm.) Luther argues: *A debere ad posse non valet consequentia*. As we will see later, in 2 AD, Arg. 23 he rejects the assertion: *Lex impossibilis est frustra condita*, as an *argumentum iuridicum*, because it speaks only *de legibus politice*, while Luther is speaking *de lege iustificatione nos* (476, 17-19). Hence for him the classical axiom is a juridical or philosophical argument which has no theological validity. Consequently, he rejects Jerome's statement, cited by Gratian (MPL 23, 546): *Anathema sit, quisquis dixerit, Deum impossibilia praecepisse*, as Pelagianism (39 I, 419, 7-420, 11, esp. 420, 3-8; 2 AD Praef.). Re Rom. 1: 21ff., Luther argues that the heathen ought to know and worship God, but they cannot and therefore remain unbelievers (39 II, 267, 21-23; FR, Arg. 1).

²⁴All in-text references will be confined to page and line numbers only. Unless otherwise stated, WA 39 I is assumed.

²⁵The joy that Adam had in the law (even better, God's word) in his pre-fall condition is partially mirrored in the new creation of the *vita christiana*. Cf. 39 I, 372, 9-11 (1 AD, Arg. 5): *Christus, qui venit legem implere, is dat voluntatem, ut legem facias; imperfecte tamen in hac vita propter reliquias peccati in carne haerentis, illic autem perfecte*; 373, 1-6 (1 AD, Arg. 6): *Deinde affert Spiritum sanctum credentibus in se, ut voluptatem habeant in lege domini, iuxta psalmum primum, atque ita recreantur per eam animae ipsorum, datque voluntatem, ut faciant eam, hic spiritus. In futura*

Luther warns that we need to be very careful if we are going to say: *Lex urget nos ad impossibilia*, so as not to be misunderstood.²⁶ For the author of sin is not God, the creator, but sin and Satan. It is Satan who makes the *legem possibilem et iucundissimam* into something impossible and terrifying (364, 15-365, 2). But Christ has reversed this by willingly submitting to the law and suffering its curse. Through the impulse of the Spirit, whom he obtained for believers, they begin to fulfill the law already here and now [*emeruit (scil. Christus) credentibus in se Spiritum, quo impellente incipiunt, etiam in hac vita legem implere*] and in the future life will do so perfectly, *corpore et animo*, as the angels do now (364, 2-6).²⁷

Argument 2²⁸

Contra 24

The law has been abolished. Therefore, it is not to be taught.

Response: This is one of the chief arguments which can also influence sensible people. When Christ says, the law and the prophets

autem vita habebunt voluntatem faciendi legem non tantum in spiritu, sed etiam in carne, quae, dum hic vivit, adversatur huic delectationi.

The fact that Adam fulfilled the law perfectly and joyfully, and that we will do so too in the life to come, reminds us that the earthly paradise is already an anticipation of the heavenly paradise.

²⁶See also 39 I, 515, 14-517, 11 (3 AD, Arg. 7) where Luther will elaborate further on the danger of saying that the law commands us to do the impossible. Cf. 39 I, 449, 14-17 (2 AD, Arg. 9) where he notes that in spite of God's beneficence, no one gives thanks, and people end up going from bad to worse. *Quae causa est? Certe non Deus, sed nos, qui aversi sumus a Deo, et peccatum, in quod per inobedientiam Adae incidimus, ita ut sapientia et bonitas in nobis sit inefficax* (449, 15-18).

²⁷See also 39 I, 380, 5-6 (1 AD, Arg. 12): *Insuper [Christus] dat Spiritum sanctum, ut incipiamus hic implere. In futura vita erimus similes impletori Christo.* Cf. 468, 14-469, 3 (2 AD, Arg. 16).

²⁸39 I, 365, 9-368, 2.

are until John [Matt. 11: 13],²⁹ these words sound as if the law is no longer to be taught after the advent of Christ.³⁰ But the meaning of these words is: nobody can do what the law demands and the prophets promise until John, the pointer to the Lamb, comes. This is the real meaning of this passage. The law demanded righteousness, it required perfect obedience. Moreover, the prophets proclaimed that fulfillment, but as something in the future, and through this confirmed the law and its demands; the³¹ prophets could not do what the law required, much less the law itself, but the coming John could. If you want to see, he said, and have what the law requires and the prophets promise, behold here the Lamb of God [John 1: 29]. Whoever does not receive this revealer of the Lamb and believe that Christ has come as the end of the law, will perish like the Jews, for whom John has still not come today and who remain under the law. Admittedly, they could not keep it until John came, and even he was not able to keep or satisfy the law. And yet he said: Listen, the law, which previously demanded of us the impossible, now no longer has the right to demand anything from us, because now we have Christ present and for all to see, the Lamb of God, who takes away the sins of the world; he more than fulfilled the requirements of the law. Moreover, since sin has been removed, the law has no right to accuse us as he is now the end of the law for righteousness to all who believe [Rom. 10: 4]. Therefore, it is impossible for people to do what the law demands and the prophets proclaim regarding the future fulfillment of the law unless they have and grasp Christ by faith etc. But believers have what the law demands and the prophets promise. Therefore, it is no longer necessary for the law to demand its own fulfillment and for the prophets to prophesy about Christ, the future fulfiller of the law, because he appeared at his own right time, having been made a curse for us, that we might be freed from the curse of the law [Gal. 3: 13]. He also gave us the gift of Holy Spirit in order that the just requirements of the law might be fulfilled in us [Rom. 8: 4].

However, the demanding law remains for the ungodly, and indeed it even accuses and terrifies the godly, but it cannot drive them to despair

²⁹StA 5, 252, n. 297, notes that V inserts the following sentence: (that is) nobody can do what the law requires and the prophets promise until John comes and points them to the Lamb.

³⁰StA 5, 252, 14, does not include the next sentence as found in FrHRW.

³¹StA 5, 253, n. 301, does not have the rest of this sentence.

and condemn them. Therefore, the law and the prophets ceased at the time of John because Christ appeared. The same thing also happens privately with any given individual. As long as a person does not believe the finger and voice of John, who bears witness that Christ, the Lamb of God, has fulfilled the law, he lives as a slave under the sovereignty and tyranny of the law. To such a person the law says: Pay what you owe. God has given the law for you to keep, but you have not kept it, therefore you have a wrathful God and a stern judge. However, the law does not say how or through whom he can fulfill it. It cannot reveal him who will fulfill it until the gospel comes along and says that Christ has done this.

The *argumentum* proposes that the law should not be taught because it has been abolished. Luther recognizes that this is a very weighty argument [*unum ex praecipuis*] and one that is entirely plausible [*etiam potest movere hominem sensatum*] (366, 1-2). Moreover, the antinomians have scripture on their side for Christ says that the law and the prophets are until John (Matt. 11: 13). Luther maintains that the real meaning of this passage is that nobody can do what the law demands and the prophets proclaim until the coming of John, because he points to Christ, the fulfiller of the law and the prophets.³² John's purpose, as the *monstrator agni*, is to bear witness to Lamb of God, who takes away the sins of the world (John 1: 29) (366, 4-12).³³ The law which previously demanded of us *impossibilia*³⁴ has now been deprived of its

³²Cf. 39 I, 454, 15-455, 8 (2 AD, Arg. 13), where Luther says that these words are comforting because they mean that the terror and exaction of the law will not last forever: *Nam ubi habuero Christum per fidem, habeo id, quod lex requirit et exigit a me* (455, 7-8).

³³See 39 I, 579, 10-12 (3 AD, Arg. 42/14) where John again appears as the *monstrator*, but with the emphasis that those who receive the Christ to whom he points are rid of the *lex damnans ac accusans* (579, 10-11).

right to demand anything from us [*iam non habet amplius ius exigendi aliquid a nobis*], for Christ as *agnus Dei* has more than [*abunde*] fulfilled the requirements of the law. The fact that Christ does not merely fulfill the law measure for measure but with such superfluity that he does more than the law could ever demand is an important emphasis and one which will recur several times. It is important because it makes it clear that Christ is not beholden to the law as its servant but remains its Lord so that in fulfilling the law he at the same time abolishes it. He is the *finis legis* and gives the righteousness demanded by the law to all who believe in him.³⁵ Therefore, nobody can fulfill the law *nisi habeant et fide apprehendant Christum* (367, 4-7). In his characteristic way Luther says not only that Christ, *factus pro nobis maledictum*, has freed us from the curse of the law,³⁶ but also that he has

³⁴For the argument that the law is impossible, or that God demands the impossible, see 39 I, 476, 3-477, 2 (2 AD, Arg. 23) and 39 I, 515, 14-517, 11 (3 AD, Arg. 7).

³⁵This seems to be the way Luther understands Rom 10: 4: τέλος γὰρ νόμου Χριστὸς εἰς δικαιοσύνη παντὶ τῷ πιστεύοντι. In other words, Christ is the end of the law because the law can now no longer accuse those in Christ for they have by faith the righteousness which the law demands. See 39 I, 479, 4-6 (2 AD, Arg. 25): *Christus est finis legis. Ita apud pios cessat exactio legis et accusatio, quia quid exigeret, cum adsit Christus, qui dicit: Ecce me, qui facio pro illis, quod exigis, desine.* However, we will see later that Luther speaks of a *duplex finis legis* to combat the false antinomian notion of a *simplex finis legis*.

³⁶Luther often uses the Pauline phrase Χριστὸς ἡμᾶς ἐξηγόρασεν ἐκ τῆς κατάρας τοῦ νόμου γενόμενος ὑπὲρ ἡμῶν κατάρα (Gal. 3: 13, which in turn echoes Deut. 21: 23) in connection with justification and a description of Christ's salvific work. Through his fulfillment of the law Christ robbed it of its curse. See e. g. 39 I, 363, 5-6 (1 AD, Praef.); 381, 2 (1 AD, Arg. 13); 384, 16-17; 385, 7-8; 386, 14 (1 AD, Arg. 15); 388, 18-19 (1 AD, Arg. 16); 465, 5 (2 AD, Arg. 15).

given us the Holy Spirit *ut iustificatio legis in nobis impleretur* (367, 9-11).³⁷ However, this does not apply automatically to everybody across the board, but only to those who have faith. For the *impii* the *lex requirens* remains, and indeed even the *pii* can be accused and frightened, insofar as they still have the flesh, but now it can no longer drive them to despair.³⁸ This difference is further reinforced when Luther changes the focus of his argument by paralleling what Christ did once when he came to fulfill the law and the prophets and what he does today, individually, when people believe in him. Thus, he applies the words of Matthew 11: 13 to the individual: *Sic privatim fit cum quolibet homine*. As long as people do not believe the *digitus ac vox Ioannis*, who bears witness to the *agnus Dei*, they remain enslaved to the

³⁷As we have already seen, Luther is not content to emphasize only Christ's fulfillment of the law *pro nobis* and justification by faith, but he also stresses the fulfillment of the law (= *iustificatio legis*) in us by the power of the Holy Spirit. See also 381, 7-9 (1 AD, Arg. 13). A discussion of the significance of this will have to wait until ch. 4.

³⁸It is instructive to note how Luther describes the different effect the law has on the *pii* compared with the *impii*. Cf. on the one hand, 367, 3-4: *Ablato autem peccato non habet lex ius accusandi nos ita ut ipse [scil. Christus] nunc finis sit legis ad iustitiam omni credenti*; on the other hand, 367, 12-13: *Impiis tamen manet lex requirens et pios quidem etiam accusat et terret, sed non potest in desperationem adigere et damnare*. The context makes clear that Luther here uses "accusare" and "condemnare" interchangeably. Also for Luther, as for Melancthon, *lex semper accusat* (see 39 I, 412, 2 [1 AD, Arg. 32]) applies also to the Christian qua sinner, but at the same time he knows with Paul that there is no condemnation for those in Christ Jesus (Rom. 8: 1). On Rom. 8: 1, see among others 39 II, 225, 8-12 (Marb., Arg. 42): *Paulus non inquit: Nihil peccati est in sanctis, sed nihil damnationis. Caute igitur est distinguendum. Peccatum est peccatum, hoc non est dubium. Sed duae species sunt faciendae. Sanctorum peccatum remissum est, quod non nocet, sed impenitentium non remissum dicitur, quod nocet*. Cf. 39 I, 223, 1-4 (PT, Arg. 11). What it means that the *peccatum* of the saints is *remissum* will be discussed in ch. 4.

imperium and *tyrannis legis*. To such people the law thunders mercilessly: *Redde, quod debes*.³⁹ The law works strictly according to the letter, and its bookkeeping is impeccable. It dispenses justice with utter impartiality: *Deus legem tulit, ut eam facias, non fecisti autem, ergo habes Deum iratum et severum iudicem* (367, 14-18; our emphasis). Finally, the law can only demand its own fulfillment; it is wholly incapable of telling us how or through whom we can fulfill it until the gospel comes and announces: *Christum hoc fecisse* (367, 18-368, 2).

In this argument Luther accepts the premise with qualification, and therefore cannot accept the conclusion without qualification.⁴⁰ He can say with Paul (or with Jesus in Matt. 11: 13) that the law has been abolished, but in so doing he does not mean the same as Agricola does, for the apostle knows that the law has been abolished only for the *credentes*, and then only insofar as they have died to the law and the law is dead to them, not insofar as they still have the flesh. It is on account of this qualification that Luther is unable to say that the law has been abolished completely for everyone, irrespective of whether they are saints or sinners. Hence, he says in his *responsio* that the

³⁹These are the words of the unmerciful servant of Jesus parable (Matt. 18: 28), who, after having been forgiven an enormous debt, promptly goes out and calls in a loan from a fellow servant with these words, pay what you owe, despite the fact that the latter pleads for mercy. Such a merciless extraction of our *debitum* is the very nature of the *lex as semper requirens*. Also apropos here is Jesus' warning to settle with your accuser on the way to the magistrate, lest you end up being thrown into prison. "And I tell you," he says, "you will never get out till you have paid the very last penny" (Luke 12: 58-59).

⁴⁰This is clear from Luther's argumentation, though he does not spell it out in so many words. There are other arguments also where Luther has to reject the conclusion because of equivocation. See 2 AD, Args. 5, 7, 8.

lex requirens still remains in force for the *impii* and also for the Christian *quoad carnem* (367, 11-14). Agricola could not live with that tension.

In this argument Luther does not dwell on the differences between himself and the antinomians but rather affirms on the basis of Matthew 11: 13 that the law has indeed been abolished. The major difference between them comes out in the application of the text. For the antinomians the law has been abolished all together without qualification, whereas for Luther, it has been abolished for faith in Christ but not for the *impii*, which includes Christians insofar as they still have the flesh.

Argument 3⁴¹
Contra 4

Repentance is worked in us solely by the grace of God. Therefore, no part of repentance is to be ascribed to the law.

Proof: Jer. 31 [: 8]: Return to me and I will return etc., and Ps. 51 [: 12]: Create in me a clean heart, God.

Response: We do not deny that God works repentance in us; in fact our theses confess this quite openly. But it is improper to say that the grace of God produces repentance in us. For grace, properly speaking, is the fulfillment of the law, the forgiveness of sins, righteousness, and life in Christ. That God works repentance in us is certainly attested by the fact that many hear the law, but are moved neither by its threats nor its terrors, because they do not feel the power of the law. Therefore, I do not convert any one by virtue of my preaching unless God is present and cooperates with his Spirit. Does that mean then that the law is not to be preached because God moves and converts the heart by mercy alone? This conclusion is foolish; by the same reasoning I could say that the gospel should not be preached because few people hear it and even fewer believe. But God wills that we teach the law. When we have done this, he himself will see to it who will be converted by it. He certainly uses it to turn to repentance whom he wills, when he wills. Hence, we should preach the gospel because it is a doctrine for all, but not all believe. In the same way the law applies to all, but not everyone repents. But those who do, do so through the ministry of the law. However, the prophet is

⁴¹39 I, 368, 5-369, 16.

speaking about true repentance, which endures for the whole of life. It is as if he were saying: Humble me and lead me to true repentance that I may abhor perverse and ungodly doctrine, notwithstanding its most holy appearance among the hypocrites, who do not understand the law, much less are able to teach it properly to others, but are swollen with pride in the righteousness of the law and their own wisdom. Moreover, a disciple will never become better than his teacher [Matt. 10: 24]. For that reason, they themselves⁴² convert their disciples, but to idolatry and perdition.⁴³ The gospel is for all, but not all believe. The law is for all, but not everyone feels the power and sensation of the law. I therefore repent when God strikes me with the law and brings home to me the gospel. We cannot say anything about the time and the hour. He himself knows when he wills to convert me. He speaks about the whole of life.

Luther makes an important distinction here between the work of God and the grace of God in repentance. The antinomians argue that the *gratia Dei facit poenitentiam*, whereas Luther maintains that this is incorrect because the *gratia Dei* is, strictly, the *impletio legis, remissio peccatorum, iustitia et vita in Christo*. We note in passing that Luther does not view *gratia* as a attribute of God from which one then draws conclusions, after the fashion of the scholastics. Grace is rather God's gracious action toward us in Christ, with all that that entails.

Notice too that repentance is not something that we achieve by ourselves on the basis of the law, it is not an internal psychological state, but God's work in us: *Deus operatur in nobis poenitentiam* (368, 9-13). Here, strictly speaking, Luther is talking about the first part of repentance, although he does not make that clear. While the overarching thrust of what he is saying here is plain, there are a few places in the middle of the argument

⁴²The operative word here is "themselves." The Latin reads: *Ideo convertunt et ipsi quidem suos discipulos . . .*

⁴³StA 5, 255, n. 337, stops here; what follows is FrR.

where he is not as precise as he might be in distinguishing between the first part of repentance and repentance as a whole. Since he is defending Thesis 4 against the antinomian argument that repentance *in toto* arises from grace, it would have been helpful if he had stressed that while grace does indeed give rise to the second part of repentance, the *bonum propositum*, it falls to the law to bring about *dolor de peccato*, which, as we saw from the first *Thesenreihe*, corresponds to the first part of repentance.

After the initial distinction between what *Deum in nobis operari*, and what *gratiam Dei facere in nobis*, Luther goes on to affirm that the preaching of the law does not convert people, *nisi Deus adsit et suo Spiritu cooperetur*, because *Deus sola misericordia movet et convertit cor* (368, 14-17). The law cannot produce repentance by itself, it is only preparatory, the all-important ingredient is God's grace and mercy. But just because God moves the heart by mercy alone does not imply that there is no need to preach the law. We preach it because God wills that we preach it, and he uses it in his own divine freedom to convert whomever and whenever he wills [*certe convertit per eam ad poenitentiam, quae et quando vult*].⁴⁴ God is at work through both law and gospel, yet in neither case is the outcome mathematically certain or able to be determined by us for he will bring to repentance *quos et quando*

⁴⁴Not only the message of the gospel, but also the *sensus legis* stands under the "*ubi et quando visum est Deo*" to borrow the phrase used in CA V (BSLK 58, 7-8). Cf. 345, 20-21 (ATh, I, Th. 3); 370, 5-6 (1 AD, Arg. 4): *Ostendenda est diligenter magnitudo peccati et irae Dei per legem, et Deo postea committenda res, is corda movebit, quae vult*. However, the *sensus legis* is not exclusively bound to the *verbum praedicatum* like the gospel, because the law is inscribed on the hearts of all people. The matter of the *lex insculpta* will come up in 1 AD, Args. 25 and 34.

vult (369, 2-3).⁴⁵ Not all who hear the law are moved by the threats of the law because not all *sentiunt vim legis* (368, 14). The law applies to all, but not all repent [*lex ad omnes pertinent, sed non omnium est poenitentia*] (369, 4-5).⁴⁶ Likewise, the gospel should be preached, *quod est doctrina communis omnium, sed fides non est omnium* (369, 3-4). In both cases God works when and where he pleases. However, Luther's main point is that whenever repentance⁴⁷ arises, it is *ex ministerio legis* (369, 5).

In a final polemic aimed at unmasking the hypocritical repentance of the antinomians, he applies the words of Jeremiah 31: 8 to them and in sermonical fashion points out that false doctrine is incompatible with true repentance.⁴⁸ Although Luther at times, as we will see, can reproach them for

⁴⁵Cf. 369, 22-24 (B): *Deus est efficax, Deus operatur per verbum legis et Evangelii, quod nos praedicamus, sed operatur, ubi et quando vult.* Although God works through both law and gospel he works in different ways so that what is said about the law cannot also be said about the gospel. This the antinomians failed to understand.

⁴⁶Here it would have been more precise if Luther had said *dolor* instead of *poenitentia*, inasmuch as the latter is a product of both law and gospel.

⁴⁷Strictly speaking, contrition. Luther is not as precise here as in Th. 4 where he says only the first part of repentance arises from the law (*tantum* occupies an emphatic position), the second--and as he will see later, more important--part, namely, the good intention, springs from grace (alternatively, from the promise or gospel, as in Th. 7).

⁴⁸This is one of two proof-texts adduced by the antinomians to support their claim that repentance is worked solely by the grace of God. However, in terms of law and gospel the "*converte te ad me*" of Jer. 31: 8 refers to the contrition and the turning away from sin produced by the law, while the "*ego convertar*" is God's gospel promise which effects repentance so that people not only turn away from sin, but turn back to God. The latter corresponds to the second part of repentance, namely, faith and the good

their moral laxity and ethical indifference, here he makes it perfectly clear that the chief sin of the antinomians is that of false doctrine, since unbelief (the sin against the first commandment) is for him always the root sin. In a piece of sarcastic realism he uses Jeremiah 31: 18 against them and charges that they themselves, and not God, convert their disciples,⁴⁹ but to idolatry and perdition.⁵⁰ In summary, we see from Luther's refutation that the antinomian understanding of repentance is finally a confusion of law and gospel.

Argument 4⁵¹
Contra 25

What the law was unable to effect, the Holy Spirit had to be sent to do. The law was not enough to strike terror into the heart. Therefore, the Holy Spirit had to be sent for this.

intention. (Indeed, according to 39 I, 472, 9-10 [2 AD, Arg. 19]: *fides est principale bonum propositum.*) In the other text, Ps. 51: 12, the prayer of the psalmist, *cor mundum crea in me, Deus*, can only be prayed by one who knows his heart is unclean through the revelation of the law. Neither text supports the antinomian thesis: "*Sola gratia Dei operatur in nobis poenitentiam*" (368, 5).

⁴⁹The Latin is quite emphatic: *Ideo convertunt et ipsi quidem suos discipulos*. The barb is scarcely concealed: here Luther mocks them with the text that they themselves use (Jer. 31: 18) to prove that conversion is accomplished by God (or by grace), and turns it back on them to prove that their converts are indeed just that, **their** converts and not God's, and if their converts, then they are no more than idolaters bound for hell, for the disciple can never be better than the teacher (Matt. 10: 24). See following note.

⁵⁰Luther may have in mind Jesus' words from his own diatribe against the Pharisees in Matt. 23, esp. v. 15, where he reproaches them for traversing sea and land to make a single convert, whom they then end up making twice as much a child of hell as themselves. Luther's conjunction of idolatry and perdition not only underscores the fact that for him false doctrine is always idolatry, but it is also a reminder of how seriously he takes heterodoxy and why he fights against it so strenuously.

⁵¹39 I, 369, 19-371, 16.

Response:⁵² That argument has already been dealt with. It is false to conclude that because the law does not do its work without interior movement, therefore it should be abolished. The magnitude of sin and of God's wrath must be carefully revealed through the law, and then the matter commended to God; he will move the heart as he wills. But here we should note Thesis 16 of the antinomians: The law only exposes sins, and indeed without the Holy Spirit, therefore it exposes sins only to condemn them. That is godless nonsense, because it is impossible for the law to expose sin and move the heart without the Holy Spirit who is God, the creator of all things, who wrote the law with his own finger on tablets of stone, as it says in Exodus [31: 18]. Therefore, we make a distinction with regard to the Holy Spirit just as we do with regard to God when we distinguish between God in his divine nature and substance, on the one hand, and as he has been given to us, on the other. God in his nature and majesty is our adversary, he enforces the law and threatens transgressors with death. But when he involves himself in our weakness, and assumes our nature, sins and evils, there he is not our adversary, as Isaiah 9 [: 6] testifies: A child is born to us and a Son is given to us, the true God is given to us as a present, he becomes our priest and savior. Thus, the Holy Spirit, when he writes the law with his finger on Moses' stone tablets, is in his majesty and assuredly exposes sins and terrifies the heart. But when he is involved with tongues and spiritual gifts [Acts 2], then he is called gift, and sanctifies and vivifies. The law exposes sin without this Holy Spirit, who is gift, because the law is not gift, but the word of the eternal and omnipotent God who is fire in the conscience. But the law does not expose sin without the Holy Spirit because God is the lawgiver. Therefore, it should not be said that the law exposes sins without the Holy Spirit. However, insofar as they say that the law exposes and condemns sins, they are correct. But then to infer from this that on account of this effect the law is to be abolished is nothing but godless blasphemy. I would buy golden shoes for the prophet who can show with certainty from the scriptures that the law is to be abolished because it exposes and condemns sins. For if they abolish the law they also abolish death and hell. For if there is no accusing and condemning law, what need do I have of Christ who gave himself up for my sins? But when death comes you will certainly feel that sin accuses and condemns you so terribly that you would despair if you were not lifted up by the promise of Christ. Satan hates the teaching of godliness. Therefore, through such spirits he wants to abolish the law. On the other hand, for the very reason that they abolish the law, it is to be

⁵²We omit the student's response (ibid., 370, 1-2) which follows G.

established and retained, because it exposes and reveals true sin, and by this revelation reduces people to nothing, condemns them, and drives them to seek help from Christ (Gal. 3 [: 19]).

The argument⁵³ attempts to play the law off against the Spirit⁵⁴ by proposing that what the law was unable to do the Holy Spirit had to be sent to do. Luther in his *responsio* rejects the conclusion of his opponents and goes on to develop the important distinction between the Holy Spirit in his divine nature as author of the law, and the sanctifying, vivifying Holy Spirit as he is given to us through the gospel. But before he clarifies the relation between the law and the Spirit he wants first to emphasize the indissoluble connection between them, since the Thesis 16⁵⁵ of the antinomian *positiones* implies that

⁵³While the antinomian *argumentum* is contra 25 of the first *Thesenreihe* (39 I, 369, 18): *Universa enim scriptura tradit poenitentiam a lege esse inchoandam, id quod rei ipsius ordo et experientia quoque monstrat*, Luther's counterargument is a refutation of Th. 16 of the *positiones* (see earlier note).

⁵⁴Clearly the antinomians argued: *Lex sine motu interiore non operatur suum officium, ergo est tollenda* (370, 4-5). The reference seems to be to the proclamation of the law, for Luther says that the *magnitudo peccati et irae Dei* is to be shown *per legem*, and the matter then commended to God (370, 5-6). It follows then that the antinomians reject the law because it is incapable of moving the heart to contrition without the aid of the Holy Spirit. Further evidence for the fact that the antinomians played the law off against the Spirit can be found in the Pos, Th. 3: *Et Christus apud Ioannem ait, Spiritum arguere mundum de peccato, non legem*; and Th. 4: *Idem docet ultima concio Christi: Ite, praedicate Evangelium omni creaturae*.

⁵⁵Cf. Pos, Th. 16: *Lex tantum arguit peccata, et quidem sine Spiritu sancto, ergo arguit ad damnationem* (39 I, 343). Note the position of the *tantum*; it is not "*tantum lex*," because clearly antinomian doctrine does not teach that only the law condemns, since for them the gospel also condemns (see Th. 17), but rather "*lex tantum*," meaning that the law only accuses and, because it only accuses, indeed without the Spirit, *ergo* ultimately it can do nothing but condemn. This then is why they reject the law in favor of the

Luther taught that the law exposes sins without the Holy Spirit.⁵⁶ Furthermore, the antinomians assume that when they teach that it is the Holy Spirit who exposes sin, they have scripture on their side (John 16: 8). Consequently, Luther must show that when he teaches that the law exposes and condemns sin, he is not excluding the Spirit. That would be impossible because the Holy Spirit, as *Deus creator omnium*,⁵⁷ is also the *auctor legis*; he wrote the law with his own finger on the stone tablets of Moses (370, 6-12). Without the *Spiritus Sanctus* there would be no experience of the law. However, and this is the crucial point, the Spirit who exposes sins and moves the heart through the law is not the same as the Spirit who works faith through the gospel. The Holy Spirit works in a different way through the law than he does through the gospel. This insight is consonant with Luther's distinction between *opus*

gospel, because it can do both at once. Martin Schloemann, *Natürliches und gepredigtes Gesetz bei Luther* (Berlin: Verlag Alfred Töpelmann, 1961), makes the case for understanding the unity of the natural experience of the law [*lex naturae*] and the church's preaching of the law [*lex praedicata*] in terms of both *usus* and *effectus*. He argues that in Luther the content of the preached law is no different from that of the natural law, even though in preaching its *Strafamt* may be significantly intensified. This is an important point and it will have to be developed more fully as we progress. Re Pos., Th. 16 and 17, Schloemann says that the antinomians correctly understand the unity of Luther's teaching on the law and therefore seek a proclamation in which the possibility of the *damnatio* through the preached word is excluded (108).

⁵⁶As we can see, Th. 16 (see preceding note) has two thrust: the main one, which Luther takes up later, is that the law only exposes sin and therefore condemns; the other, which is more parenthetical, is that the law exposes sin even without the Holy Spirit. This thesis represents an antinomian critique of Luther's theology.

⁵⁷Luther here is simply applying the old trinitarian axiom: *opera trinitatis ad extra sunt indivisa*; cf. Werner Elert, *Der Christliche Glaube: Grundlinien der lutherischen Dogmatik*, 5th. ed., rev. and enl., ed. Ernst Kinder (Hamburg: Furche-Verlag, 1960), 225-6.

Dei proprium, referring to the gospel, and *opus Dei alienum*, referring to the law, even though he does not employ that terminology here. He says plainly: *Deus in natura et maiestate sua est adversarius noster, exigit legem et minatur transgressoribus mortem*. On the other hand, Luther says of God in his incarnation:⁵⁸ *Sed quando associat se infirmitati nostrae, suscipit naturam, peccata et mala nostra*,⁵⁹ and thus becomes *pontifex et salvator noster* (370, 12-18).⁶⁰ Therefore, the Holy Spirit as *auctor legis* is synonymous

⁵⁸Cf. the contrast between *verbum increatum* and *verbum incarnatum* (as the Logos of John 1: 14) which Luther employs in 1 AD, Arg. 17.

⁵⁹Cf. Luther's remarks on the topic of the revealed and hidden God in *De servo arbitrio* (WA 6, 568, 3-29=StA 3, 253, 13-254, 18) as well as his interpretation of the words in Gen. 1: 2: "*Et spiritus domini ferebatur super aquas*," in his *Genesisvorlesung* (42, 8, 15-13, 10), which is much closer to the time of our disputation.

⁶⁰Rel. B (370, 27-371, 23) gives a further contrast between the different modes of the Spirit by citing Hilary's instructive comment: Eternity in the Father, appearance in the image, application in the office [*Aeternitas in patre, species in imagine, usus in munere*]. See Hilary, *De trinitate*, bk. 11, 1 (MPL 2, 51); cited according to Peter Lomb., *Sent.*, bk. 1, dist. 31 C. This statement of Hilary's is explicated in Arg. 9 of the *Promotionsdisputation* of Palladius and Tilemann (39 I, 216, 21-218, 3). Here Luther in his *responsio* says that since in our corrupt nature it is impossible to see and bear God as he is, it pleased him *involvere in itas externas apparitiones et sacramenta, ut possemus eum apprehendere* (217, 9-17). Thus the Holy Spirit leads us *per illa externa*, by which he allures and invites [*lactat et invitat*] us *ad aeterna, coelestia et invisibilia* (217, 17-19). Then he uses the analogy of the fisherman, who deceives the fish with his bait to draw them in, to describe the work of the Holy Spirit in drawing us to eternity [*ad aeterna perducimur*]. He uses that visible bait by which he entices [*inescat*] us to himself and allures [*allicit*] us to eternal life (217, 19-23). Thus God works with us as we do with children who are sick and feeble, whom we gently coax and allure, taking them by the arm and deceiving them into going where we want them to go, but only until they grow up. Unless God acted like that with us we would perish at the first sight of his majesty (217, 23-218, 3).

with the *Deus nudus* or with *Deus in natura et maiestate*, and as such exposes sins and terrifies the heart. Therefore, the Spirit who moves the heart through the law and produces the natural experience of wrath and *desperatio* is not the Spirit of Christ, but the Spirit of the *Deus nudus*, the consuming majesty.⁶¹ However, when he is present in the preached word and so there with his *dona spiritualia*,⁶² he is present as *donum*, gift and gift-bestower, sanctifier and vivifier. Hence, Luther concludes that the law exposes sins without this [*iste*] gift-Holy Spirit because *lex non est donum, sed Dei aeterni et omnipotentis verbum, qui est ignis conscientiiis*,⁶³ but by the same token,

⁶¹Luther makes a similar distinction in 39 I, 389, 2-391, 20 (1 AD, Arg. 17), and 484, 5-22 (2 AD, Arg. 29). Cf. also 39 I, 243, 13-246, 11 (PT, Arg. 24).

⁶²We take Luther's words, *Quando vero involvitur linguis et donis spiritualibus*, to be a reference to the outpouring of the Spirit on the day of Pentecost (Acts 2) and hence understand the *lingua* here quite specifically to mean the apostolic preaching of the gospel, and not the charismatic gifts of speaking in tongues which Paul talks about in 1 Corinthians 12. The context supports this interpretation: a few lines earlier (370, 16-17) Luther refers to Is. 9: 6 and the divine incarnation where God becomes our savior. Then he immediately refers to the *lingua* and *dona spiritualia* to further contrast how he works in grace compared with the law. Surely the common thread running through these references is that they are both statements about salvation. If that is the case, we are justified in translating *lingua* with "preached word." Moreover, the *dona spiritualia*, which stands in apposition with *lingua*, are not the charismatic gifts but, as the context shows, the Spirit-given gifts of sanctification and new life which are bestowed in justification.

⁶³It is important to note that Luther does not say that the law is a gift. Only faith can say that the law is *donum*, for faith knows that God uses the *lex accusans* in his fatherly goodness to bring us to repentance. So too Luther can praise God for the gift of his law, which faith delights in and praises like the author of Ps. 119 does; see 39 I, 372, 19-373, 12 (1 AD, Arg. 6). At the conclusion of his exposition of the Ten Commandments in the Large Catechism, Luther says that we should prize and value them above all teachings as the greatest treasure God has given us [*Darümb soll man sie je*

the law never exposes sins without the Holy Spirit because *Deus is legislator* (370, 18-371, 3).

Having dealt with the relation between the law and the Holy Spirit, Luther now returns to Thesis 16, mentioned above, and considers its main thrust. He agrees with the substance of its criticism, namely, that he teaches *legem arguere peccata ad condemnationem*.⁶⁴ However, he categorically rejects the implication that for this reason the law is to be abolished. In order to show the untenability of such a conclusion Luther pushes it to the utmost: if you abolish the law you also abolish death and hell, and if you abolish death and hell, why do you need Christ, who died your death for you? (371, 8-10).⁶⁵

fur allen andern Lehren teur und wert halten als den hohisten Schatz, von Gott gegeben] (BSLK, 645, 41-43). That is the way faith speaks about the law.

⁶⁴As can be seen from Th. 16 (see n. 51), this is not intended to be a literal quotation. At first sight, when we read what Luther says (371, 3-4), namely, that the antinomians are right in saying that the law exposes and condemns sins [*Quod autem dicunt, legem arguere peccata ad condemnationem, recte dicunt*], we might be led to think that this represents their teaching in a positive sense; however, both Pos, Th. 17: *Opus est autem doctrina, quae magna efficacia non tantum damnat, sed et salvat simul* (obviously a reference to the gospel), and Luther's own words in the next sentence: *Sed postea inferunt, propter hunc effectum eam esse tollendam, hoc impium est et blasphemum* (371, 4-6) leave us in no doubt that this is not the case. In other words, they do not teach the condemning law (nor that the law condemns), better, they do not teach the law at all, precisely because it only (!) condemns.

⁶⁵We have taken the liberty of reformulating Luther's argument in order to make its progression clearer. His method of argument resembles that of Paul's in 1 Cor. 15: 12-19 where the apostle confutes the skeptics of the resurrection by using a rhetorical device consisting of a series of questions until he reaches the nadir in v. 19 ("If for this life only we have believed in Christ, we are of all people most to be pitied"), before the great *volte-face* in v. 20 ("But in fact Christ has been raised from the dead). While the rhetorical form of Luther's argument may have something in common with that of Paul's in the above text, its theological underpinning is provided by the

Clearly, this is one of those *dicta heroica* which Luther utters from time to time in order to drive home a point. No mortal can literally abolish death and hell simply by rejecting the law. However, when the law is not taught it is as though death and hell were abolished for their effect is lost and with it the need for a savior is also lost. This nexus between the Christ and the law is very important to Luther's argument against the antinomians, as will become apparent later. They of course would not accept this "logical" causal nexus of their own argument. Luther now speaks existentially, *ad limen mortis*, and reminds his opponents that in the final analysis the proof will be in the pudding, so to speak: "But when at length you meet death face to face, you will see for yourself that sin's accusation and condemnation will be so devastating that, were it not for the gracious promise of Christ, you would end up in despair" (371, 10-12).⁶⁶ Consequently, the law stands and the antinomians are wrong.

By rejecting the law, the antinomians (perhaps unknowingly) are playing into Satan's hands whose own goal is the abolition of the law. So long as the *doctrina pietatis*⁶⁷ remains intact, which includes the orthodox

apostle's well-known words at the end of the same chapter: "The sting of death is sin, and the power of sin is the law" (1Cor. 15: 56). Luther simply takes this causal chain and reverses it: where there is no law there is no sin (or at least sin is not reckoned as sin; cf. Rom. 5: 13), and where there is no sin there is no death). For a similar line of argumentation, see 39 I, 546, 14-19 (3 AD, Arg. 23), where he urges that without the law and sin Christ cannot be retained.

⁶⁶These words remind us of the well-known beginning of Luther's famous *Invocavit* sermons of March, 1522 where he says that each of us must face death alone. Everyone must prepare his own weapons and armor to fight his own battle with death and the devil by himself alone (10 III, 1, 7-2, 3).

teaching of the law, Satan is cheated of his power and his ultimate weapon, death (which Paul in 1 Cor. 15: 26 calls the last enemy), is really nothing but a toothless tiger, for it has been defanged by Christ's own death and resurrection.⁶⁸ The reason the devil wants to use the antinomians as his instruments [*per tales spiritus*] (371, 12-13) to destroy the law is because the law, inasmuch as it leads to repentance, keeps us in the forgiveness of sins and hence out of the reach of Satan. As forgiven sinners, sprinkled with the blood of Christ, we can approach death with intrepid hearts, because in Christ, death itself has died and Satan has been defeated.

Luther closes his *responsio* with a strong affirmation of the need for law, *contra antinomos*, just because it exposes and reveals *verum peccatum*,

⁶⁷At first glance it may seem as though Luther uses *doctrina pietatis* in the sense of the scriptural teaching of sanctification, which we know was completely perverted by the antinomians. The problem with that however is that it does not fit so well into the *ductus* of the argument. It is better then to take it as a reference to orthodox doctrine, the teaching of the faith, which at this point means especially the scriptural doctrine of the law.

⁶⁸Cf. Paul's mockery of death in his triumphant Easter hymn of 1 Cor. 15: 54-55. Luther does not make the connection between law, *doctrina pietatis*, death and Satan explicit, but it is all implicit in what he says. The reason Satan hates the *doctrina pietatis*, which on our reading here means specifically the teaching of the law, is because, as we saw above from Paul's concatenation of death, sin, and law (1 Cor. 15: 56), to which Luther sometimes adds Satan to form a quadrilateral of demonic powers, is because the law exposes sin, unmasks Satan, and leads the penitent to Christ in whom death has met its match. G. Ebeling, in commenting on De hom., Th. 21-22 in *Lutherstudien*, vol. II/1: *Disputatio de homine* (Tübingen: n.p., 1977), 19-20, shows that there Luther takes "Sünde und Tod" in apposition to "Macht des Teufels," which is why then he speaks of only two evil powers instead of three. Cf. 39 I, 239, 2-4, 6-9, 18-19 (PT, Arg. 20) where Luther notes that Sir. 14: 15 says that the first man was created righteous, innocent, and pure. Therefore, *ante lapsum*, he was indeed *sui viris*, but now we are *mali, impuri, corrupti* and no longer have a *liberum arbitrium*.

and through this revelation, *redigit in nihilum hominem et condemnat et impellit quaerere auxilium apud Christum* (371, 13-16). This last sentence speaks of the role of the law in repentance and is in keeping with Luther's stress on the primacy of the theological understanding of the law in its *duplex usus*. How he speaks about the law in the *vita christiana* will become clear as we progress.

Argument 5⁶⁹

Contra 5

Moses says in Deuteronomy: Behold, I set before you a blessing and a curse, choose which you will [Deut. 11: 26]. Therefore, human beings can obey God by their own strength.

Response: This argument, whether we can fulfill the law, properly belongs to the doctrine of justification. Paul's answer is no.

Contra: The scripture says in various places: If you repent, if you keep my commandments [Deut. 11: 27 etc.], I will be your God and you will be my people [Lev. 26: 12]. Therefore, it attributes the fulfillment of the law to human powers. Otherwise, why does it inculcate these words so frequently.

Response: The law indeed demands and shows what is to be done, but where is that will which obeys and does what the law requires? Who will give it? Christ, who came to fulfill the law, he gives the will to do the law, imperfectly, of course, in this life, on account of the remnants of sin that cling to the flesh, but perfectly in the life to come.

This *argumentum* strictly belongs to the locus on justification. Contra the objection of the opponents, Luther asserts that only Christ, the fulfiller of the law, can give the *voluntas* to keep the law. By attributing the fulfillment of the law to human powers the antinomians are not thinking of the law in its *usus theologicus*, which for Luther is always its primary use, but in its civil use, which, as we saw in the previous chapter, is the only use that the antinomians recognize. For the them the condemning law has already come

⁶⁹39 I, 371, 19-372, 11.

to an end with Christ. For Luther, it has been fulfilled perfectly by Christ, who now gives his own the will to do it too, even in this life it is only imperfectly on account of the *reliquiae peccati* which adheres to the flesh (372, 10-11).⁷⁰

Argument 6⁷¹

Contra 4

You are wrong in saying that the law is a source of sorrow. Therefore, your position is false.

Proof: The prophet says in Ps. 119 [: 165]: Much peace comes to those who love your name or your law, Lord; and Ps. 19 [: 8]: The law of the Lord is perfect, converting the heart. Therefore, it brings peace and security to the conscience, not sorrow.

Response: The entire psalm speaks about Christ and his kingdom and the gospel. But Christ is the fulfillment of the law; when he is present the law loses its power, it cannot bring about wrath for Christ has freed us from it. Moreover, he gives the Holy Spirit to those who believe in him that they may take pleasure in the law of the Lord, according to Psalm 1 [: 2], and that thus their hearts may be restored through it, and this Spirit gives them the will to do it. In the future life however they will have the will to do the law, not only in the spirit, but also in the flesh, which, while it lives here, opposes this delight. Therefore, the apostles and their successors announce that it is the office of Christ, the fulfiller of the law, whose glory and the works of his hands are the heavens and the firmament, to make the law delightful and perfect. Therefore, to the extent that the Spirit is in us, we too delight in the law. However, to the extent that we are of the flesh, the law also remains, yet in such a way that it cannot drive us to despair, just as sin and death remain, yet without being able to harm or condemn us.

The antinomian *argumentum* asserts that sorrow is not *ex lege* because scripture (especially the psalter) teaches that the law delights and renews the heart.⁷² However, rather than accepting the anthropocentric exegesis of his

⁷⁰See our discussion of 1 AD, Arg. 1 on the matter of our inchoate fulfillment of the law already in this life through the power of the Spirit.

⁷¹39 I, 372, 14-373, 12.

opponents, Luther refers the whole psalm to Christ, his kingdom, and the gospel (372, 19-20) on the basis of his hermeneutical axiom that Christ is the center of scripture.⁷³ The antinomian interpretation of Psalm 19, which is not discussed but assumed, sees the whole psalm as extolling the gospel in the sense of the *nova lex* which comes from heaven.⁷⁴ Luther also sees the psalm talking about the gospel, or more specifically Christ, but it is precisely because Christ is the fulfiller of the law that wherever he is present the law loses its power over us, *non potest exercere iram quia Christus ab ea liberavit* (373, 1). Afterwards [*deinde*]⁷⁵ he gives the Holy Spirit to those who believe in him

⁷²Ps. 19 was Agricola's favorite "proof-text" when it came to explaining what he understood by *lex spiritualis*. It is specifically v. 8 which is cited here, *Lex domini immaculata convertens animas*, whereas under the *Puri sunt ex multis pauci isti* of the antinomian *positiones*, the author refers to Luther's exposition of Ps. 19: 2 in his *summaria Psalmorum* and cites with approval his comment: *Coeli enarrant: Und damit hebt er zu gleich auff das alte Gesetz, welches* etc. (38, 24, 20-21). See our discussion in ch. 2.

⁷³On Luther's christocentric exegesis of the OT, see Paul Althaus, *The Theology of Martin Luther*, trans. Robert C. Schultz (Philadelphia: Fortress Press, 1966), 79-102; Heinrich Bornkamm, *Luther und das alte Testament* (Tübingen: Mohr, 1948), 104, 224. The expression *Christus dominus ac rex scripturae* is found in Luther's *Galaterbriefvorlesung* of 1531/35 (WA 40 I, 458, 11, 20, 34).

⁷⁴See ch. 2 for comments on Agricola's exegesis of the psalm. Again, the *positiones* (39 I, 344, 2-4) quote Luther's early exposition of the psalm approvingly where he explains why the law had to be replaced by the gospel: "*Cum doctrina legis potius gloriam hominum et ignominiam Dei operetur, dumque per opera legis aut superbiant, aut desperati Deum oderunt, coelorum haec est enarratio*" (5, 543, 23-26).

⁷⁵This is the first of several places where Luther speaks of the two-fold *impletio legis*: first (here the word *primum* is not mentioned), *per remissionem peccatorum et imputationem divinam*, secondly, (here *deinde*, elsewhere *insuper*) through the gift of the Holy Spirit. The first happens *extra nos, propter Christum per fidem* and takes place in justification. The other

that they may have pleasure [*voluptas*] in the Torah of the Lord (cf. Ps. 1: 2).⁷⁶ And it is the Spirit who gives them the will to keep it (373, 1-4). Here in this life, however, the unremitting battle between the flesh and the spirit spoils our delight in the law and opposes it [*adversatur huic delectationi*]. Luther therefore says that it is the *officium Christi*, as the fulfiller of the law, *reddere legem iucundam, immaculatam* (373, 6-7). The *reddere* points us back to the earthly paradise where our first parents knew the *lex iucunda* in all its fullness. The heavens proclaim Christ precisely because, as *impletor legis*, he has once again made the law a delight.⁷⁷ However, because we still have sin and death to contend with, our joy in the law is not yet complete but is overcast by the sorrows of life and the burden of the flesh. Luther therefore qualifies the *lex iucunda* in this life with the words, *quantum spiritus est in nobis*. It is not yet the untrammelled joy of the heavenly paradise, but for faith it is a real joy nevertheless, for Christ has given us the law's fulfillment as a gift.

occurs *per Christum et Spiritus sanctum in nobis* and thus corresponds to sanctification. These are two separate things and although the second presupposes the first they should not be turned into a temporal sequence. Luther's use of *deinde* in fact underscores the inseparability of justification and sanctification. On this matter see Rudolf Hermann, *Zum Streit um die Überwindung des Gesetzes. Erörterungen zu Luthers Antinomthesen* (Weimar: Hermann Böhlhaus Nachfolge, 1958). For a discussion of the meaning of *primum - deinde*, see 39 I, 431, 1-435, 13 (2 AD, Arg. 3). See also ch. 4 in connection with justification and sanctification.

⁷⁶See Arg. 1 for other passages where Luther says that the *credentes* find delight in the law. See also our discussion in connection with the *tertius usus legis* in ch. 4.

⁷⁷Clearly for Luther the *gloria Dei* of Ps. 19: 2 is Christ, more precisely, Christ in his office as savior. However, in this particular argument he wants to especially stress the aspect of Christ as *impletor legis*, because by fulfilling the law he has robbed it of its condemning power.

Furthermore, even though the *lex condemnatrix* remains *quantum carnis*, it has been shorn of its power for it can no longer drive us to despair (393, 9-12). Christ is now our refuge from the stormy blast of the law.

In summary, Luther agrees with the antinomian assertion that the law can be a source of delight for Christians, but adds the important qualification *qua saints* or *quantum spiritus*.⁷⁸

Argument 779

Contra 24

Whatever has been abrogated is not effective. The law has been abrogated. Therefore, it should not to be taught. That it has been abrogated is attested by Paul in Romans 6 [14]: You are not under the law, but under grace. The speeches of Peter, Paul, Barnabas, and others in Acts likewise attest the same thing.

Response: Circumcision and other ceremonies had their specific people and time, which, having been fulfilled, have ceased. But in fact the Decalogue still inheres in the conscience. For even if God had never promulgated the law through Moses, the human mind would still have this knowledge by natural means: that God is to be worshipped and the neighbor loved. The Decalogue too has its own prescribed time; that is to

⁷⁸We will see later that because the antinomians operate with an unscriptural anthropology they fall into the error of a false perfectionism. Furthermore, we will also see that, although Luther never loses sight of the fact that Christians can praise the law in the spirit of Psalm 19 (and Ps. 119 as well), he knows that this joy is overshadowed by the fact that the law never ceases to be the enemy to the extent that we never cease being sinners. But for Christians it remains a defeated enemy. Since however it is only for those in Christ that the law is a source of joy, it is not really the law as such that they rejoice in, but the fulfilled law. For we will see that the *lex impleta* is no longer really *lex* in the proper sense of the word, which for Luther is always *lex accusans et condemnans*, but it is now the law as it has been taken over by Christ and used in his service. Therefore, we can confess with the psalmist that the law of the Lord is indeed perfect, reviving the soul, making wise the simple, rejoicing the heart, enlightening the eyes, enduring for ever (Ps. 19: 7-10).

⁷⁹39 I, 373, 15-375, 12.

say, when Christ appeared in the flesh and subjected himself to the law, he deprived it of its right and curbed its purpose, lest it be able to drive to despair us and condemn us. However, in the future life it will be abolished completely; there it will not be necessary to admonish us to love God. But then we will do truly and perfectly what Christ has done here. Then you will not say: I ought to love the Father, but I love the Father, and the very thing I have been commanded is what I do. Under Christ therefore the law is on the way to being done, it is not yet done. Here, believers need to be admonished by the law, there, there will be no debt or exaction, but the perfect work of the law and supreme love. Thus, for those outside Christ, the exaction of the law is sorrowful, odious, and impossible. On the other hand, for those under Christ, it begins to become delightful, and possible in part, but not as a whole. Therefore, it should be taught among Christians, yet not on account of faith, which has the spirit subject to the law, but on account of the flesh, which resists the spirit in the saints (Gal. 5 [: 17]). Insofar as the flesh lives, the law has not been abrogated, yet it does not rule but is compelled to be subject to the spirit and to serve it. The law therefore is necessary, first, on account of the stubborn and untaught, that they may be coerced, secondly, on account of the faithful, who still have remnants of sin. For just as sin and death never rest but repeatedly perturb and sadden the godly for as long as they live here, so the law repeatedly returns and terrifies the consciences of the godly. But when we are raised, it will simply be abolished; it will not teach us nor will it demand anything from us. Thus, it is Christ's office to restore the human race, also in this life, to that lost innocence and joyful obedience to the law, which in paradise was in the positive [degree]. He did this when he died for us and endured the curses and punishments of the law, and gave us his innocence and righteousness as a gift. The law is done in us in this way, the joyful obedience in another way, which there we shall do in the superlative [degree]. Since, therefore, the greater part [of the human race] is hard and impenitent, and the saints in this life have not entirely put off the old self and feel the law in their members at war with the law of their minds, taking it captive [Rom. 7: 23], the law is not to be removed from the church, but retained and faithfully taught.

The argument against the law in this case is based on the premise: *Lex est abrogata* (and hence is not *efficax*), for which support is found in Paul's words in Romans 6: 14: *Non estis sub lege, sed sub gratia*. Luther will not accept the minor premise as such because it is too general. In his *responsio* therefore he distinguishes between *circumcisio et aliae ceremoniae* and the

decalogus. The former had its *certum populum et tempus* and has now finished;⁸⁰ the latter also has its *praefinitum tempus*, and its *terminus ad quem* was when Christ appeared *in carne* and submitted to the law in order to redeem those under the law (374, 1-8).⁸¹ Therefore, the ceremonial law belongs to the law of Moses, not the Decalogue.⁸² However, while the former has already ceased, the latter has not yet been completely removed: *In futura autem vita prorsus tolletur [scil. lex], illic non opus erit monere, ut Deum diligamus. Sed tum vere et perfecte id faciemus, id quod Christus hic fecit* (374, 8-10). In the *futura vita* we will not need to be exhorted to love God and the neighbor, for we will do it spontaneously.⁸³ However, here in our life *sub Christo* the law is on the way to being kept but it is not yet fully kept: *lex est in*

⁸⁰Cf. Luther's GK (BSLK 580-1, 82) where he says that, like many other OT ordinances, the Sabbath is connected to a particular time, place, and people. The ceremonial law was not universal but limited by time and history.

⁸¹Agricola taught that the law was abolished from the year one of the Christian era. See ch. 2 on Agricola's theology for references.

⁸²Luther virtually equates the law of nature with the Decalogue so that this becomes a major plank in his argument *contra antinomus* that the law cannot be abolished because it belongs by nature to the structure of creation and is inscribed on the mind of every person. He often identifies the Decalogue in terms of content with the double commandment to love God and the neighbor, as well as with the Golden Rule in all three orders and *Stände*, e.g., see 29, 525ff. (Pred. 1529 on Luke 10: 23-24, Rörer). See Werner Elert, *Morphologie des Luthertums, Band II: Soziallehren und Sozialwirkungen des Luthertums*, 3d. ed. (Munich, 1965), 52, 54-55. On the difference between the Decalogue and the law of Moses, see 39 I, 478, 16-18 (2 AD, Arg. 25).

⁸³Cf. 374: 13-14: *illic non erit debitum aut ulla exactio, sed opus legis perfectum et summa dilectio*.

fieri esse, non in facto esse (374, 11-12).⁸⁴ That means that the law, or more specifically, the Decalogue, is not yet abolished.⁸⁵ The reason that it is still necessary is twofold: *primum propter prae fractos et insensatos, ut illi coerceantur, secundo propter fideles, qui habent adhuc reliquias peccati* (374, 20-22).⁸⁶ However, Luther makes it clear that although the law needs to be taught *apud christianos*,⁸⁷ the reason for this is not *propter fidem, quae habet*

⁸⁴The passive construction is a reminder that we are not the ones who keep the law but the law is kept for us, not only by the *Christus extra nos* but also by the *Christus in nobis*.

⁸⁵374, 18-19: *Quatenus illa [scil. caro] vivit, eatenus non est abrogata lex--then Paul adds the qualification--non tamen regnat, sed servituti spiritus subiecta esse cogitur*. For the other factor in the equation of the *vita christiana*, namely, the Christian *quoad sanctus*, see 1 AD, Arg. 2 and the passages cited there from other disputations. The distinction between the *peccatum regnans* of the *impii* and the *peccatum regnatum* of the *pri* is completely in accord with Paul's admonition in Rom. 6: 12: Let not sin reign [βασιλευέτω] in your mortal bodies to make you heed their passions, for Christians are led [ἄγεσθαι] by the Spirit (Gal. 5: 18).

⁸⁶Cf. 375, 9-12: The law is to be retained and taught because the *maior pars* is *dura et impenitens*, and the *sancti in hac vita non penitus exuant veterem hominem* and are still drawn into the battle between the flesh and the spirit. See 39 I, 381, 9-10 (1 AD, Arg. 13): although the law must still remain for the *credentes* for the mortification of the flesh, it is no longer an *onus seu iugum* because it is *suave et leve*.

⁸⁷When Luther says in 375, 2-3 that the law will be completely abolished and will not need to be taught in the future life [*Sed cum resuscitabimur, abolebitur simpliciter, non docebit nos nec quicquam a nobis exiget*] he implies that it does need to be taught to the *pri* in this life. What exactly that means will be discussed in ch. 4. Here however we observe that *docere* is used in conjunction with *exigere*, and that Luther says that the law keeps returning to the *pri* on account of the *caro* and terrifies their consciences. Here at least the *docere* occurs in connection with repentance (implied) and not good works.

spiritum legi subiectum,⁸⁸ but rather *propter carnem, quae resistit spiritui in sanctis*. Nevertheless, even though Christians qua sinners need the law, insofar as they are *sub Christo* the law even now begins to become *iucunda*,⁸⁹ yet even so they can still only do it in part and not yet fully [*in primitiis . . . non decimis*].⁹⁰ It is for this reason that Luther can say that the *officium Christi* is to restore to the *genus humanum*, also in this life, that *amissam innocentiam et obedientiam legis iucundam*, which was a mark of life in paradise (375, 4-6).⁹¹ But even in Eden the the *obedientia legis iucunda* was

⁸⁸How exactly is this clause to be understood where *fides* is characterized as that which has the *spiritum legi subiectum*? It sounds at first as if it is contrary Paul who says that if you are by the Spirit you are not under the law (Gal. 5: 18). On the other hand, he can say that the mind that is set on the flesh is hostile to God, and cannot submit to God's law (Rom. 8: 7).

⁸⁹Cf. 39 I, 388, 5-6 (1 AD, Arg. 16): The Christian *accipit Spiritum sanctum, qui legem alioqui carni odiosam et molestam iucundam et suavem facit*.

⁹⁰Cf. 375, 8-9: Conversely, for those who are *extra Christum*, the *exactio legis* is *tristis, odiosa, impossibilis* (374, 14-15). The expression *in primitiis . . . non decimis* can be applied to different subjects. Here the referent is the law. In its two other occurrences in the later disputations generally, only the first member (*primitiae*) is used; in the first case the referent is the Holy Spirit: 39 I, 235, 19-21 (PT, Arg. 17) (A III): *Imo sumus tantum primitiae creationis, accepimus tantum primitias Spiritus*; in the other the referent is the imputed *iustitia*: 494, 1-2 (3 AD, Praef.): *Secundo sumus etiam formaliter iusti, ut quando per istas primitias et Spiritum sanctum mihi datum de coelo per fidem incipio luctare et pugnare cum peccato et blasphemia*. The relationship between *iustitia imputative* and *iustitia formaliter*, or justification and sanctification, which is the issue here, will be discussed in ch. 4; see also our comments in connection with 1 AD, Arg. 14 and 2 AD, Arg. 3.

⁹¹See 39 I, 373, 6-7 (1 AD, Arg. 6): *Ergo reddere legem iucundam, immaculatam est officium Christi, impletoris legis . . .*

only in the positive degree [*in positivo*] compared with heaven where it will be in the superlative degree [*in superlativo*]. Luther's use of these terms from grammar highlights the incomparable joys of heaven, where any talk of *obedientia legis* is out of place (as he will later point out) and in comparison with which even the pristine *lex iucunda*, which was a mark of the earthly paradise, pales into insignificance.

The most significant advance that Luther makes here in his argument against the antinomians is that the Decalogue is not to be equated with the *lex Mosi*, which eo ipso is historically and temporally delimited, but rather with the *lex naturalis*, which by contrast is universal.⁹² This is the assumption underlying Luther's assertion: *Decalogus vero haeret adhuc in conscientia* (374, 2-3), and that even if it had never been propagated through Moses, the human mind would still know *naturaliter* the two tables of the law, that is, that *Deum esse colendum, proximum diligendum* (374, 3-5).⁹³ Hence, in one fell swoop Luther delivers a tour de force which demolishes the antinomian argument that the *lex* which Paul says is *abrogata* includes the Decalogue. Luther however consistently refuses to equate the *decalogus* with the *lex Mosaica* but instead identifies it with the *lex naturae* (in terms of content) and thus establishes its universality. It only remains to be seen what weighting to give this argument within the overall framework of Luther's *responsio* to antinomianism and the role that it plays. To put the question as sharply as

⁹²For a fuller discussion of the relation between the *lex naturalis* or *lex insculpta* and the *lex Mosi* or *lex scripta* (which is identical with the *lex praedicata*), see 39 I, 454, 4-16 (2 AD, Arg. 13) and ch. 4.

⁹³See too 39 I, 539, 4-541, 5 (3 AD, Arg. 19).

possible: Is the assertion of the universality of the law intended to be no more than an irrefutable challenge to the fundamental tenet of antinomianism, or is it also intended to be Luther's primary theological argument? If the latter is the case, we would then have to ask how this is related to his christology and soteriology. In other words, is his chief argument for the retention of the law based on the nature of the law itself, or is it based on his christology? We will only be able to answer that question after we have heard all his arguments.

Argument 8⁹⁴

Contra 1

Opposites cannot be parts of the same thing. Fear and faith, sorrow and the intention to lead a better life, are opposites. Therefore, they cannot be parts of the same thing, namely, repentance.

Proof of major premise: It is clear that opposites cannot be in the same subject at one and the same time.

Response: As a physical argument it is not to be condemned. Opposites are not in the same subject to the same degree. Extreme heat does not coexist with the first, second, or third degrees of coldness. Again, doctors say that maximum health cannot coexist with weakness. So here, if sorrow is extreme, it does not permit faith but despairs. When health is perfect, sickness is excluded. But with faith we are not yet perfectly healthy, but are to be healed. The Samaritan begins to heal the man who fell among robbers [Luke 10: 33-35]. Therefore, our disease is not yet fully healed, but repeatedly troubles us. Thus both sin and righteousness are in us, yet not to the same degree, but to different degrees. Faith fights against sin, against the suggestions of the devil, and the like, although it rules in the highest degree. For both coldness and heat can coexist to a certain degree. Sin fights against faith, but does not conquer it; therefore it is present to a lesser degree. Thus opposites can easily exist in the same subject to varying degrees.⁹⁵ Both sorrow and faith can exist at the same time in milder degrees. If they are opposites they are mutually exclusive. If sorrow is uppermost it drives nature to⁹⁶

⁹⁴39 I, 375, 15-376, 17.

⁹⁵StA 5, 262, 14 ends here.

despair. Likewise, if faith prevails it excludes terrors and does not yield to them.

The argument, based on the principle of Aristotelian logic, *contraria non posse simul et semel esse in eodem subiecto* (375, 18-19), is directed against Luther's first thesis that repentance comprises both *dolor de peccato* and *propositio melioris vitae*. We note here the "logical" cast of mind which is characteristic of the antinomians and which accounts for their being unable to abide paradoxes. This will come out often as we proceed.

Luther accepts the *argumentum* as a *physicum* and offers various illustrations of it. However, this applies only to opposites which are present in the same subject *in eodem gradu* or *in eodem gradu*. Thus, to take a medical example, *summa sanitas* cannot coexist with *infirmitas*; in other words, *sanitas perfecta* excludes *morbis* (376, 4-6). On the other hand, opposites can coexist in the same thing *in diversis gradibus*. Here Luther uses the parable of the half-healed Samaritan to illustrate how, as Christians, with faith we are not yet perfectly healthy, but are still waiting to be healed [*fide nondum perfecte sumus sani, sed sanandi*]. Meanwhile, we keep suffering relapses [*Ideoque morbus nondum est plane sanatus, sed subinde molestat nos*]. Because faith is not yet perfected in us, sin and righteousness coexist in us, but not *in eodem gradu, sed diverso*.⁹⁷ Even though faith rules *in summo gradu*, it still fights against sin,⁹⁸ for in this life our perfection is *per Christum*, not in

⁹⁶The text (39 I, 376, 16) has "*naturam et desperationem adigit*" which seems to be a mistake.

⁹⁷The question of how to understand the "total aspect" and the "partial aspect" of the *simul iustus et peccator* (to use Joest's term), will be discussed in the next chapter. Further light may be shed on the problem when we discuss 3AD, Args. 21, 29/2 and 30/3.

ourselves (376, 7-11). Therefore, Luther concludes that since *dolor* and *propositio melioris vitae* (or faith) are not present to an exclusive degree, they can coexist *in remissioribus gradibus* in the same person. However, the final outcome depends on which holds sway: *dolor summa* leads to *desperatio*, whereas *fides summa* excludes *terrores* (376, 13-17).⁹⁹

Argument 9¹⁰⁰

Contra 24

Whatever that does not proceed from faith is sin [Rom. 14: 23]. The law does not proceed from faith (Gal. 3 [: 12]). Therefore, the law is sin and consequently must be destroyed and removed.

Response: That is a sophistical argument. There is an ambiguity in the word "law." Whatever does not proceed from faith, that is, whatever we do not do believing, but doubting, is sin. The apostle is speaking here about our works. In Galatians he says: The law does not proceed from faith, that is, the law does not give faith or does not belong to the matter of faith. The office of the law is one thing, the office of the gospel another. The one teaches the promise, the other the law and works.

Luther calls this argument a *sophisticum argumentum* (377, 1) because the antinomians use the word *lex* equivocally: in the minor premise it occurs in a statement of soteriology where, Paul argues in Galatians 3: 11 that ὁ δὲ νόμος οὐκ ἔστιν ἐκ πίστεως. On the other hand, in the conclusion the *lex* is

⁹⁸376, 9-10: *Fides pugnat contra peccatum, contra suggestiones diaboli, atque ita, quamquam in summo gradu dominatur.* Here clearly Luther is speaking of faith as *fides qua creditur*. He often talks in this way to oppose the antinomian notion of Christian perfection already in this life. See also 39 I, 394, 17-19 (1 AD, Arg. 21): *Ibi pugnat fides contra diffidentiam et desperationem, item contra libidinem, iram, superbiam, vindictam etc.*

⁹⁹This is another way of saying what Paul says in 2 Cor. 7: 10 with his comparison between a godly grief and a worldly grief. The λύπη κατὰ θεόν leads to μετάνοια and thus to σωτηρία, whereas the λύπη τοῦ κόσμου leads only to θάνατος.

¹⁰⁰39 I, 376, 20-377, 6.

based on the Pauline axiom in the major premise: *πᾶν δὲ ὁ οὐκ ἐκ πίστεως ἁμαρτία ἐστίν* (Rom. 14: 23), which is a statement of Christian ethics, as the context makes clear. In other words, the conclusion: *lex est peccatum*, is based on a wrong exegesis of the Galatians passage, which in turns leads to a confusion of law and gospel. The law does not, and should not, be *ex fide*. It is *iustitia* which is *ex fide*, something that the law demands but cannot give. As Luther says, the *officium legis* is one thing and the *officium evangelii* another. These must not be confused. The one teaches the *promissio*, the other the *lex* and *opera* (377, 5-6).

Argument 10¹⁰¹

Contra 24

Whatever increases sin is not to be required. The law increases sin (Rom. 5 [: 20]). Therefore, it is not to be required.

Response: We need to make a distinction in the major premise. The law came in to increase the trespass (Romans [5: 20]), and, as Galatians [3: 19] says: it was added on account of transgression. Therefore, it increases sin. If the inference here is that the law for that reason is not to be required but removed, the premise is false. For the law is to be praised and especially taught for this reason, that it increases sin and humbles people. For the stubborn and wicked cannot be converted and mortified unless they are terrified by the rods and horns of Moses [cf. Ex. 34: 29-35]. But if you understand this phrase, the law increases, to mean that it causes sin, then it is not to be demanded. But the law does not increase sin in the sense of causing it, but only in the sense that it reveals it (Romans 7 [: 7]). To cause sin is one thing, to reveal it is another. The law is not the cause of sin, we are.

Luther in his *responsio* demands: *Maior est distinguenda*. The major premise: *Quicquid auget peccatum, non est requirendum*, is open to misunderstanding. The problem is that the *particula*: *Lex auget peccatum* (377, 17) can be read in two ways: either, *lex auget = facit peccatum*, in which case

¹⁰¹³⁹ I, 377, 9-378, 2.

Luther agrees, *tunc non est requirenda* (377, 18), or, *lex auget = ostendat peccatum* (378, 1), as Paul says in Romans 7: 7. In making this distinction: *Aliud est autem facere, aliud ostendere peccatum*, Luther shows his superior dialectical skill and deprives the antinomians of this text.¹⁰² Clearly, he wants to guard against giving any impression that the law is to blame for sin. Thus, he ends by saying: *Lex non facit peccatum, sed nos* (378, 2).¹⁰³

¹⁰²Luther similarly distinguishes between the *effectiva causa peccati* and the *causa ostensiva* (= *monstrativa*) *peccati* in 39 I, 556, 6-557, 3 (3 AD, Arg. 25/1); see also 529, 3-6 (3 AD, Arg. 16).

¹⁰³Luther here simply distinguishes between *facere* and *ostendere peccatum*. However, Paul knows too that the law [ἐντολή] provokes and incites sin and that it is precisely by magnifying sin in this way that it becomes καθ' ὑπερβολὴν ἁμαρτωλὸς (Rom. 7: 13). On the other hand, he can also say that it is our sin that incites us [κατέργαζεσθαι] to even greater acts of rebellion whenever the law is applied (Rom. 7: 8). It is just because the law has this multiplier effect on sin and humbles people that Luther says it is *laudanda et maxime docenda*. For the *prae fracti et malitiosi* cannot be converted and terrified unless they are frightened by the rods and horns of Moses [*radiis et cornibus Mosis*]. (We note in passing that the reference to the "horns" of Moses goes back to a mis-translation of the Vulgate from the Hebrew, where in Ex. 34: 29 the word "was radiant" is related to the word for "horn.") Luther's point here is that the law by nature is good, yet on account of human sin the *sensus legis* is the experience of wrath (Cf. 39 I, 444, 6-11 (2 AD, Arg. 7); 518, 5-12 (3 AD, Arg. 9); and esp. 556, 6-560, 12 (3 AD, Arg. 28/1).

Argument 11¹⁰⁴Philip Melanchthon contra 22¹⁰⁵

God works in us to will and to complete (Phil. 2 [: 13]). Therefore, human beings cannot purpose good by themselves.

Response: This argument concludes: If the Holy Spirit acts, we do not act. It is true that we cannot purpose good, but the Spirit, who is given to believers, does that. All that we purpose, outside of Christ and the Holy Spirit, is to murmur against God, speak evil of God and other people, rage, kill etc.

Melanchthon's argument calls into question Luther's teaching of repentance in Thesis 22 where he states that *poenitentes* ought *ex amore Dei peccatum odisse*, which for him is the mark of *vere propositum bonum*.¹⁰⁶ The antinomian assumption, on the other hand, is that repentance *in toto* arises from the gospel and that the *propositum bonum* is possible only *ex Deo* or *ex Spiritu sancto*, and therefore excludes any human effort of the will. Thus, the antinomians make no distinction between the different ways in which God works through law and gospel in repentance. Luther, *contra antinomos*, says plainly in Thesis 4: *Altera pars, scilicet propositum bonum,*

¹⁰⁴39 I, 378, 5-11.

¹⁰⁵It is difficult to be certain of what role Melanchthon is playing here. Is he just taking the part of the antagonists in the academic disputation or is this his own *argumentum*? Three things are clear however from our last chapter. First, Melanchthon and Agricola are on opposite sides, theologically, when it comes to the doctrine of the law. Secondly, the Cordatus controversy in 1536 shows that Melanchthon and Luther appear to be at odds over the relationship between repentance and justification. Melanchthon claims that repentance, which he sees as a human work effected by the law, is a necessary prerequisite for justification, while Luther sees it as God's work and therefore not necessary. Thirdly, Melanchthon does play a mediating role between 1537 and 1540 in trying to bring Luther and Agricola together.

¹⁰⁶See 39 I, 346 (ATh, I).

*non potest ex lege esse.*¹⁰⁷ Indeed, even Thesis 22 says that *peccatum odisse* (= *propositum bonum*) is *ex amore Dei*, in other words, *ex evangelio*. Therefore, Luther agrees with the *argumentum* that only God can create the *propositum bonum*, but he does this when the gospel is proclaimed to those who have been rendered contrite in spirit by the law.

Argument 12¹⁰⁸
Contra 24

Question: Is the New Testament called new as distinct from the Old?

Answer: Yes.

Now the Argument Contra: The Old Testament has been abolished and the New has taken its place. The law is the Old Testament.¹⁰⁹ Therefore, the law is not to be taught.

Proof of Conclusion: The law is the teaching of the Old Testament. But since that has been abolished, the law is also set aside.

Response: We have spoken above about the abrogation of the law. The law and the prophets run until Christ; when he is present they cease, because he fulfills the law. And then, because the law condemned him, an innocent person, he robbed the law of all its power, which is to demand, to accuse and to terrify. This exaction ceased in Christ, but really through the forgiveness of sins and divine imputation, for God wills to consider the law fulfilled, so long as we believe in the fulfiller of the law. Moreover, he gives the Holy Spirit that we may begin to fulfill it here. In the future life we will be like the fulfiller, Christ. Therefore, insofar as the law has been fulfilled, it has been abolished. In Christ it has been perfectly fulfilled, not in us, because we do not believe him with a firm faith.

Already in his response to *argumentum* 2 Luther affirmed that: *Lex et prophetae* (who confirm the law) *currunt usque ad Christum*, and with his

¹⁰⁷39 I, 345 (ATh I).

¹⁰⁸39 I, 379, 9-380, 8.

¹⁰⁹*Lex est vetus testamentum* is added only by G; hence omitted by StA 5, 265, 2-3.

advent cease because he fulfills the law (379, 1-2). This is the biblical way of speaking about the *abrogatio legis*. Furthermore, since the law condemned him in his innocence, he overcame it and robed it of its *universam vim*, namely, *exigere, accusare et perterrefacere* (380, 1-2). When we believe in *impletorem legis*, the *exactio legis* ceases, for God considers the law *pro impleta lege* through imputation.¹¹⁰ Moreover [*insuper*],¹¹¹ he gives us the Holy Spirit, that we may begin to fulfill it here [*ut incipiamus hic implere*] (380, 5-6).¹¹²

The new and important point that Luther makes here is that the *exactio legis* has ceased *per remissionem peccatorum et imputationem divinam*. Christ's fulfillment has been imputed to us as *credentes* and his forgiveness covers our own sin and failure to fulfill God's law, but this is received only *in fide* and not yet *in re*, for Christians still carry around with them the sinful flesh. This then is Luther's way of answering the question of

¹¹⁰In the disputations Luther understands justification primarily by way of imputation, either the imputation of Christ's righteousness or his fulfillment of the law. See also 39 I, 388, 4-5 (1 AD, Arg. 16): *Quicumque igitur hoc beneficium Christi fide apprehendit, ille imputative legem implevit*; 412, 19-20 (1 AD, Arg. 33): *Nos reputamur hic iusti propter Christum*; at other times he will stress rather the non-imputation of our sins: 492, 2 (3 AD, Praef.): *Deus non imputat peccatum*. Finally, there are many occasions when Luther will talk about justification (or liberation from the accusing law) both in terms of imputation (or non-imputation) and expurgation: e.g. 434, 4-8 (2 AD, Arg. 3). This latter matter, which involves the relation between justification and sanctification, is very important and will be discussed in connection with 2 AD, Arg. 3 and also in ch. 4.

¹¹¹On *insuper*, see above n. 75.

¹¹²See 39 I, 365, 4 (1 AD, Arg. 1): *incipiunt [scil. credentes] etiam in hac vita legem implere*, and the parallel texts noted in the discussion.

whether the law has been abrogated: *Quatenus ergo lex impleta est, eatenus sublata* (380, 6-7). That is, the law has not yet been abrogated in all that it does, which is the antinomian claim, but only for faith.¹¹³ *In Christo est [scil. lex] impleta perfecte* (380, 7), and insofar as we are *in Christo, per fidem*, it has been abrogated for us also, but, and this is the other side of the equation that the antinomians need to be reminded of, insofar as we are still $\sigma\acute{\alpha}\rho\chi$, or to use Luther's words here, *quia hoc [scil. in Christo lex est impleta perfecte] firma fide non credimus*, the law has not yet been abrogated and thus still remains to discipline the flesh.

The answer that Luther gives here is developed on the basis of the *imputatio Christi*, and not on the basis of the distinction between the Old and the New Testament as proposed in the *argumentum*. We have already seen in *argumentum 7* that Luther does not equate the *decalogus* with the *lex Mosi*, nor does he equate the law with the Old Testament, as the antinomians do. At the beginning of the present *argumentum* he concedes that the New Testament is new vis-à-vis the Old (without saying how), but he never talks about the abolition of the Old Testament per se. In later arguments Luther will show that since the law is not simply to be identified with the law of Moses given on Sinai, that is, with the ceremonial and judicial law, which has been abolished in Christ, but is rather identical to the natural law written

¹¹³For a parallel to the *quatenus-eatenus* way of speaking, see 39 I, 356, 15-16 (ATh, V, Th. 40); 392, 5-8, 14-15 (1 AD, Arg. 18); for a more detailed discussion, see 431, 8-12 (2 AD, Arg. 3). For a similar idea, but expressed with the terms *partim-partim*, see 542, 5-6, 17-19 (3 AD, Arg. 21); 561, 10-11; 562, 10-563, 1 (3 AD, Arg. 29/2).

on the hearts of all people, which in content is the same as the Decalogue, it has not therefore been abolished absolutely, but only for faith.

Argument 13¹¹⁴

Contra the Scope of the Disputation

The law was given to the Jews, not to the Gentiles. But we indeed are not Jews. Therefore, the law was not given to us, neither should it be imposed on us. Consequently, those who burden us with the yoke of the law act in an ungodly way.

Response: Although the law was given to the Jews, it does not therefore follow that they are bound to serve under it for as long as they are called Jews, otherwise the apostles and all the believers from among the Jews would have been most miserable. But Paul says: Through the law I have died to the law [Gal. 2: 19]. And yet the unbelieving Jews always want to remain under the law and by no means concede that it ought to be abrogated. But in regard to the thesis, Peter explains in Acts 15 [: 7-21] how it is to be understood: neither the ceremonial law, which is the chief concern there, nor the moral law, is to be put on the necks of the brethren, because Christ came to fulfill the law, which neither the fathers nor their posterity were able to bear [Acts 15: 10, 28, 29], and to free all who believe in him from the curse of the law [Gal. 3: 13]. Since therefore its office is to terrify and condemn, its yoke is to be removed from the necks of believers, Gentiles as well as Jews, and replaced with the yoke of Christ that they may live under him in peace, who fulfilled the obedience owed and required by the law, which he gives to those who believe in him. And yet it is to be fulfilled by the godly that they may mortify the deeds of the body by the Spirit [Rom. 8: 13], and clean out the old leaven [1 Cor. 5: 7]. Therefore, the law remains, but its burden or yoke does not press on the necks of those on whom Christ's burden has been placed, because it is sweet and light [Matt. 11: 29-30].

The antinomian *argumentum* tries to base the removal of the law from the church on the fact that it was given to the Jews (sic) and not to the Gentiles. In his refutation Luther appeals to the decision of the apostolic council in Jerusalem (Acts 15) to exempt the Gentiles from the requirements of the ceremonial law.¹¹⁵ In other words, he points to the fact that the early

¹¹⁴39 I, 380, 11-381, 10.

church already made a distinction within the *lex Mosaica* between the Decalogue, on the one hand, and the ceremonial and judicial law, on the other, which they believed had been fulfilled and abolished in Christ.¹¹⁶ Therefore, the *credentes in Christum* were exempt from its prescriptions. However, this applied not only to the Gentiles. Believing Jews held that the law had been abrogated for them as well. Luther now goes a step further and says that not only must the Gentiles not be burdened by the ceremonial law (which is the issue in Acts 15), but also *nec moralem legem imponendam cervicibus fratrum*, because Christ came to fulfill the law and to free all believers from the *maledictio legis*.¹¹⁷ He then describes the unfulfilled law as *quam neque patres neque eorum posterii potuerunt portare* (380, 19-381, 2), and that is exactly what it remains for unbelievers, since the *officium legis* is *terrere et condemnare*. However, the *iugum legis*, which is nothing but the *lex condemnatrix*, is to be removed for believers and replaced by the *iugum Christi* that they may live in peace under him who fulfilled the *obedientiam debitam et requisitam a lege*,¹¹⁸ which he gives them as a gift (381, 4-7). Consistent with his usual way of speaking about the law in two ways, as the law that has been fulfilled by Christ [*lex impleta*] and the law that is to be ful-

¹¹⁵Luther deals with this same *argumentum* based on Acts 15: 10 in two other places in the disputations: WA 39 I, 480, 12-481, 19 (2 AD, Arg. 26), and 499, 5-503, 3 (3 AD, Arg. 2).

¹¹⁶Cf. WA 39 I, 539, 4-541, 7 (3 AD, Arg. 19), where Luther responds to a similar argument, but there he will take as his point of departure the distinction between the Decalogue and the natural law.

¹¹⁷On the *maledictio legis*, see above n. 36.

¹¹⁸Luther here equates *impletio legis* with *obedientia (Christi)*. See also 39 I, 388, 15-20 (1 AD, Arg. 16); 52, 26-34 (De lege, Th. 78-81).

filled by us [*lex implenda*] through the Spirit (to kill the old Adam), Luther adds: *Et tamen piis praestandum est, ut spiritu facta carnis mortificent, ut qui vetus fermentum expurgent*. Therefore, insofar as the law must still be fulfilled by the godly, on account of the flesh, the *lex* remains, but the *onus seu iugum legis* is no longer burdensome for believers since it has been removed from their shoulders and replaced by the *onus Christi*, which is *suave et leve* because in effect it is no burden at all (381, 7-10).¹¹⁹ The law is only burdensome for us when it is unfulfilled, and indeed in that form it is *lex semper accusans et condemnans* because it is never anything other than a *lex impossibilis*. But when Christ gives us the *lex impleta* as a gift, the *iugum* or *onus legis* no longer burdens us but is *suave et leve*, and delightful because

¹¹⁹Cf. Matt. 11: 30: ὁ γὰρ ζυγός μου χρηστὸς καὶ τὸ φορτίον μου ἑλαφρόν ἐστιν. Luther does not explicate this text, but it seems to us that the following exegesis would be in agreement with what he has been saying: those whom Jesus invites to rest are οἱ κοπιῶντες καὶ πεφορτισμένοι (cf. Matt. 23: 4 where the Pharisees are criticized for binding φορτία βαρέα which are hard to bear). Those laboring under the burden of the law as a *lex implenda* or those who experience the full power and terror of the law (the *sensus legis*), find it unbearable because it drives a person to despair if not tempered with the gospel. The latter in this context is the ἀνάπαυσις, the refreshment and comfort which Jesus offers the person burdened by the law. In Pauline terms the ἀνάπαυσις would be the forgiveness of sins and acquittal from the condemnation of the law. Finally, and paradoxically, the rest that Jesus offers his disciples is his ζυγός and φορτίον (we, like Luther, take these as synonymns), which in contrast to the burden of the *lex implenda*, is χρηστὸς and ἑλαφρόν (11: 30) because it is really no burden at all. In other words, the yoke he invites us to put on is not the yoke of the law, but the yoke of the *lex impleta*. But, as Luther often says, not only is Christ the fulfiller of the law for us, he also gives us the Spirit that we may begin to fulfill the law ourselves in our own lives. For a further discussion on how this is to be understood see our comments in connection with 39 I, 474, 8-11 (2 AD, Arg. 21).

we live *sub eo* [scil. *Christus*] *in pace* (381, 6).¹²⁰ Furthermore, it now becomes a *lex possibilis* for faith, because although it is not yet kept perfectly by us, it has been kept perfectly by him, and hence our failures are forgiven and our salvation is assured *propter Christum*. And now by the power of the Holy Spirit this *lex impleta* has begun to be fulfilled in us *in re*, in the sense that we begin purging out the *vetus fermentum* and putting to death the *facta carnis* as we live a life of repentance in service to others.

Argument 14¹²¹

Question: Is the law necessary for justification?

Answer: Yes, because it is written: He has shut all people up under sin that he may have mercy on all [Rom. 11: 32].

Now this is my argument: If the law is necessary for justification, then Christ died for nothing [Gal. 2: 21].¹²² Therefore, Christ and Paul were wrong in teaching [justification] "apart from works."

Response:¹²³ In the theses to follow¹²⁴ you will hear that the law is by no means necessary for justification, and that this topic, whether the law is necessary for justification, belongs to the disputation on justification. The law is not necessary for justification, but useless and impossible because it does not remove sins, but reveals them; it does not justify us, but establishes us as sinners; it does not give life, but mortifies and kills.

¹²⁰It is only to those who in repentance know themselves to be *πραῦς καὶ ταπεινός* that Jesus promises rest. To those who are burdened by the guilt of continually failing to fulfill the law Jesus offers the yoke of his own obedience and perfect fulfillment. Hence, for faith Jesus' yoke, as we said, turns out to be no yoke at all, no burden, but a sheer delight because he himself has fulfilled the law for us and hence muzzled its accusation and condemnation.

¹²¹39 I, 381, 12-384, 2.

¹²²StA does not print the next sentence (see 5, 267, n. 609).

¹²³The paragraph division follows that of StA 5, 267, 12.

¹²⁴He means the *zweite Thesenreihe gegen die Antinomer*: 39 I, 347-350.

Since these effects belong to the law, it is clear that it is not necessary for justification. But you say: Even though its proper effect is that it holds people accountable, humbles them, and reveals the wrath of God, that is still a necessary use. Response: However, not for justification.

But justification happens to nobody without this contrition. Therefore, is it necessary for justification?, and consequently, the law, which effects this contrition? Response: No. The contrite person is so far from the law that he comes to grace to leave it behind even further. If Peter had remained in that contrition produced by the law any longer, and if the Lord had not looked back at him [Luke 22: 61], the same thing would have happened to him as happened to Judas [Matt. 27: 3-5], that is, despair and death. Therefore, these words: "All have sinned" [Rom. 3: 23]; likewise: "That every mouth may be closed and the whole world held accountable to God" [Rom. 3: 19], and others like them, are thunder claps to those who feel the power of the law, testimonies that the law is simply impossible for justification. For the more a person feels the power of the law, the more he turns away from God and hates him. Therefore, let those who feel these terrors take hold of the word of grace, namely, "the righteousness of God through faith in Jesus Christ" [Rom. 3: 22]; also: "They are justified by the grace of God as a gift" (Rom. 3 [: 24]). Hence justification indeed follows contrition, not as the result of contrition but of grace; that is, the efficient cause of justification is grace not contrition. Therefore, we must be diligent in inculcating that God is angry with sin and punishes it most severely. [But] no less are we to teach the free forgiveness of sins through God's grace, through the redemption which is in Christ Jesus [Rom. 3: 24].

Moreover, Paul attests very clearly that the law is impossible for justification when he says in Romans 8 [: 3]: "It was impossible for the law," and adds the reason, through, that is, on account of, the flesh.¹²⁵ If the law is impossible for justification where am I to find a remedy and help against sin and death, for the righteousness and life that is to follow? Here Paul answers: our God has had compassion and sent his own Son in the likeness of sinful flesh and condemned sin in the flesh through sin in order that the just requirements of the law might be fulfilled in us [Rom. 8: 3].

Therefore, since we cannot fulfill the law on account of the sin reigning in our flesh and taking it captive, Christ came and killed that sin through sin, that is, through the sacrifice that was made for sin, in order that in this way the righteousness of the law might be fulfilled in

¹²⁵StA does not print the last part of the sentence beginning "and adds" (5, 269, 9).

us, first through imputation, then also in substance, but not by us, but by the grace of God, who sends his Son in the flesh. To those who believe this he gives the Spirit that they may begin to hate sin sincerely, to recognize this immense, incomprehensible, and ineffable gift, to give thanks to God for it, to love, worship and call on him and expect everything from him. For if he gave up his Son, and indeed for sins, he will surely also give [us] all things with him [Rom. 8: 32]. And yet it is very useful to urge the doctrine of the law, not that it is of use for justification, since, as we have said, the more it is in it, the more it draws us away from it and hinders it, because it accuses and condemns the conscience and mortifies the person. But this office of the law is not perpetual, yet it is necessary for the time being, until the gospel concerning Christ is proclaimed: You will not die but live [Ps. 118 (117): 7]. Christ came not to save the righteous but the sinners [Matt. 9: 13]; he does not break the bruised reed [Is. 42: 3], nor does he frighten the sad, but sweetly addresses them: Come to me, all you who labor and are burdened [Matt. 11: 28]. The law therefore kills through its impossibility, but the gospel gives life through this word of grace or one like it: Take heart, my son, your sins are forgiven you [Matt. 9: 2]. Christ is the Lamb of God on whose shoulders were laid the sins of the whole world [cf. John 1: 29], and the Holy Spirit is efficacious and breathes and works where he wills [cf. John 3: 8]. Therefore, both the doctrine of the law and of the gospel are to be retained in the church. After one has been terrified and humbled by the law, God has mercy, not on account of those terrors, because when people feel them they hate God and conclude that he is unjust, but out of his sheer mercy, which he has shown in Christ.

In his *responsio* Luther notes that the question of whether the law is necessary for justification strictly speaking belongs to the locus on justification. He answers it all the same and says that the law is *inutilis et impossibilis* and then gives three compound reasons for this: 1) *quia non aufert peccata, sed ostendit ea*, 2) *non iustificat, sed nos peccatores constituit*, 3) *non vivificat, sed mortificat et occidit* (382, 2-4). Therefore, words like those in Romans 3: 19, 23 are like thunder claps to those who feel the *vis legis*, testimonies that the law is impossible for justification (382, 15-17). The *impossibilis legis* is confirmed by Romans 8: 3, where Paul makes it plain that the real reason for this is *propter carnem* (282, 25-283, 1). A further reason

why the law cannot justify is that far from bringing people close to God, it actually drives them further away until, if allowed to go unchecked, it will drive people to hate God: *Quo magis enim homo vim legis sentit, eo plus aversatur et odit Deum* (382, 17-18).¹²⁶ It is in this context that Luther cites the example of Peter and compares his contrition with that of Judas. If the Lord had not promised Peter forgiveness, he would have ended up like Judas:¹²⁷ in *desperatio et mors* (382, 12-14). Clearly then when our Lord looked back at him it had the same effect as the preaching of the gospel, for a *contritio legis*, unaccompanied by the gospel, leads to death. Luther insists that law and gospel must both be taught, each in its own way. On the one hand, we must preach that *Deum peccato irasci ac severissime punire*; on the other hand, that *remissio peccatorum gratuita per gratiam Dei* (382, 22-24).¹²⁸ God sends Christ *in similitudine carnis peccati* to condemn sin *in carne* the in order that

¹²⁶Luther knows the inevitable nexus between the *terrores legis* and the *odium Dei*, see 384, 1: *quia homo istos [scil. terrores] sentiens odit Deum et iniustum iudicat*. On the hatred of God as an effect of the law see 39 I, 345, (ATh I, Th. 6); 505, 3-6 (3 AD, Arg. 3); 555, 15-556, 2; 557, 11-18; 559, 12-14 (3 AD, Arg. 28/1); cf. 39 I, 52 (De lege, Th. 83).

¹²⁷The repentance of Peter in contrast to the mere contrition of Judas, or of Cain, Saul, and Judas as in 39 I, 346 (ATh I, Th. 9), is a common theme. See 411, 3-6 (1 AD, Arg. 31); also 210, 6-12 (PT, Arg. 4); 215, 15-20 (PT, Arg. 8); 277, 5-8 (VN, Arg. 4/5).

¹²⁸383, 22-24: *Lex occidit per impossibilitatem suam, sed Evangelium vivificat per hoc verbum gratiae aut simile: Confide filii, remittuntur tibi peccata tua*. Cf. 39 I, 363, 19-20 (1 AD, Praef.): *Sic verum et proprium officium legis est accusare et occidere, Evangelii vivificare*. The *proprius effectus* of the law is: *ut reos faciat et humiliet homines ac iram Dei ostendat* (382, 6-7). But after the law has terrified and humbled, God has mercy, yet the reason for his mercy is never in us, but only in him: *ex mera sua misericordia in Christo exhibita* (384, 1-2).

the *iustificatio legis* might be fulfilled in us. In other words, since we cannot fulfill the law *propter peccatum in carne nostra regnans ac eam captivans*, Christ comes and kills sin by sin, that is, through the *victima* which he made for sin, in order that the *iustitia legis* may be fulfilled in us.¹²⁹ Luther's description of soteriology is instructive: Christ killed sin by becoming sin (concretely, a sinner) for us (cf. 2 Cor. 5: 21), or as he says elsewhere, he robbed the law of its curse by becoming a curse¹³⁰ (concretely, a cursed person) for us, in order that the *iustitia legis* may be fulfilled in us. This surely points beyond a mere imputation of Christ's *iustitia legis* to a real and substantial fulfillment of the law in us. Hence, Luther consistently speaks of this fulfillment as having two parts: *primum imputative, deinde etiam formaliter*. We need now to look at this in a little more detail in order not to misunderstand what Luther means by this distinction.

The terms *imputative* and *formaliter* refer to justification and sanctification respectively.¹³¹ Although they are distinguished by a *primum* and a *deinde* (elsewhere *insuper*), this does not imply a temporal sequence, or the suggestion that the second (in an Augustinian fashion) is higher and greater than the first. Admittedly sanctification presupposes justification (and

¹²⁹It seems Luther understands the phrase *iustitia legis* (383, 8-9) to mean the same as the *iustificatio legis* (383, 5) of Rom. 8: 3. In both cases then we may assume that it refers to the righteous demands of the law which are fulfilled in us.

¹³⁰39 I, 385, 7 (1 AD, Arg. 15).

¹³¹The pair of terms *imputative-formaliter* occurs frequently in the disputations and is very important for Luther's understanding of justification and sanctification. On this, see ch. 4 as well as our comments in connection with 2 AD, Arg. 3.

in that sense is *deinde*) but the two cannot be pulled apart because there is no justification without sanctification as its immediate concomitant. It seems that Luther understands the first to be Christ's work for us, *extra nos*, which is then bestowed on us by imputation through faith, while the second is the Spirit's application of this to us *substantiver*. Here specifically Luther says it is *non tamen ex nobis, sed ex gratia Dei mittentis filium in carnem*. Thus, God's grace, the Holy Spirit, and the *Christus in nobis*, are all at work in us *formaliter* in sanctification. This entails a continual struggle of the Spirit against the flesh which, according to Luther, can be recognized in the *credentes* by certain characteristic fruit: *ut ex animo incipiant odisse peccatum, agnoscere hoc immensum, incomprehensibile et ineffabile donum ac pro eo gratias agere, diligere, colere, invocare Deum, expectare ab eo omnia* (383, 5-14).¹³² Since therefore the law must also be fulfilled in us *propter carnem*, the *doctrina legis*, even though useless for justification, must continue to be urged.

¹³²Although the work of the Spirit (we take *spiritum* in 383, 11 to be a reference to the Holy Spirit even though it is not capitalized) is not linked syntactically with the formal or effective fulfillment of the law in this passage (383, 9), it is nevertheless connected theologically in 383, 10-13 where Luther makes it clear that it is (only) through the gift of the Holy Spirit that believers can begin to hate sin etc., which surely has everything to do with sanctification. See also 39 I, 395, 22-24 (1 AD, Arg. 21): *Deinde concipimus per fidem Spiritum sanctum, qui novos motus parit et voluntatem imbuit, ut vere incipiat Deum amare et peccatum detestari in carne reliquum*; similarly 436, 9-11 (2 AD, Arg. 4). In the latter passage the Spirit's work is closely linked with *peccatum detestari, odisse, and expurgare*. In 443, 20-444, 18 (2 AD, Arg. 7) (B), the beginning of the formal *impletio legis* is attributed to the Spirit either directly or indirectly. Cf. also 526, 4-7 (3 AD, Arg. 13) and 365, 2-6 (1 AD, Arg. 1).

In discussing the problem of the law and justification Luther always comes back to the principle definition of the law as *lex accusans et condemnans* and the Pauline doctrine of justification *propter Christum per fidem*. This rules out the necessity of the law for justification in that it is not the *causa efficiens*. The law however has its God-ordained place in the scheme of salvation. God uses it to bring people to a knowledge of their sin and to break down their pride in order that they might receive his righteousness as a gift. Hence, justification follows contrition, but as a result of grace. In other words, the *causa efficiens* of justification is *gratia* not *contritio*. The way that this works out in practise is that both law and gospel are to be preached: God's judgment on sin and his bestowal of forgiveness for Christ's sake *per fidem*. The error in the antinomian *argumentum* is the assumption that the law is necessary for justification. The antinomians proceed to use this criterion against Paul (and even Christ) to reject the doctrine of justification *absque operibus*. This evinces a failure to distinguish properly between the *causa efficiens* and the *causa materialis* of justification.¹³³ Although the law is not necessary for justification Luther says that it is nevertheless necessary in the interim [*sed hoc officium legis non est perpetuum, necessarium tamen interim*] until the gospel of Christ is preached (383, 18-19).

The opponents base their *argumentum* for the necessity of the law on Romans 11: 32: God has shut all people up under sin in order that he may have mercy on them. Clearly the purpose of the law is to bring people to the point of receptivity where they will allow themselves to be given to by God.

¹³³This distinction is further elaborated in WA 39 I, 446, 8-448, 7 (2 AD, Arg. 8) and in 469, 6-470, 12 (2 AD, Arg. 17).

However, the law cannot complete this task by itself for, as Luther says elsewhere, the law in and of itself only drives people away from God. The law can produce contrition (sorrow, remorse) but nothing more. At that point the gospel must intervene and take over, otherwise the law may well sweep the penitent out into the deep water of despair and leave him there to drown in his sorrows.

Argument 15¹³⁴

Peter taught repentance based on the offence against the Son [Acts 2: 36-38]. Peter was a speaker. Therefore, preachers ought to teach repentance based on the offence against the Son, not on the basis of the law of Moses.

Response: I grant that we should especially stress the offence against the Son, as the first thesis of the antinomians has it, that is, unbelief in the Son. I realize it must be stressed for since the fulfillment of the law through the Son has now been offered and given to us, not to embrace and believe that fact with open arms is a terribly great sin. That certainly ought to be diligently inculcated. But I ask you, what kind of a conclusion is this: The offence against the Son must be stressed, therefore the law in its entirety is to be rejected and removed from the church? The law, as I have often said, always urges and demands perfect fear, love and trust in God. But no one does this. What does God do? He sends his Son, he assumes our flesh, submits himself to the law and allows himself to be condemned by it that through this we might be freed from the curse of the law [Gal. 3: 13], and God commands us to receive this fulfiller of the law. What happens? Unbelievers and the world as a whole do not receive him, do not embrace him with joy, do not worship that victor over the law, but instead persecute, blaspheme, and kill him with all his gifts, and crucify him most ignominiously between two robbers. Thus the law is not diminished or abrogated through that offence against the Son, but it increases and is strengthened all the more because it is written: Whoever does not believe is already judged [John 3: 18], for there the law remains continually demanding perfect obedience, [but] the unbeliever cannot do it, nor does he apply Christ's fulfillment to himself through faith. Therefore, unbelievers sin in a twofold way: first, they are disobedient to the law by themselves, secondly, they do not want to receive him who was made a curse for them to free them from

¹³⁴39 I, 384, 4-386, 16.

the curse of the law [Gal. 3:13]. Therefore, when unbelief in the Son is urged, the law is urged in a twofold way. First, obedience to the law is enjoined per se, secondly, the Son is sent, to whom all things have been handed over by the Father, to be a sacrifice for the sins of the world, where we are mandated to listen to him and believe in him [Matt. 11: 27; 17: 5]. That does not happen. But, according to Psalm 2 [: 2-3], the great majority of people do not accept his authority.

Therefore, these conclusions of the antinomians are not only very feeble, but foolish and ungodly as well. I admonish you especially, who in due time are going to be teachers of others, to teach dialectics¹³⁵ as your first priority with the great diligence, that is, how to divide and define correctly, in order that you can properly understand the subject matter [*res*] and the words. For unless you clearly define the words and determine their force, you will be a miserable craftsman when it comes to composing syllogisms, as is the case with these antinomians who do not see that the manifestation of sin through the law and the revelation of wrath are the same.

But let us come back to the main point. The offence against the Son, that is, unbelief in the Son, not only does not fulfill the First Table, but it transgresses it in a twofold way, it does not remove the exaction of the law, but actually establishes and sharpens it. In the Old Testament it is especially the fulfillment of the First Table that is required. In the New Testament it is especially belief in the Son that is required. Therefore, those who do not believe in the Son sin in a twofold way, first against the God who requires perfect obedience to the law. And since no saint was ever able to fulfill it, God sent his own Son to fulfill that law for them [Rom. 8: 3-4]. Those who do not receive this ineffable gift sin against him terribly who offers the remedy for the terrors of the law, sin, and death, crucifying again for themselves the Son of God (Heb. 6 [: 6]). Our folly and blindness is greater than any mind can conceive. In paradise our first parents, although they were without sin, did not perform the obedience demanded of them by God. Then in the Old Testament their posterity performed it even less, although it was demanded by the law that had been given for this purpose. For their corrupt nature did not allow it. In the New [Testament], where Christ is given to heal this disease, that is, to seek what is lost [Luke 19: 10], and to restore our corrupt nature to its original soundness, we too are slackers, in fact persecutors of this sweetest fulfiller of the law. Who then will

¹³⁵Cf. Wilhelm Ockham: *Summa logicae*, pars. I, in *Opera philosophica* 1, 7-238. Here the terms *universalia* and *praedicamenta* as well as their application to *res* are discussed in detail and differentiated.

supply this help? Satan in hell? Therefore, either let us receive Christ with joy and thankfulness, who was made a curse for us to free us from the curse of the law, and through him begin to fulfill the law, or know that we will suffer eternal and indeed condign punishment together with the devil and his angels in hell.

This is the first time that Luther responds to the antinomian thesis that repentance ought to be taught *ex violatione filii, non ex lege Mosis*.¹³⁶ He agrees that the *violatio filii*, understood in the sense of *incredulitas in filium*, must be taught [*urgendam esse*] because the *impletio legis* has been offered and given to us *per filium*, and not to believe that it has in fact been done and is given and faith rejoices in it [*non credere eam factam*] is a great sin. However, Luther strongly rejects the conclusion that the antinomians draw from that, namely, *lex in universum est reiicienda et ex Ecclesia removenda* (384, 7-13). In other words, the real sin is unbelief toward the fact of the Son's having fulfilled the law, not the failure to keep the law, which demands *perfectum timorem, dilectionem, fiduciam Dei*. The *violatio filii* however does not mean the abrogation or diminution of the law, but its augmentation and confirmation,¹³⁷ for according to John 3: 18 the unbeliever stands under judgment, but this is not the judgment of Christ, for Christ's mission was to save the world not to be its judge. Rather, the unbeliever stands under the judgment of the law, for the law continues to demand perfect obedience

¹³⁶See 39 I, 342, 9-10 (Pos., Th. 1): *Poenitentia docenda est non ex Decalogo, aut ulla lege Mosi, sed ex violatione filii per Evangelium*. On the meaning of the *violati filii*, see W² 20, 1624, n. 2.

¹³⁷385, 1-2: *Sic lex non imminuitur aut abrogatur per illam violationem filii, sed plus augetur et corroboratur*; cf. 385, 21-23: *Violatio filii, hoc est, incredulitas in filium . . . non tollit legis exactionem, sed etiam stabilit et exasperat*.

which he is unable to do, and at the same time he refuses to appropriate to himself the *impletio Christi* through faith (385, 1-5). It follows from this that the unbeliever sins in two ways [*dupliciter*]: *primum per seipsos sunt inobedientes legi, deinde nolunt suscipere eum, qui pro ipsis maledictum factus est, ut a maledictione legis eos liberaret* (385, 6-8; our emphasis).¹³⁸ The first way corresponds to the sin of disobedience to the law, specifically the First Commandment, the fountainhead of all the commandments, the second to the sin of unbelief in the Son.¹³⁹ However, these finally are one and the same, for the First Commandment of the law demands only that we believe the gospel.¹⁴⁰ Therefore, to preach the *violatio filii* (or, what amounts to the same thing, the *incredulitas in filium*), is not to preach the gospel (as the antinomians maintained) but the law. Again, this is done in two ways: [*dupliciter lex urgetur*]: first, the law demands obedience to itself, secondly, we have the divine mandate to listen to and believe in the Son, who came to fulfill the law and offer himself as a sacrifice for the sins of the world,¹⁴¹ but

¹³⁸Christ robbed the law of its curse by becoming a curse for us. For Luther the fact that Christ *maledictum factus est* (385, 7) means that he became *hostia pro peccatis mundi*; cf. 39 II, 109, 8-9 (DHC, Arg. 13) where he says Christ *factus hostia, victima pro nobis*. For other passages on Christ as *maledictum*, see our discussion of this in Arg. 2.

¹³⁹The sin of unbelief is the primary and root sin, cf. 399, 10-14 (A), 21-34 (B); 400, 4-13 (1 AD, Arg. 22 and 23); 403, 14-404, 9 esp. 404, 5-6 (1 AD, Arg. 26). Unbelief is first and foremost a sin against the First Commandment, 385, 28-31 (B); cf. 385, 5-8 (A). See too 39 I, 84 (Rom. 3: 28, IV, Th. 11).

¹⁴⁰On top of that, we hope to show in ch. 4 that the law itself is a unity, so that the sin against the First Commandment and unbelief in Christ are really one and the same sin.

the great majority do not accept that he is their king [*imperium*] (385, 8-13).¹⁴² In the Old Testament the fulfillment of the First Table (faith in Yahweh) was the most important thing; in the New Testament it is faith in the Son. However, as we said above, these come together in Jesus who is one with Yahweh. Therefore, we can conclude that God urges faith in his Son, the fulfiller of the law, both through the Decalogue (which still applies to Christians qua sinners) and through the gospel. If that is the case, then even the *incredulitas in filium* is finally not simply a sin against the Son, but against the law.¹⁴³ Conversely, all sin against the law is ultimately *incredulitas in Christum*, and not to believe in Christ is to sin *horribiliter* (386, 2-3). The antinomian argument has therefore been overturned: the preaching of repentance *ex violatione filii* is not really a preaching of the gospel at all, but of the law.

Luther's *digressio* in his *responsio* is worth repeating here as a parenthesis. He urges his students, who themselves are aspiring to be *doctores*, to teach dialectics as their first priority, which Luther defines as knowing how *bene dividere et definire* in order to be able to understand

¹⁴¹Luther says both: 385, 11: Christ is *hostia pro peccatis mundi*; 386, 1: *misit Deus filium suum, ut is legem impleret pro ipsis [scil. sancti]*. Clearly, these may not be separated.

¹⁴²385, 9-13: *Primum enim legis obedientia praecipitur per se, deinde mittitur filius, cui omnia tradita sunt a patre, ut sit hostia pro peccatis mundi, ubi mandatur, ut hunc audiamus et credamus in eum. Id non fit. Sed maior et potior pars hominum non patitur eius imperium iuxta 2. Psalmum.*

¹⁴³See 385, 21-23: *Violatio filii, hoc est, incredulitas in filium non solum non praestat primam tabulam, sed dupliciter transgreditur, non tollit legis exactionem, sed etiam stabilit et exasperat.* For a very concise version of the same argument, see 1 AD, Arg. 22.

properly the *res et vocabula* (385, 14-17). His *adhortatio* is prompted by the antinomian syllogism which derives repentance *ex violatione filii*. To Luther this is a classic proof that the antinomians are *infelices artifices in componendis syllogismis*. For if they knew how to define words clearly and determine their force, they would have known that the manifestation of sin through the law and the revelation of wrath are one and the same [*idem esse ostensionem peccati per legem et revelationem irae*] (385, 17-20).

Argument 16¹⁴⁴

Contra 4

The gospel exposes sins. Therefore, there is no need for the ministry of the law in the New Testament to expose sins.¹⁴⁵

Proof: Rom. 1 [: 18]: God's wrath is revealed from heaven through the gospel; and John 16 [: 8-9]: the Holy Spirit will convict the world of sin.

Response: Whoever does not correctly divide here confuses law and gospel. The gospel, properly defined, is the promise concerning Christ that frees from the terror of the law, from sin and death, and offers grace, forgiveness of sins, righteousness and eternal life. Christ is the teacher and giver of those heavenly and eternal blessings. But he is just as much an interpreter of the law, not as a legislator or as some Moses, but in order that we might understand what kind of work or fulfillment it is that the law demands of us, something that Christ cannot show unless he expressly interprets the law. But in Matthew 5 he interprets it as a doctrine which is not satisfied by some external observance, but which requires a clean heart, and demands perfect obedience, perfect fear and love of God. For thus Christ says in Matthew 5 [: 20]: Unless your righteousness exceeds that of the scribes and Pharisees etc. That is, not only ought you not be murderers outwardly, but you ought also to have a heart free from all wrath and envy; likewise, not only ought you to abstain from lust in the body, but you ought to have that chastity which the angels have even now and which after the resurrection from the dead all the blessed will have too. Therefore, Christ is not a lawgiver.

¹⁴⁴39 I, 386, 19-388, 20.

¹⁴⁵Hermelink notes, 39 I, 386, n. 1, that Agricola said in a lecture that the gospel uses the ministry of the law to expose sin (CR 3, 461).

However, he reveals the work of the law, and at the same time shows what he himself has done in order that this work of the law, which is required of everyone, may be fulfilled; indeed, he shows that he has accomplished this by doing the will of God and by satisfying his law: Sacrifice and offering you did not desire, but you have opened my ears etc. "Then I said: 'Behold, I come. In the chapter of the book it is written of me: I do your will, O God,' and: 'Your law is in the my heart'" (Ps. 40 [: 7-9]). Therefore, that righteousness which the law requires does not happen through the law, which reveals sin and brings about wrath, but through Christ, who alone did the will of God and fulfilled his law and received the Holy Spirit. Therefore, whoever apprehends this gift of Christ by faith has fulfilled the law through imputation and receives the Spirit who makes the law, which is otherwise hateful and burdensome to the flesh, delightful and sweet. So also in Romans, Paul does not teach the law, but shows that what is required of us, namely, the perfect obedience and righteousness which we lack because we are all sinners and stand accused before God (Rom. 3 [: 23]), is attained through faith in Christ. Therefore, he is speaking there about its fulfillment, which he was unable to do in any other way that people would understand except by saying that it is the supreme and perfect obedience, fear, faith etc. toward God. That is not, properly speaking, to preach the law but to show people the power and work of the law. Therefore, the gospel, properly speaking, does not, expose sin, but shows that it is the law that exposes sins. Christ did not come to demand from us that obedience which the law requires, but he came to give it to us since we cannot do it. However, at the same time, he shows us what he has done, namely, that by doing the will of God and obeying the law even beyond what it required, he has redeemed us from the condemnation of the law and through this has given us the righteousness which is better than that of the Pharisees.

The *argumentum* Luther refutes here is as central to antinomian theology as the two passages adduced in the *probatio* (Romans 1: 18 and John 16: 8-9) are foundational.¹⁴⁶ Both are mentioned in the antinomian

¹⁴⁶Rom. 1: 18 is referred to twice throughout the disputations, here and in 39 I, 423, 5 (2 AD, Arg. 1). In both cases it is adduced by the antinomians as a proof-text for the argument that sin is exposed through the gospel. John 16: 8 (v. 9 simply explicates v. 8) occurs in two other places, also in the First Disputation: 39 I, 403 (Arg. 26) and 414 (Arg. 35). The latter is the only place where Luther himself refers to it. The other two are cited as proof

positiones.¹⁴⁷ Luther's point of departure in his *responsio* is the proper distinction between law and gospel. Here he defines the gospel as *promissio de Christo*, which frees from the power of the law etc. and gives grace and forgiveness etc. (387, 1-4). Christ is not only *doctor* and *donator* of these heavenly *bona*, yet he also interprets the law, not however as a *legislator* like Moses,¹⁴⁸ but in order that we might understand what kind of work or fulfillment it is that the law demands of us. This he cannot show unless he expressly interprets the law [*id quod Christus non potest ostendere, nisi legem diserte definiat*] (387, 5-8). In the Sermon on the Mount (Matt. 5: 17-48) Jesus is not content with mere external obedience but demands τέλειος, that is, total submission to the will of God (387, 11-16). However, he alone can give what he demands.¹⁴⁹ Significantly then, by means of his christological exegesis,

of the antinomian premise that the gospel exposes sin, or in 39 I, 403, more specifically, that only the gospel can expose and convict unbelief and ignorance of Christ. Luther does not take up Rom. 1: 18 in this argument but will discuss that at length in 2 AD, Arg. 1. Here he seems to be guided more by the texts which he himself introduces (Matt. 5; Ps. 40) than those in the *probatio*. Although his thinking reflects John 16: 8 he makes no reference to it. See ch. 2 for the role that Rom. 1: 18 and John 16: 8 play in antinomian theology.

¹⁴⁷John 16: 8: 39 I, 342, 14-15 (Th. 3): *Et Christus apud Ioannem ait, Spiritum arguere mundum de peccato, non legem. Rom. 1: 17, 18: 39 I, 343, 21-23 (Th. 18): Nam Evangelium Christi docet iram Dei et coelo, et simul iustitiam Dei, Rom. 1. Est enim praedicatio poenitentiae, coniuncta promissioni, quam ratio non tenet naturaliter, sed per revelationem divinam.*

¹⁴⁸However, Luther also knows that when Christ, in his *opus alienum*, takes the law into his own hands and interprets it spiritually, he is a veritable *Mosis mosissimus*. Thus, Luther understands Moses as both *interpres* and as *legislator*, depending on what work is being done at any given time.

Luther sees this Sermon, as well as Paul's treatise in Romans, as setting forth God's demand, not to be fulfilled by us, but the demand that Christ has fulfilled in our stead. If there is any talk of an *opus legis*, it is precisely in the sense of a fulfilled *opus legis*. This becomes clear from Psalm 40: 7-9, which Luther again interprets christologically. Here Christ takes on his own lips the words of the psalmist, and in doing so claims the psalm as his own and sees his perfect obedience as the fulfillment of scripture: *Tunc dixi: Ecce ego venio, in capite libri scriptum est de me, ut faciam voluntatem tuam, Deus, et lex tua sit in medio cordis mei* (387, 20-388, 1). This perfect obedience or fulfillment is now ours through faith as a gift [*beneficium*] for we have been given the law's fulfillment *imputative* and at the same time receive the gift of the Spirit, who makes the otherwise loathsome law *iucundam et suavem* (388, 4-6).¹⁵⁰ Christ did not come to demand from us the obedience of the law that we cannot render, but he came to give it to us. Yet, at the same time, he shows us what he did [*tamen simul ostendit, quid ipse facit*]: because his obedience does not merely fulfill the law, but far transcends its requirements [*abunde praestando*

¹⁴⁹Cf. 387, 28-31(B), where Luther has Christ say in connection with Matt. 5: 20: *Hoc opus et officium meum est, ego debeo facere et implere legem, ego debeo praestare totam illam obedientiam, quam lex requirit, videlicet non occidere, non irasci, non moechari aut concupiscere etc.* In understanding that Christ gives us in the gospel what God demands of us in the law, Luther at least understands the gospel of the Sermon on the Mount, even if he does not specifically refer to the gospel framework of the sermon given in the Beatitudes.

¹⁵⁰Cf. 39 I, 373, 2 (1 AD, Arg. 6) where Luther says, on the basis of Ps. 19 that the Spirit is given to believers *ut voluptatem habeant in lege domini*. See 1 AD, Arg. 1 for other passages.

obedientiam, quam lex requirebat] he redeems us from the condemnation of the law and gives us the very righteousness that it demands.¹⁵¹

The antinomian argument asserts that the gospel exposes sins [*arguit peccata*].¹⁵² Luther rejects this as a confusion of law and gospel, and instead argues that the gospel, properly speaking, does not preach the law, hence does not expose sins, but rather shows the power and work of the law. In other words, Luther asserts that the gospel, strictly speaking, does not expose sin, but shows that it is the law that exposes sins [*Itaque Evangelium non arguit proprie peccatum, sed ostendit legem peccata arguentem*] (388, 13-15).¹⁵³

¹⁵¹Luther often speaks about Christ's fulfillment of the law, but he never suggests that there is a one to one correspondence between the law's demand and Christ's fulfillment. Such a notion would bring Christ into captivity to the law and suggest that it is finally the law and not Christ who is *dominus*. Christ however is Lord of the law, even though he voluntarily submits to its demands for our sake. In the end he trumps the law in that he not only "pays the law out," but does far in excess of what the law could ever demand. In our opinion, the Barthian understanding of Christ as fulfiller of the law ends up exalting the law above Christ, so that the gospel ends up fulfilling and thus serving the law. We, on the other hand, are convinced that for Luther law and gospel are incommensurate, and that the law is not the measure of the gospel; that is, Christ's fulfillment of the law is not to be understood in quantitative terms, for the measure of the law does not determine the extent of Christ's fulfillment. This is the significance of the *abunde*.

¹⁵²There are also many other arguments where we will find the basic antinomian thesis represented, that is, attributing to the gospel what is really the work of the law: to expose sin and thus show the need for salvation. See 1 AD, Args. 16, 17, 22-24, 26-28, 32, 35-37; 2 AD Args. 1, 14, 15, 28; and 3 AD Args. 18, 33/6, 34/7, 35/8, 36/9, 40/13, 43/15.

¹⁵³Cf. 388, 27-31(B): What the law demands is revealed in the gospel. The gospel itself does not demand but shows that it is the law that demands. *Ergo dicimus, etiam in Evangelio legem ostendi, seu, quid requirat lex. Quare*

Christ, in his office as fulfiller of the law, stands on the side of the gospel contra the law. However, in order for us to understand what Christ has done as *impletor legis*, he needs to expound and interpret the law.

Although under the pressure of antinomian exegesis Luther is pushed to define the gospel differently than simply the bestowal of the forgiveness of sins, yet he still ends up in complete antithesis to the antinomian position, which holds that the gospel exposes sins. What is significant about his argumentation here is that it is a step in the direction of the profound insight that the gospel can also be understood as showing, by implication, the work of the law. However, it would appear that Luther has still not satisfactorily explained exactly how the Spirit convicts the world concerning sin (John 16: 8).¹⁵⁴ One way of proceeding would be to interchange Spirit and Christ on the basis of the inseparability of their *opera ad extra*. Restated christologically, the text would then read: Jesus convicts the world of sin, and if we now substitute gospel for Jesus we end up with the antinomian thesis: The gospel convicts the world of sin. However, Luther cannot accept such a thesis because it represents a confusion between law and gospel. The mere mention of Jesus is not in and of itself synonymous with the gospel. His *officium* can be either one of law or gospel, even though his *proprium* is the *officium evangelii*. By

Evangelium proprie non arguit peccatum, sed ostendit legem, quid requirat lex, ut Christi officium intelligi possit.

¹⁵⁴See also 39 I, 347, 19-20 (ATh, I, Th. 37): *Sic et Spiritus primo arguit mundum de peccato, ut fidem doceat in Christum, id est, remissionem peccatorum*. Luther here still does not explain theologically how the Spirit convicts us of sin, although he does hint at it when he interprets the text in terms of law and gospel by saying that the Spirit convicts the world of sin that he may teach faith in Christ. This connection should become clearer in the next argument.

understanding the gospel as Christ's fulfillment of the law *pro nobis*, Luther stresses that the gospel shows us the power and work of the law by explaining how it is fulfilled in Christ. Thus, we come full circle: the gospel does not expose sins, but shows that it is the law that exposes sins. The gospel does not do the work of the law, but it describes the work of the law and proclaims it fulfilled *pro nobis* in Christ. In a later argument Luther will say that without the law we would never know what exactly Christ did for us in fulfilling the law.

In the next argument Luther will again address the problem of the relation between the Spirit and the law, but this time he will tackle it from the standpoint of pneumatology rather than christology.

Argument 17¹⁵⁵

Contra 4

Contrition is the work of the Holy Spirit. The Holy Spirit is not given through the law. Therefore, contrition cannot be given through the law.

Proof: The natural person does not grasp the things that are of God [1 Cor. 2: 14].

Response: No one understands the law unless his heart is moved by its sensation and power. But that feeling or sensation of the law is divine. Therefore, the law does not expose sins without the Holy Spirit, although when we say that we are not speaking about the Holy Spirit in the proper sense. For when we talk about the Holy Spirit we generally mean him whom Christ sent to us from the Father as a gift, to be our vivifier and sanctifier etc. Therefore, we do not ascribe contrition to him as gift, consoler, and Spirit of truth, but to God, the author of the law, who wrote it on tablets of stone. The analogy which I cited earlier concerning the uncreated word and the incarnate word is helpful here. It is dangerous to want to search out and grasp the naked God by means of human reason, without Christ the mediator, as the sophists and monks have done and have taught others to do. scripture says: No one will see me and live [Exod. 33: 20], and in order that we may avoid this danger the

¹⁵⁵39 I, 388, 23-391, 20.

incarnate word has been given to us--laid in a crib and suspended on the tree of the cross. This word is the Wisdom and Son of the Father and has told us what the Father's will is toward us. Those who abandon that Son and follow their own ideas and speculations are overwhelmed by the majesty of God and despair.

Dionysius with his mystical theology and others who followed him have indulged in these speculations about the majesty of the naked God. They wrote many things about spiritual marriages where they imagined God himself as the bridegroom and the soul as the bride, and thus taught that humans, in this mortal and corrupt flesh, can converse and have dealings with the inscrutable and eternal majesty of God without the mediator. There is no doubt that this teaching of theirs has been received as supreme and divine wisdom. I too occupied myself with it for some time, but not without its doing me great harm. I advise you to avoid this "mystical theology" of Dionysius like the plague, and also similar books containing stuff like that. I am afraid that in time the fanatics will come and reintroduce such things into the church and in this way obscure and utterly destroy sound doctrine.¹⁵⁶ Delusions come from Satan, who so fascinates the mind of human beings that they embrace such lies instead of the sure truth and supreme wisdom, or think they are getting some sort of taste of the future life and blessedness. Müntzer and the Anabaptists spread the same foolishness among the common people. Having got rid of Christ, they would boast of having revelations as well as dealing and speaking with the naked God. Marcus, who was the originator of this error, used to say that he was full of the divinity.

The Jews saw and heard God speaking in his majesty at the foot of Sinai, but they were so fearful and afraid, because of the frightening storm, the black clouds, and the terrifying sound of the thunder, that they ran back and said to Moses: Do not let the Lord speak with us lest we die; you speak to us [Exod. 20: 19]. Also: I will not listen to the voice of my Lord beyond or see this great fire any more lest I die. They are right in all that they have spoken, says the Lord. I will raise up for them a prophet like you etc (Deut. 18 [: 16-18]), because it is said: That prophet, namely Christ, will reveal to them my will, and he will be the mediator between me and them.

¹⁵⁶Hermelink (39 I, 390, n. 2) notes that the passage from *Ad has speculationes* (389, 18) to *prorsus obruent* (390, 7) was already cited by Val. Ernst Löscher from a manuscript in *Vollständiger Timotheus Verinus I* (Wittenberg, 1718), 31.

Therefore, where the naked God speaks in his majesty he only frightens and kills. When you want to have dealings with God then, begin in this way: Listen to the voice of Christ whom the Father has made teacher of the whole world when he says: This is my beloved Son in whom I am well pleased; listen to him [Matt. 17: 5]. He alone knows the Father and reveals him to whom he wills [Matt. 11: 27]. Conversely, the Jews, Turks and all the self-righteous, who ignore this rule and deal with the naked God, end up falling into despair. But the world does not listen, it forsakes Christ and his word and instead follows and highly prizes illuminations and revelations, which are splendid and divine in form, but are really the work of Satan. Turks, so I hear, have priests and religious men who undergo ἔκστασις for days at a time: they are seized and lie prostrate for some time without any sensation at all, and when they return to themselves, they speak of things sublime and wonderful. The common people are captivated by this, and even people of rank who see this think that it is a feat of extraordinary holiness. But God the Father has commanded us not to listen to such raptured people, but to the Son in whom are hidden all the treasures of wisdom [Col. 2: 3].

In summary, when the Holy Spirit is God in his nature, he is the author of the law, without whom the law does not expose sins; but when he is gift through Christ he is our vivifier and sanctifier.

This *argumentum* is closely related to the preceding. There the antinomian premise was that the gospel exposes sins, here it is that contrition is the work of the Holy Spirit. Both reject the law for essentially the same reason.¹⁵⁷ Luther begins his *responsio* with a reminder that the law is a power whose sensation is felt in the heart.¹⁵⁸ But that feeling or sensation of the law comes from God [*Is autem tactus seu sensus legis est divinus*] (389, 2-3). Therefore, he says, the law does not expose [*arguit*] sins without the Holy

¹⁵⁷The *probatio* adduces 1 Cor. 2: 14 as proof. The things of God, here contrition, cannot be grasped by the *animalis homo*. The assumption is that contrition is not a product of human reason, but comes from the Holy Spirit.

¹⁵⁸See 39 I, 345 (ATh, I, Th. 3): *Multi enim audiunt quidem legem, sed quia sensum seu vim legis non sentiunt, nihil dolent neque poenitent.*

Spirit. This is an important conclusion for the antinomian presumption seems to be that there is a fundamental antithesis between the law and the Spirit. Luther now offers a profound insight which would have been of great help in the preceding argument. He points out that we need to distinguish between the Holy Spirit, in the proper sense, sent by the Father as gift, to be our *vivificator* and *sanctificator* etc., and, on the other hand, the Holy Spirit as God, the author of the law written on the tablets of stone (389, 5-9). The same Spirit can work in two different ways.¹⁵⁹ Although Luther does not use these terms here, we could say that when the Spirit works through the gospel as *donum, consolator* and *spiritus veritatis*, he is doing his *opus proprium*, his gospel work. On the other hand, when the Spirit works through the law as *Deus autor legis* in order to bring about *contritio*, he is engaged in his *opus alienum*, his law work.

Luther at this point harks back to a *similitudo* which he used earlier to explain the difference between these aspects of the Spirit's work. He draws an analogy between the *verbum increatum* and the *verbum incarnatum* and warns against the danger of seeking out the *nuda divinitas* (= *verbum increatum*) by means of human *ratio* without *Christus mediator* (389, 9-12).¹⁶⁰ All such attempts to want *scrutari et apprehendere* the *nudam divinitatem sine Christo mediatore* are bound to fail because they are contrary to God's

¹⁵⁹On the difference between the Holy Spirit as the Spirit of Christ and the Spirit of God in his divine nature and majesty, see 370, 12-371, 2 (1 AD, Arg. 4) and our discussion there where other Luther-texts are also cited.

¹⁶⁰For *verbum incarnatum*, see Ebeling, *Lutherstudien*, II, pt. 2, 413, and pt. 3, 600. For a discussion of this *similitudo* and the contrast between the *deus nudus* and the *deus revelatus*, see our analysis of 1 AD, Arg. 4.

own intentions (cf. Ex. 33: 20). On the other hand, God has stepped out of his inscrutable and eternal majesty and has shown himself in his Son, the *verbum incarnatum*, paradoxically, in the crib of Bethlehem and on the cross of Calvary (389, 13-15).¹⁶¹ Luther's warning against trying to deal with the *deus nudus* directly, whether by means of speculation, mystical contemplation, or ecstatic trances are made over against the mystical theology of Dionysius the Areopagite¹⁶² and others, including Müntzer and the Anabaptists, and Marcus,¹⁶³ which Luther sees as the work of Satan (389, 13-391, 17).¹⁶⁴

¹⁶¹Cf. Rel. B (390, 23-391, 25), where after referring to Solomon's warning in Sir. 43: 1 (?) that those who search out the majesty are overpowered by glory, Luther says: For this reason Christ is not to be sought in his majesty; however, he has put in his word into us which we have a mandate to hear [*sed propositus est nobis Christus in suo verbo, habemus mandatum, ut hunc audiamus*]. The *vera notitia Dei* is to be found in the crib and swaddling clothes.

¹⁶²Dionysius Areopagita: *De mystica theologia* 1, 3; MPG 3, 1022. See WA 5, 503, 9-10 where Pseudo-Dionysius deals with the transcendental divine darkness, which eludes human knowledge, and the possibility of mystical union between human beings and the divinity (StA 5, 278, n. 914). Cf. TRE 8, 774. For Luther's assessment of Pseudo-Dionysius, see WA 6, 561, 34-562, 11=StA 2, 247, 3-17.

¹⁶³StA (279, n. 942) notes that Markus Thomae (also called Stübner), a former Wittenberg student, was an adherent of Nicholas Storch and belonged to the Zwickau prophets, who claimed direct illumination through the Spirit of God. His self-confident manner in Wittenberg in the winter of 1521/22 influenced Melancthon for a short time. He even tried to persuade Luther of the correctness of his teaching (among other things the rejection of infant baptism). See Melancthon's letter to the Elector of Saxony, 27 Dec., 1521: MBW 1, 116, No. 192 (Lit.) = *Melancthons Werke in Auswahl*, ed. R. Stupperich (Gütersloh: Gütersloher Verlag, 1971), 158-161.

His greatest achievement in this particular argument was to point out that the Holy Spirit can act in two ways. There is the way of the uncreated word, where he acts immediately, and the way of the incarnate word, where he acts mediately. Luther concludes by reiterating even more concisely this basic distinction which he made at the beginning of his *responsio*: On the one hand, the Holy Spirit, as author and giver of the law on Sinai, is God in his nature, on the other hand, the Holy Spirit, as our vivifier and sanctifier, is the gift of the Father through Christ. In the former case, the Spirit works through the law, in the latter, he works through the gospel. This distinction enables Luther to say, *contra antinomos*, that contrition is the work of the Holy Spirit, while at the same time denying that it is produced by the gospel. For when the Holy Spirit brings about contrition in the heart, he is not working through the gospel but through the law, because this work is not the *proprium* of the gospel but belongs to the *officium legis*.

Argument 18¹⁶⁵

The death of Christ is the cause of the mortification of sin. The death of Christ is not law. Therefore, the law is not the cause of the mortification of sin.

Proof of major premise: We have been buried together with Christ through baptism into death [Rom. 6: 4].

Response: We have noted that passage of scripture: through the law I died to the law [Gal. 2: 19]. Likewise: we died to sin that we may live to righteousness [1 Peter 2: 24]. That is, through the grace which Christ brings and bestows, we die to the law that accuses and condemns us.

¹⁶⁴Luther is obviously addressing the students of theology present at the disputation when he says: *Admoneo vos, ut istam Dionysii mysticam theologiam, et similes libros, in quibus tales nugae continentur, detestemini tamquam pestem aliquam* (390, 3-5). He is afraid that the fanatics will reintroduce such things into the church (no doubt after his death) and so destroy sound doctrine.

¹⁶⁵39 I, 391, 22-392, 15.

Thus through Christ, who was made a sacrifice for sin and through whom sin dies, we die to sin in order that it can no longer rule in us. Therefore, insofar as we have died to the law and sin through faith in Christ, and have been buried together with him, sins are dead to us, that is, they cannot rage or exercise their tyranny over us [Rom. 6: 5-11]. This is not dangerous, but a salutary death.

But it does not follow from this that the law has been abolished or must be removed or that sin has been abolished to such an extent that it is never felt by the godly. But on account of Christ, the fulfiller of the law, believers are not driven to despair by the accusation and terror of the law, but are raised up again by the word of Christ. Secondly, on account of the same Christ, the victor over sin, they are dead to sin and sin to them. However, insofar as they have the flesh, the law and sin have dominion in them.

This *argumentum* does not say any thing new, nor does it all together refute the antinomian thesis: *lex non est causa mortificationis peccati* (391, 23), but it is a magnificent application of Romans 6: 5-14 to the Christian as saint and sinner. Paul says in effect that since in Baptism we have died to sin with Christ, sin can no longer rule over us. Luther, on the other hand, while making no specific mention of Baptism, expands this, on the basis of Gal. 2: 19, to include the law so that his central premise is that when we die to sin in Baptism we also die to the law. Hence he can say: *Quatenus igitur mortui sumus legi et peccato per fidem in Christum et una cum eo sepulti sumus, eatenus nobis mortua sunt peccata, hoc est, non possunt saevire et tyrannidem exercere suam in nos* (392, 5-8). Crucial here is the diadic formula: *quatenus . . . eatenus*. The antinomians would not limit the statement in this way. Luther however knows that Christians qua sinners still have the flesh which needs to be mortified by the law.¹⁶⁶ Therefore, *contra antinomos*, he

¹⁶⁶In 39 I, 412, 1-8 (1 AD, Arg. 32) Luther says that mortification based on the law continues in Christians insofar as they still have the rebellious flesh.

argues that it does not follow that *legem esse sublatum aut tollendam aut peccatum ita sublatum, ut prorsus a piis non sentiatur* (392, 9-11). The law must remain because sin remains.

He goes on however to make two statements on the basis of the gospel: *propter Christum legis impletoem*, the accusation and terror of the law cannot drive *credentes* to despair; second, *propter eundem Christum victorem peccati*, they have died to sin and sin to them.¹⁶⁷ But finally this needs to be balanced by a statement *sub specie peccati* for Christians are also sinners: *Quatenus vero carnem habent, eatenus habent dominium in eos lex et peccatum* (392, 5-15). Here then Luther could both agree with the antinomians and disagree. Their minor premise: *Lex non est mors Christi* (391, 2) is only half true: the death of Christ is law for sinners because it says clearly that Christ died because of our sin. On the other hand, the death of Christ is gospel for saints because faith grasps Christ's death as gift *pro nobis*. Whether then this message about the *mors Christi* is heard by the Christian, who is *simul iustus et peccator*, as law or gospel will depend not only on whether it is heard in faith, but also, and ultimately, on how the Lord is pleased to use his word, for both the *verbum* and the *usus* are the Lord's.

Argument 19¹⁶⁸

Whatever Christ commanded his apostles, he also commanded all their successors. Christ commanded the apostles to preach repentance in his name [Luke 24: 47]. Therefore, the knowledge of sin does not come through the law, but through the gospel. Hence, the law is to be abolished.

¹⁶⁷Note how the two statements are based on two complementary christological predicates: *Christus impletor legis*, and *Christus victor*.

¹⁶⁸39 I, 392, 16-393, 15.

Response: This argument concludes that repentance must be preached in the name of Christ, therefore not in the name of the law. The conclusion is proved from the nature of opposites, for Moses and Christ are opposites. The minor premise is true but the conclusion is false, because Christ himself says: I did not come to abolish the law but to fulfill it [Matt. 5: 17]. He shows therefore what the law requires, namely, its fulfillment, which no one could ever or has ever achieved. Therefore, all sinners are cursed [Deut. 27: 26] and subject to eternal death [Heb. 2: 15]. For cursed be every one who does not abide by etc. [Gal. 3: 10].

Secondly, he says that he fulfilled the law in order to redeem believers from this exaction and curse of the law. Therefore, although Christ makes no mention of the law, he shows from the very nature of the case that the law has not been fulfilled, for he himself fulfills it. And elsewhere Christ says: Repent and believe the gospel [Mark 1: 15]. When he commands people to repent he shows that sinners are also transgressors of the law and cannot avoid the condemnation of the law in any other way than by believing the gospel, which preaches that Christ has satisfied the law.

This is the first time in the disputation that Luther has to deal with the second key text¹⁶⁹ used by the antinomians, Luke 24: 47,¹⁷⁰ to prove that the knowledge of sin comes through the gospel and not through the law.¹⁷¹ The opponents, rightly recognizing the antithesis between Christ and the law (=

¹⁶⁹The other being John 16: 8, which was used already in Arg. 16 (39 I, 386, 21-22). See 39 I, 342 (Pos., Th. 2 and Th. 3) for the antinomian theses.

¹⁷⁰καὶ κηρυχθῆναι ἐπὶ τῷ ὀνόματι αὐτοῦ μετάνοιαν εἰς ἅφεςιν ἁμαρτιῶν εἰς πάντα τὰ ἔθνη. The textual problem here is whether καί should be read for εἰς. We cannot discuss that here. However, it seems certain that Luther's Vulgate (esp. in light of the other places in which he uses this verse) took the dominical words to be a mandate to preach repentance **and** forgiveness (RSV and NIV read καί, but the modern *Lutherbibel* [Stuttgart, 1984] follows the Nestle-Aland text (26th ed.) and reads the εἰς: *und daß gepredigt wird in seinem Namen Buße zur Vergebung der Sünden unter allen Völkern*").

¹⁷¹For other references to Luke 24: 47, see 39 I, 414, 1-5 (1 AD, Arg. 35), 416, 2-3 (1 AD, Arg. 36); 485, 13-14 (2 AD, Concl.); 572, 4-7 (3 AD, Arg. 36/9).

Moses), conclude *ex natura contrariorum* that *poenitentiam praedicandam in nomine Christi* (393, 2). In Luther's judgment however the *antecedens* is true, but the *consequentia* false, because Christ himself said that he did not come to abolish the law but to fulfill it (393, 3-5).

Luther in his *responsio* makes a subtle distinction which is lost on the antinomians: To preach repentance *in nomine Christi* does not ipso facto mean to preach *contra Mosem*, for Christ himself exercised a twofold office, his *officium proprium* and his *officium alienum*. All depends then on the proper distinction between law and gospel. When Christ is doing his *opus alienum* he can be a veritable Moses, indeed a *Mosissimus*, who does not abolish the law but ratifies it and makes it impossible to escape; yet on the other hand, when he is doing his *opus proprium* he not only fulfills the law for us, but defends us against Moses and sends him packing. Therefore, to make Christ the antithesis of Moses unconditionally, as the antinomians do, is to overlook the fact that Christ too can proclaim the law. Luther's refutation then proceeds along two lines reflecting his law-gospel dialectic, which is neatly encapsulated in Jesus' words: *Non veni solvere legem, sed implere*. The *non solvere* means that he does not weaken the law in any way: *Ostendit ergo, quid lex requirit, nempe impletionem sui, quam nemo unquam praestet aut praestiterit* (393, 5-6). However, as soon as he has shown sinners their terrible plight under the law, that *omnes peccatores maledicti et rei sunt mortis aeternae*, and that **they** cannot fulfill the law, he immediately goes on to announce the second and proper part of his work, **his implere legem**, which means redemption from the *exactio et maledictio legis* (393, 8-9). Therefore, even though Christ does not expressly mention the law in his

final commission to the apostles, Luther insists that he shows that it has not been fulfilled from the very fact that he himself fulfills it. Hence, to preach repentance is to call sinners to repent in order to escape God's judgment, and that is to preach the law.

It is clear then that Jesus' mandate in Luke 24: 47 is essentially no different to the kerygma as summarized in Mark 1: 15: *Poenitentiam agite et credite Evangelio*.¹⁷² In other words, Luther sees the dominical mandate as being a statement of law and gospel: Repentance is the knowledge of sin based on the preaching of the law, but it is evangelical repentance only if it finds refuge from the condemnation of the law in the gospel of Christ. Even though the link between repentance and the law is not explicit in the Lukan passage, Luther would argue that both are there by virtue of the very nature of Jesus' sacrificial death for the forgiveness of sins, as declared by the gospel.¹⁷³

In conclusion, two points need to be emphasized : 1) Luther talks of Christ and his work as the fulfillment of the law; and 2) the gospel, by virtue of the fact that it proclaims Christ's fulfillment of the law *pro nobis*, also

¹⁷²μετανοεῖτε καὶ πιστεύετε ἐν τῷ εὐαγγελίῳ. It is instructive to compare both Mark 1: 15 and Luke 24: 47 with Peter's appeal as recorded in Acts 2: 38 after his Pentecost sermon: μετανοήσατε, [φησίν,] καὶ βαπτισθήτω ἕκαστος ὑμῶν ἐπὶ τῷ ὀνόματι Ἰησοῦ Χριστοῦ εἰς ἄφεσιν τῶν ἁμαρτιῶν ὑμῶν καὶ λήψετε τὴν δωρεὰν τοῦ ἁγίου πνεύματος. Although it is not immediately relevant to Luther's argument, it is striking how repentance, forgiveness (or the gospel) and baptism are inseparably connected. Luther will make the point in a later argument that repentance is placed alongside forgiveness to prevent it from veering off into despair; see 39 I, 485, 13-14 (2 AD, Concl.); 572, 4-7 (3 AD, Arg. 36/9).

¹⁷³Of the gospel Luther says: *quod contionatur Christum legi satisfecisse* (393, 14-15). Cf. 393, 24-25 (B): *Christus venit non tollere legem, sed implere, et ut ostendat legem atque ita declaret suum opus et officium*.

reminds us, in a backhanded sort of fashion, of the law that Christ has satisfied and fulfilled.

Argument 20¹⁷⁴

Paul is converted by the voice of Christ [Acts 9: 4-6]. The voice of Christ is the gospel. Therefore, he was converted by the gospel and not by the law.

Response: Christ's proper office is to announce grace and the remission of sins. Meanwhile, however, as we have often said, he declares that he has not come to abolish, but to fulfill [the law; Matt. 5: 17]. Therefore, he says concerning his total work that he brings only blessing, that is, grace and righteousness in the face of the curse of the law, to which all people are subject, and from which those who believe him may be set free.

On the other hand, in various places he threatens the secure and the despisers and frightens them, but in this manner: Because you do not want to hear my word that you are free from the curse of the law and saved, therefore you will die in your sins. Certainly it is God's judgment that whoever refuses the victor over sin and the fulfiller of the law remains under the law and sin.

While Christ's *opus totum* is *solus adferat benedictionem*, which means *gratia et iustitia contra maledictionem legis*, in order to achieve this end he does his *opus alienum* (though Luther does not use that term here) of threatening and terrifying the *securi et contemptores*, but always in such a manner [*ad hunc modum*] that the judgment is announced only after they have rejected the gift of the gospel, which offers freedom from the law. And this is the *iudicium Dei*, that those who refuse the *victor peccati* and *impletor legis* have no alternative than to remain under the law and sin. Luther's intention in the *responsio* was to refute the false understanding of: *Vox Christi est Evangelium* (393, 17). However, he ends up speaking generally

¹⁷⁴39 I, 393, 17-394, 6.

about law and gospel without really clinching the argument.¹⁷⁵ When he returns to it later his argumentation will be far more incisive.¹⁷⁶

Argument 21¹⁷⁷

Contra 4

All who have faith also have sorrow for their sin. The Magi had faith [Matt. 2: 1-2]. Therefore, they also had sorrow for their sin. Consequently, there is no need for the ministry of the law to create sorrow for sin.

Response: I concede the whole argument. But the conclusion drawn from it, that there is no need for the ministry of the law, is false. Every believer, who by faith begins to overcome the terrors of the law, lives his whole life in repentance. For the whole life of the faithful is a kind of exercise against, and a hatred of, the remnants of sin in the flesh, which murmur against the spirit and faith. The godly repeatedly feel terrors. Their faith fights against the lack of trust and despair, also against lust, wrath, pride, vengeance etc. This battle continues in the godly for as long as they live, in some more violently, in others more mildly. Hence they have sorrow and hatred for sin combined with faith. Therefore, they cry out with Paul: Wretched man that I am, who will liberate me from the body of this death? [Rom. 7: 24]. Staupitz used to say that death should be welcomed by believers because in this life there is never an end to sinning, and that really is how things are. The hearts of the godly are sadder on account of their sins and fear of death than they are joyful over the life and inexpressible grace given through Christ. Indeed, they struggle against this lack of trust and overcome it through faith, yet this spirit of sadness always returns. Therefore, their life is one of continual repentance until death.

I remind you of this on account of the author of the monstrous theses and the papists, who seize on some actual sin and think that it is a

¹⁷⁵The summary in Rel. B (393, 30-394, 25) comes closer: *Saepe fungitur [scil. Christus] officio legis, ut cum minatur pharisaeis, cum obiurgat, cum hortatur. Ita vox legis est, cum dicit ad Paulum: Quid me persequeris?*

¹⁷⁶See also 39 I, 405, 7-11 (1 AD, Arg. 27): *Sed cum audiret: Saule, quid me persequeris? ibi tangebatur lege, et desperasset, nisi iterum erectus fuisset hac voce Christi: Surge et ingredere civitatem;* 567 (3 AD, Arg. 33/6): Acts 9: 4-5 contains the word of law (*vox Christi*) and 9: 6 the word of gospel (*vade* etc.).

¹⁷⁷39 I, 394, 9-399, 6.

light and momentary thing which can be gotten rid of through contrition, confession, and satisfaction. They also employed absolution, but actually there was no absolution. For those who made confession were not consoled with the word of God, and were never made certain that their sins had been pardoned through Christ's satisfaction, but instead they were assigned certain civil works. Moreover, they utterly dismissed original sin saying that it is some infirmity of nature, which they called tinder. Therefore, the repentance of all papists, Jews, and Turks has to do only with actual sins, such things as murder, theft, adultery etc., and when they are sorry for them and make satisfaction by means of [self-] chosen works and cultic rituals they think that God is pleased and content. They do not even know what repentance is, much less do it.

On the other hand,¹⁷⁸ with these words: Unless your righteousness etc. [Matt. 5: 20] and again: Repent [Mark 1: 15 pars.], we are reminded that the repentance of the godly is continuous, so that faith and the knowledge of Christ may overcome terrors, and that fear may be filial, not servile. For this reason especially, the devil lies in wait for us and prowls around [1 Peter 5: 8], and although he may cause us to fall, we are lifted up by the promise of Christ, which announces the forgiveness of sins. Then, through faith we receive the Holy Spirit, who produces new impulses and instructs the will in order that we may truly begin to love God and hate the sin remaining in the flesh. However, because that always returns and causes us trouble, we need a repentance that continues until death. The Jews, papists, and Mohammedans know nothing about this repentance, but only repent of certain actual sins, not for the whole of life, but only for a time. And when they have done that, by means of self-chosen works for this purpose, they think they have made satisfaction for those before God.

In civil matters the situation is such that one makes satisfaction for sin through a penalty, but this is not the case before God where sins always remain grave and serious, even in the godly, which they neither discern nor feel. Therefore, it is always necessary that they keep before them the word that exposes sin, but to do it in such a way that the word of faith may be added. Therefore, the repentance of the godly endures for the whole of life. Hence, Paul says that we have a lamb, Christ, who has been sacrificed for us, through whom we are pure and unleavened [1 Cor. 5: 7-8], and yet he still commands us to cast out the old leaven. In the papacy the doctrine of repentance was taught with such confusion and obscurity that no one could understand it. On top of that, there was that terrible abomination where for a long time the contrite did not even

¹⁷⁸In R this is the beginning of a new argument.

know how much work they were to do for their sins. Moreover, even if they knew and did many things, they still doubted the grace of God, according to the words of Ecclesiastes: Man does not know whether he is worthy of love or hate. Since, therefore, they could never be certain that they had made satisfaction for their sins by means of their own works, satisfaction was transferred from here to purgatory. This doctrine resulted in perpetual sorrow and finally the despair of consciences. People never fled to Christ for refuge because he was feared more than the devil himself. They thought of him as nothing but a stern judge etc. This erroneous and pernicious doctrine has now been purged away through the gospel, which teaches us that satisfaction for sins is not to be imposed on us, but has been imposed on Christ, the Lamb of God, who takes away the sins of the world (Is. 53 [: 4-6, 11-12]). Knowing and believing this it is impossible to doubt the grace of God unless one wants to say that Christ died in vain.

It is especially important to know this doctrine because it overcomes the terrors of the law and of sin and produces true repentance. We brought this doctrine to light by the grace of God through the gospel, not to abolish the office of the law, as these antinomians think, but to oppose the papistic, or rather diabolical, abominations, and to heal the afflicted consciences with this freedom that Christ has given us. These antinomians talk foolishly when they say that they want to remove the law from the church and yet retain the revelation of wrath, for the revelation of wrath is the proper effect of the law. We will not permit the law to be removed from the church. I have preached the gospel here for twenty five years and yet never without the law, as the facts themselves bear witness. For three months each year we diligently inculcate and teach the catechism in separate sermons, not only to the uninstructed, but also to the godly, because they still have the flesh that rebels against the spirit [Gal. 5: 17]. Likewise, it is sung in our churches in German in order that it may be understood by every one.

While I am still alive I diligently admonish you to prepare yourself [for the battle] against such fanatical spirits, with the sure teaching of God's word on all the articles of faith. For I am afraid that there will be many such people, who may have been faithfully taught by us, who will completely pervert and overturn some of the things they picked up from us and will persuade people to agree to their errors. I am especially saddened that people are so suddenly influenced by such inept and ridiculous things and that they can be so easily turned aside from the truth. Nature, having been corrupted by the sin of original guilt and ruined through itself, is more than evenly prone to sinning. Moreover, it does not care about sin, does not believe that God is so seriously angry over sin and punishes it so severely, but proceeds with the sort of fright-

ful security and contempt for God that we are forced to witness in our day with great sadness. For the majority of our people take that liberty, for which Christ has freed us from the terrors of the law, from sin and eternal death, and turn it into a sort of security and licence for the flesh to do whatever it wants [Gal. 5: 13].

Here surely there is no need to add fuel to the fire by rejecting the law and playing down those sins which Christ predicted will be plain for all to see before the last day, such as reveling and drunkenness [cf. Luke 21: 34], as if they could do the godly no harm. Rather, the words of Christ, of the prophets, and of the apostles, must be driven home diligently and repeatedly, on account of such hard and impenitent people in the churches, for in these speeches they threaten such people with destruction because of their sins [cf. 1 Cor. 6: 9-10]. Furthermore, also the examples of God's wrath are to be set before them in connection with the destruction of the whole world through the flood [Gen. 7], the burning of the Sodomites [Gen. 19], and the overthrow of the kings. Likewise, we are harassed and tormented in body and soul by the cruel tyranny of the pope and the Turk, because of our sins. And yet these words and examples are always to be mingled with the consolation of the gospel: that God does not want the death of the sinner who repents [Ezek. 18: 23; 33: 11], that is, who begins to hate and detest sin, and receives Christ by faith as victor over sin and every evil. Where that knowledge and faith in Christ are to be found, continual repentance follows. This is not loathsome and difficult, like that obtained from hypocrites, but delightful and easy. Now sons through faith have the Holy Spirit who purifies, sanctifies, and vivifies them throughout their whole life. We teach about repentance in this way that people may understand that not only actual sin, but sin as a whole, both original and actual, is never entirely eradicated during their lifetime. Indeed, it has begun to be revealed through the law and remnants of it remain in the saints, but because they believe that it has been forgiven them through Christ, and they hate it and thirst for righteousness, it is not imputed to them.

In summary, there is no condemnation for those who are in Christ Jesus [Rom. 8: 1]. And even if they still do have remnants of sin, those remaining deeds of the flesh are mortified by the Spirit. On the other hand, those outside of Christ are cursed and condemned, and the law demands of them that they pay even the very last penny [Matt. 5: 26]. Therefore, let us not give ear to those who desire to see the law banished from the church. For its office is continually necessary and useful, not only because the hardened are to be frightened, but also because the godly are to be admonished to continue in the repentance that they have begun until the end of their life.

In his protracted and somewhat discursive *responsio* Luther particularly illustrates and emphasizes the nature of true repentance, and attributes its antinomian perversion to a false doctrine of sin. The antinomian argument asserts that to have *fides* also means to have *dolor de peccato*. The example of the Magi (as opposed to one of the apostles) to typify believers is probably deliberately chosen, because these men lived outside Israel and so did not live under the law. It is critically important to realize that the antinomians do not reject *dolor* or *contritio* as such; what they reject is the notion that the law produces contrition. They simply assume that there is no true faith apart from contrition, and with that Luther has no quarrel, as he says: *Concedo totum argumentum* (394, 12). Naturally, he rejects their conclusion, that this obviates the need for the ministry of the law *quod dolorem de peccato faciat* (394, 11). However, there is such a fundamental difference in their understanding of repentance that here Luther can lump the antinomians together with the papists, Jews and Turks because they all see repentance as first and foremost having to do with actual sin and forget all about original sin, which for Luther is always the root of sin. Indeed, the papists understood original sin as an *infirmetas* in the human nature which they called *fomes*. Consequently, it was seen as fairly harmless. Actual sin, on the other hand, was pardoned through the penitential system of *contritio*, *confessio*, and *satisfactio*.¹⁷⁹ The *absolutio*, the most importance part of confession and the

¹⁷⁹See 1, 319–324 (*Sermo de poenitentia*, 1518) for Luther's early exposition of repentance in contrast to that of scholasticism. See also 6, 543–9 for his examination of the scholastic understanding of repentance. His critique here says nothing new. Its main points are that it overlooks original sin, provides no absolution, and offers no certainty to troubled consciences, which are always unsure of whether they have done enough *opera civilia* to

reason for it in the first place, was there in theory but not in practise (395, 5-16; 396, 1-5). It is because of Luther's profound understanding of sin as first and foremost *originale peccatum* that he keeps emphasizing that repentance is not simply for a time, but for a lifetime: *ideo opus habemus poenitentiae, quae durat usque ad mortem* (396, 1; cf. 395, 3-4).¹⁸⁰

There is another reason why repentance is continual: in this life believers are never finished with the law. It can fight for them, against sin, but it can also fight against them, driving them to despair. The first section of Luther's response bears this out. Here he describes the *vita christiana* as a battle against both the law and the remnants of sin in the flesh. Virtually the first thing he says against the antinomian argument and its consequent rejection of the law is that every believer struggles to overcome the *terrores legis*, which means lifelong repentance: *tota vita poenitet* (394, 13-14). Again, he can say that the *vita fidelium* is a battle against the flesh, which murmurs against the spirit and faith: *exercitium et odium quoddam contra reliquias peccati in carne* (394, 14-16), or alternatively, that faith joins battle: *Ibi pugnat fides contra diffidentiam et desperationem*. But this battle is not waged at a uniform pitch, in some it is more intense than in others: *Ista pugna manet in*

fulfill the requirements for *satisfactio*. The confusion and hopelessness that abounded is well expressed by the passage he cites from Eccles. 9: 1. On this see Thomas Aquinas, *Summa* 2, 1 qu. 112 art. 5; L. 7, 326-7. On the dictum: *Sed gratia gratum faciens facit hominem dignum dei amore. Ergo nullus potest scire utrum habeat gratiam gratum facientem*, see 20, 7, 17-19; cf. 32, 329, 15-18 and RN; 38, 153, 25-34. The uncertainty of whether one had made satisfaction for one's sins or not finally led to the introduction of the idea of purgatory. On this, see StA 5, 288, n. 1177. See also StA 2, 340 n. 316; 401 n. 1084 and 1090; 402 n. 1094 and StA 5, 59, n. 495.

¹⁸⁰Also, 394, 13-14: *Omnis credens, qui coepit fide vincere terrores legis, tota vita poenitet*; cf. Luther's first *Ablaßthese* (1, 233, 20-21).

piis, donec vivunt, in aliis vehementius, in aliis mitius. From all of this Luther concludes that the life of faith is never without sorrow for sin: *Habent ergo dolorem et odium peccati coniunctum cum fide* (394, 14-20). Despite their difference over the law, Luther's conclusion here is the same as the antinomian proposition: *Omnis, qui habet fidem, habet etiam dolorem de peccato* (394, 9). Nor would Agricola and his followers have any cause to object to Luther's description of the dynamic of evangelical repentance when he says that after we have been made to fall by the devil, we are lifted up by the promise of Christ, which announces forgiveness of sins. Then we receive the Holy Spirit who creates in us *novos motus* and imbues [*imbuit*] the will to begin loving God and hating the remnant of sin in the flesh that keeps troubling us (395, 20).

However, there is one statement that Luther makes that seems to encapsulate the difference in viewpoint between himself and the antinomians regarding sin. He holds that *coram Deo* every sin is *grandia et gravia*, also in believers, even if they can neither discern nor feel them. In fact it is precisely because we can never properly know sin without the law that Luther says: *Ideo semper opus est, eos habere in conspectu verbum arguens peccatum.* However, Luther hastens to add the qualification, or limitation: *sic tamen, ut accedat verbum fidei*, for he consistently teaches, notwithstanding the antinomian counterclaim, that the law does not expose

the sin of believers to condemn them,¹⁸¹ but in order that they may receive mercy from Christ.¹⁸²

This point, that law and gospel each does its work in repentance, is reinforced in the second part of the *responsio* where Luther specifically addresses the problem of moral laxity and license, which he sees as a hallmark (or at least potentially) of antinomianism, where the freedom of the gospel is taken as a excuse for libertinism and *securitas*. Luther insists, vis-à-vis the antinomian tendency to play down such sins as revelling and drunkenness on the pretext that they cannot harm the Christian, and on account of the *duros* and impenitent, that pastors must preach the law in all its severity, and warn such people with the examples of God's wrath in the Old Testament. But by the same token, these warnings and examples from the law must always be mixed together with the consolation of the gospel [*semper commiscenda est consolatio ex Evangelio*] in order that faith and the knowledge of Christ may overcome the terrors of the law, and that the penitent may receive Christ as *victor peccati* (397, 24-398, 14).¹⁸³

¹⁸¹The accusation that the antinomians level against Luther is implicit in their Pos., Th. 16. We hope to address this problem later.

¹⁸²This is plain, for instance, from a text such as Ez. 18, 23; 33: 11, which Luther alludes to later in this argument (398, 12-13). When the transition from contrition to faith, from law to gospel, is not made, and the law is permitted to drive the terrified conscience *ad damnationem*, the law transgresses its divinely-appointed bounds and acts arbitrarily. This *abusus legis* will be discussed later.

¹⁸³This is a point that Luther will continue to stress throughout the disputations. In our opinion, it is significant that he uses the verb *commiscere* and not *sequi* in his admonition to keep law and gospel together generally, and here especially when using stories from the OT to preach God's

But faith does not stop with its confident trust in Christ's victory over sin, but it continues joyfully to renounce sin every day. Furthermore, those who are *fili per fidem* also have the Holy Spirit, who purifies, sanctifies, and vivifies them, and he continues doing this throughout their whole life.¹⁸⁴ This twofold understanding of repentance is another theme that will frequently recur in the disputations as Luther attempts to counter the antinomian error in the doctrine of sin, the law, and sanctification. He will unfold this further on other occasions. Here he merely calls attention to the fact that he teaches repentance in this way [*hoc modo nos docemus de poenitentia*] because sin as a whole, both original and actual, is never entirely eradicated in this life. Remnants of sin still cling to the saints, but because they believe that it has been forgiven *per Christum*, and they hate it and thirst for righteousness, it is not imputed to them (398, 14-23). Because Christians

wrath and judgment. The sequence does not mean that the law has always to be preached first and then the gospel, in that same predictable order. On the other hand, if the law has been comprehended in its reality, the gospel can only come after the law. It would appear that Luther's chief concern here is that law and gospel are not confused (*confudere* or *permiscere*) or that the law is not preached without the gospel lest the penitent be tyrannized by the law and unable to receive Christ as *victor peccati*. On that, see our discussion of 2 AD, Arg. 21. Perhaps the point Luther is making here is that when preaching examples of God's wrath as warnings, the gospel should always be interspersed [*semper commiscenda*] and not delayed until the law has been preached en bloc.

¹⁸⁴As we said earlier, Luther states several times in this argument that repentance is lifelong. In one place (395, 17-19) he says, on the basis of Matt. 5: 20 and Mark 1: 15 that the repentance of the *pii* is to be continual so that faith and knowledge of God may overcome terrors, and that fear may be filial, not servile (cf. Rom. 8: 15). The distinction between *timor servilis* and *timor filialis* played a role already in the scholastic discussion of the question: what kind of godly fear should there be at a beginning of repentance. Cf. Thomas Aquinas, Summa 3 qu. 85 art. 5; L. 12, 304-1. On the meaning of these terms as they were used antinomian circles, see ch. 2.

are *simul iusti* as well as *simul peccatores*, the indicative–imperative pattern of Pauline parenesis best serves to illustrate the proper relationship between justification and sanctification. On the one hand, Paul says that Christ, our passover Lamb, has been sacrificed for us, and yet, on the other hand, he exhorts us to cast out the old leaven--and while Luther (or the *Nachschrift*) stops here, the second half of the verse reinforces the gospel basis of Paul's appeal--that you may be a new lump, as you really are unleavened (1 Cor. 5: 7).

In order to counter the false notion that led the antinomians to think that he virtually abandoned the law once he had discovered the gospel, Luther says a few words about his own catechetical praxis. The fact that in the early days of the Reformation the gospel needed to be preached rather than the law, on account of the troubled consciences of the faithful,¹⁸⁵ should not be taken to imply, the Reformer warns, that he had abolished the law, which as we saw in the last chapter, was a standard assumption in the circle around Agricola. Luther relates that over the past twenty-five years in the parish church of Wittenberg the catechism was taught in separate services¹⁸⁶ for three months each year, both for the benefit of the uninstructed [*rudes populi*]

¹⁸⁵Cf. Luther's remark that people knew of Christ only as a stern judge and feared him more than the devil himself (396, 21): *Non erat ullum refugium ad Christum, quia plus timebatur, quam ipse diabolus*. However, through the preaching of the gospel this erroneous idea of *Christus iudex* was replaced by the scriptural doctrine of *Christus agnus Dei*, who made full satisfaction for the sins of the world (396, 23-397, 1).

¹⁸⁶It has been suggested that Luther is probably thinking of Bugenhagen's catechism sermons from the year 1534. On that, see G. Buchwald. See also StA 5, 289 n. 1208 for reference as well as further notes on the catechesis at Wittenberg and for references to this in Brecht.

and the believers [*pii*] who still have the flesh to constantly contend with. In addition to that he reminds his audience that the hymns are sung in German in the evangelical *Gottesdienst* in order that again everyone may have the opportunity of learning the catechism.¹⁸⁷ Luther offers this as proof that he and his coworkers have not abandoned the law. Indeed, he ends his *responsio* by stressing again that the law is to be retained for two reasons: 1) to frighten the hard-hearted [*tum propter duros terrendos*], and 2) to admonish the godly to continue in repentance [*tum etiam propter pios admonendos*] throughout their life. We will see later that this double *skopos* of the law corresponds to his understanding of the *duplex usus legis*.

Although Luther does not develop the point here, he makes the crucial observation in connection with his remarks on why the law must be retained, that the antinomians talk nonsense when they claim to want to remove the law from the church and yet still retain the revelation of wrath, for *revelatio irae* is identical with *proprius effectus legis* (397, 9-11). The equation of *ira* and *lex*, or more precisely, *effectus legis*, is perhaps the most important theological statement he makes in this argument, and one certainly that he will come back to several times.¹⁸⁸

Argument 22¹⁸⁹

In Paul we are given a clear example of how repentance is to be taught. But he taught repentance based on the offence of the Son. Therefore, it is not to be demanded on the basis of the law.

¹⁸⁷Cf. Luther's hymns: *Dies sind die heiligen Zehn Gebot* and *Mensch, willst du leben seliglich* from 1524; see WA 35, 135–141; 426–29.

¹⁸⁸Cf. 39 I, 415, 16–19 (1 AD, Arg. 36).

¹⁸⁹39 I, 399, 8–14.

Response: I said above that unbelief in the Son is a double transgression. First against the law, which demands perfect fear, faith, and love of God. However, because no one truly achieves it, all are transgressors of it and are subject to death. Secondly, because they do not receive but hate the Son, who came to fulfill the law etc [Matt. 5: 17].

As Luther says, he has already dealt with the *argumentum* that repentance should be taught *ex violatione filii* in Argument 15.¹⁹⁰ Therefore, he (or the transcriber) merely summarizes the main point of that argument: *incredulitas in filium* constitutes a double sin first against the law itself, which demands perfect *timor, fides, et dilectio Dei*, and secondly, against Christ who came to fulfill the law, for in Luther's mind whatever the First Table of the law demands for Yahweh it demands also for Jesus, because Jesus is Yahweh and God can never be understood or believed in apart from him. Therefore, the *violatio filii* is not in the first place a sin against Christ, but against the law, and the preaching of repentance *ex violatione filii* is not *ex evangelio* but *ex lege*.

Argument 23¹⁹¹

The gospel is the preaching or teaching about the forgiveness of sins. Therefore, repentance is to be taught based on the offence against the Son.

Response: The argument seems to take the offence against the Son to such a length that believers in the Son need to be especially careful lest they forsake him through unbelief, but this does not abolish the law. On the contrary, those who do not believe in the Son remain under the law and all its curses, under God's wrath etc. (John 3 [: 36]). Therefore, there is no greater sin than unbelief. For all sin has been taken away through Christ, pardoned, and forgiven believers. Therefore, this argument seems to contend that unbelief is to be avoided lest we forsake the Son.

¹⁹⁰39 I, 384, 7-386, 16 (1 AD, Arg. 15).

¹⁹¹39 I, 400, 2-13. In R Args. 23, 24 and a large part of 25 are inserted in the conclusion of Arg. 13. See above 39 I, 381 n. 1.

But as we said above, since sin has been revealed through the law and the Son has been given to fulfill the law and gives the spirit to fulfill it, the ultimate offence against the Son is not to believe in him.

Luther's *responsio* continues the idea he began in the previous *argumentum*. There he stated that *incredulitas in filium* is a double transgression of the law, here he says that unbelief (which is always unbelief toward the Son) finally is not sin against the Son (such as forsaking him) but sin against the law, for *incredulitas* is the fundamental sin. Hence, the person who is *incredulus filio* remains under the law and its curses, for he rejects the Son who came to fulfill the law and wipe out the curses. Therefore, the conclusion is the same as above. To preach repentance *ex violatione filii* is to preach the law for the *violatio filii* is in the first instance a sin against the law and not against Christ, who in the gospel gives the penitent *incredulus* forgiveness.

Argument 24¹⁹²

Whatever works wrath does not serve repentance. The law works wrath [Rom. 4: 15]. Therefore, it does not serve repentance.

Proof of major premise: Romans 2 [4]: Do you not know that the kindness of God invites you to repentance?

Response: The argument is good and rhetorical in sense of being useful, proper, simple, and delightful. If the kindness of God invites us to repentance, the law is neither useful nor necessary for repentance. St. Bernard says somewhere: The hard heart, which is moved by neither threats nor punishments, must be enticed to repentance through the divine gifts and promises, and should be taught the passion and death of Christ, which he took on himself out of sheer love to free the human race from the sin and death to which it was subject. It is true that when we cannot gain the hard and impenitent by means of threats and terrors, we should see whether we can bend them by means of God's promises and gifts. Thus the sons of Korah, when they see their father sinning against God and arrogating to himself the priesthood without a call and

¹⁹²39 I, 400, 15-402, 7.

mandate, in fact contrary to God's mandate, and that he was not at all frightened by the threats and terrors of Moses, they employ rhetoric, they remind their father of all the kindness God showed the people Israel in liberating them from their cruel captivity in Egypt, and in leading them through the Red Sea, in order that, with tears in their eyes, they may dissuade him, lest he, together with his family, oppose Moses and Aaron. So too we use all the methods at our disposal to exhort people to repentance, that is, that they feel the power of the law.

Paul does the same in this passage, as if he says: God through his word exhorts you by all means to stop sinning and listen to his promise. He does not say that you should not be pained. In fact he especially requires this since he lets you be exhorted in so many ways and in all the rhetorical passages. Moreover, he does not say: God's kindness invites you to sweetness and security or to contempt but to repentance, and he consigns those who are not alarmed and moved to repentance, but remain hard and impenitent, to store up wrath for themselves [Rom. 2: 5] as did Korah, who could not be moved to repentance either by the entreaties or the tears of his sons.

This argument is similar to the two preceding ones in asserting that the gospel leads to repentance and not the law.¹⁹³ This time the opponents have a passage of scripture to support their argument. Paul says in Romans 2: 4: ἀγνοῶν ὅτι τὸ χρηστὸν τοῦ θεοῦ εἰς ματάνοιάν σε ἄγει; Luther therefore readily admits that the argument is *bonum et rhetoricum*, by which he means *utilis, honestus, facilis, iucundus* (400, 19-20). Nevertheless, he still cannot agree with their conclusion that the law does not serve repentance.

Luther begins by citing Bernard of Clairvaux approvingly who recommends alluring [*alliciendum*] the *cor durum*, which remains unmoved by *minae* and *poenae*, by means of the *divina beneficia et promissa*, as well as teaching it [*inculcandam*] the *passio et mors Christi* (400, 21-401, 4).¹⁹⁴ He

¹⁹³See 1 AD, Arg. 3 for list of similar arguments.

¹⁹⁴Bernhard of Clairvaux: *De consideratione libri quinque ad Eugenium tertium*, MPL 182, 730-1 (bk. 1, ch. 2, sect. 3): "Quid ergo cor durum?"

concludes from this that when we cannot reach the *duri et impenitentes* with *minae* and *terrores*, we should resort to the *promissa et beneficia*, and then proceeds to illustrate this from the story of Korah's rebellion in Numbers 16 which he recounts with some embellishments.¹⁹⁵ Luther especially highlights the rhetorical effect of the words spoken by Korah's sons and says that we need to use whatever ways we have at our disposal [*quibus artibus possumus*] to exhort people to repentance, that is, *ut sentiant vim legis* (401, 4-14). But the question to which we must return is: Is this really repentance?

Reflecting on Romans 2: 4 he makes an important point: *Non dicit [scil. Paulus] non debeas dolere. Imo maxime hoc requirit, cum tot artibus et omnibus locis rhetoricis sinat te exhortari* (402, 1-2). In other words, even if the *benignitas* (= *promissa, beneficia*) *Dei* invites and allures the *duri*, this does not exclude the use of certain *ars rhetorica* for God can and does use all means to melt hearts of stone. However, this does not mean that the tools of rhetoric can ever manipulate God but they are simply used in his service. This is abundantly clear from the story of Korah in Numbers 16. Even though his sons pleaded with him with tears in their eyes as they recalled the goodness and mercy of the Lord in his great act of deliverance from Egypt, their words fell on deaf ears. The rhetorical effect of the tears reinforces the words, but the outcome is never guaranteed because God can never be constrained by us to act in a predetermined way. For Korah then and others

Ipsum est quod nec compunctione scinditur, nec pietate mollitur, nec movetur precibus: minis non credit, flagellis duratur." For further parallels see StA 5, 294 n. 1342.

¹⁹⁵Luther goes beyond the text in his exposition of the effect that Korah's sons had on their father. He also preaches on one of these effects in a sermon on 17 May 1528 (25, 465, 6-8).

like him who are moved *nec precibus nec lachrymis*, there remains only the fearful prospect of wrath (402, 3-7).

The second observation that we wish to make is that the effect produced by the *ars rhetorica* is not in and of itself repentance but may be simply sorrow and remorse, which admittedly God may then use to work repentance. Luther recognizes that the *benignitas Dei* may lead to *dolor*, for as he says, God invites to repentance, not *ad suavitatem et securitatem*. This insight is extremely important because it points to the parting of the ways between Luther and the antinomians. Repentance is not without the *dolor de peccato* (in certain cases even the *sensus legis*), as Luther makes clear in his first *Thesenreihe*. And precisely because that is the case, the law belongs to repentance. Therefore, even if it should be that τὸ χρηστὸν τοῦ θεοῦ (Rom. 2: 4) leads to repentance, that for Luther does not ipso facto exclude the law, for as we have seen already, the gospel can also use the office of the law to do the work of the law. This again proves that even if repentance arises *ex evangelio*, that in no way implies the abolition of the law.¹⁹⁶

Argument 25¹⁹⁷

Contra 21

Abraham and the other fathers before Moses knew sin and death. Abraham and those like him did not have the law. Therefore, sin and death can be known without the law.

Proof of minor premise: The law was given 430 years after Abraham [Gal. 3: 17].

¹⁹⁶Cf. 401, 27-402, 21 (B): *Itaque, cum tot modis et rationibus ad poenitentiam invitetur, hoc est, ut doleamus de peccato et proponamus pie vivere, maxime confirmatur lex.*

¹⁹⁷39 I, 402, 10-403, 3.

Response: The law indeed at that time had not yet been promulgated or written down, nevertheless, he still had the natural law inscribed on his heart, like all people [Rom. 2: 15]. Moreover, there should be no doubt that the patriarchs taught the same as that contained in the Decalogue, before the law had been revealed from heaven on Sinai, and that this teaching flowed on to their descendants. They carefully impressed on their families the ungodliness and wickedness of those who lived before the flood and who afterwards were destroyed because of this,¹⁹⁸ and dissuaded them from idolatry and other sins lest they too should perish. Therefore, they were not without doctrine, only it was put into their hearts by nature. Afterwards, when the law was promulgated, a public ministry was instituted to teach it.

The antinomians appear to have Paul on their side (Gal. 3: 17) when they claim that sin (and hence death) can be known without the law. However, Luther has to remind them that the patriarchs also knew the law, not the law of Moses, but the *lex naturae insculpta cordi*, whose content is the same as that of the Decalogue. This natural law goes back to the very beginning, and so predates the *lex e coelo revelata in Sinai* which only came 430 years after Abraham (402, 12-17). It was on the basis of the *lex naturae* that the postdiluvian fathers taught their families the difference between right and wrong, and warned them against the *impietas* and *malitia* of those who were wiped out by the flood.¹⁹⁹ The natural law even provided the basis for teaching against idolatry: *dehortati [sunt] eos ab idolatria et aliis peccatis, ne et ipsi*

¹⁹⁸With *extincti* R breaks off and continues with the last sentence of Arg. 23 (see 381 n. 1).

¹⁹⁹Schloemann, *Natürliches und gepredigtes Gesetz bei Luther*, 98, speaks of a "tradition of law" among the patriarchs, "*etwa auf Grund der Kunde von der Sintflut und deren Zustandekommen als Strafe für die Sünden der Alten.*" In 39 I, 583, 11-13 (3 AD, Arg. 45/18) Luther recalls the fact that at that time God still spoke with people directly from heaven, as in the case of Abraham.

perirent (402, 18-403, 1).²⁰⁰ Thus they were not without *doctrina*, insofar as it was written on their hearts [*vel tantum naturaliter cordibus indita*]. The special public office of preaching the law was instituted at Sinai, which as we will see from later arguments, both reinforces and clarifies the *lex naturae* inscribed on the heart:²⁰¹ *Postea data lege ministerium publicum institutum est ad eam docendam* (403, 2-3).²⁰² Strictly speaking, there has never been a time when there has not been a *doctrina legis* alongside the *lex insculpta*.²⁰³

Argument 26²⁰⁴

Contra 1 and 2

Unbelief and ignorance of Christ is to be convicted at the beginning of repentance. The law does not convict unbelief and ignorance of God. Therefore, the law is not required for the beginning of repentance.

²⁰⁰It should be noted here that the natural law embraces both tables of the Decalogue.

²⁰¹See our discussion of 3 AD, Arg. 19.

²⁰²The one law is mediated in two ways: a) from the beginning it was inscribed on the hearts of all people by nature: a) *lex naturae insculpta cordi*; b) later it was given on Sinai to the Israelites: *lex e coelo revelata in Sinai*; this latter is also said to be simply given or written: *lex lata* (or *data*) or *lex scripta*. The *ministerium publicum*, instituted at Sinai, takes the place of the fathers acting as priests to their families in teaching them God's will as revealed in the *lex naturalis*. It makes known through the preaching of the law that since Adam the essence of sin is *incredulitas Christi*. Although the office of the holy ministry, instituted by Christ is properly speaking the *officium evangelii*, it also embraces the *ministerium publicum* of Sinai, inasmuch as the law is preached in the service of the gospel.

²⁰³Schloemann, *Natürliches und gepredigtes Gesetz bei Luther*, 98. For a discussion of the *lex naturae* and the *lex Mosi* (or *lex scripta*), see 39 I, 454, 4-16 (2 AD, Arg. 13); 539, 4-541, 5 (3 AD, Arg. 19), and also ch. 4.

²⁰⁴39 I, 403, 6-404, 8.

The major premise is proved from Christ's words in John 16 [: 8]: The Holy Spirit will convict the world, and because they do not believe in me. The minor premise is clear because the gospel alone reveals unbelief and the ignorance of God and of Christ. In summary, the thrust of the argument is this: the Holy Spirit convicts unbelief and ignorance of Christ. Therefore, the law is not the beginning of repentance.

Response: The law convicts unbelief and ignorance of Christ because it requires its fulfillment. The prophets also predicted that Christ would fulfill it, as in Isaiah 9 [: 3]: The yoke of its burden you have overcome, as in Midian. And the godly among the Jews knew this. They of course did not have Christ present but promised, whom they believed was going to restore everything that had been lost in Adam. Then when Christ came, this sin of unbelief and ignorance of him was made known throughout the whole world by means of the public ministry. Formerly, at the time of the fathers it lay hidden in private corners and among their posterity; however, it was made known in Judea. But all sin, from the beginning of the world, was unbelief and ignorance of Christ, for the promise concerning the woman's seed was given straight after the fall of Adam, which was made known through the houses of the fathers until the fullness of time [Gal. 4: 4].

Luther has already argued that unbelief in Christ is always the primary sin²⁰⁵ and that it is first and foremost a sin against the law because the law (First Commandment) demands faith in Christ. Therefore, as we have already seen, Luther rejects the antinomian claim: *Lex non arguit incredulitatem et ignorationem Dei*,²⁰⁶ which they then use as a ground for eliminating the law from repentance, or more precisely, from the *initium poenitentiae*, and replacing it with the gospel. The reason for rejecting their

²⁰⁵See 39 I, 400, 4-13 (1 AD, Arg. 23); cf. 384, 7-386, 16 (1 AD, Arg. 15).

²⁰⁶See 39 I, 386, 19-22 (1 AD, Arg. 16), where John 16: 8 is also adduced as proof that it is the Spirit and not the law who convicts the unbeliever of sin. In the present Argument John 16: 8 is used as proof for the major premise: *Incredulitas et ignoratio Christi est arguenda in initio poenitentiae*. The minor premise: *Lex non arguit incredulitatem et ignorationem Dei* is taken as obvious [*patet*], no doubt in light of the same text.

claim is consistent with his earlier arguments: *Lex arguit incredulitatem et ignorantiam Christi, quia requirit impletionem sui.*²⁰⁷ Luther takes the *iugum oneris eius* in Isaiah 9: 3 as referring to the law and understands the whole verse as a prophecy about Christ: *quod eam impleturus sit: Iugum enim oneris eius superasti* (403, 14-17). For the Old Testament *pii* he was present, not in the flesh but as promise, and this *promissio de semine mulieris* was given immediately *post lapsum Adae*, for Christ, the promised seed, was going to restore all that was lost in Adam.²⁰⁸ This promise was made known in Judea, passed on *per domos patrum* until the time of fulfillment. Therefore, the *incredulitas et ignorantia Christi* that still abounded was the basic sin. Finally, with the coming of Christ, this sin was made known throughout the whole world by means of the *publicum ministerium*, which, as we saw in the previous *argumentum*, refers specifically to the office of the law. (404, 2-8). Therefore, since *lex arguit omne peccatum incredulitatis* (404, 29), the antinomian argument is wrong, and the law constitutes the beginning of repentance.

²⁰⁷39 I, 399, 10-11 (1 AD, Arg 22): *incredulitatem in filium duplicem transgressionem esse*, first against the law then against the Son; cf. 400, 11-13 (1 AD, Arg. 23).

²⁰⁸Schloemann, *Natürliches und gepredigtes Gesetz bei Luther*, 98, observes that there was proclamation of law and gospel immediately after the fall: The announcement of the *protevangelium* at the gates of paradise is paralleled by the preaching of the "*protonomos*." On the gospel, see WA 14, 140, 4ff (Gen.-Pred., 1523/24 on Gen. 3: 15, Rörer) where Luther says that Adam (*post lapsum*) was a Christian, as were all his descendants, because they believed in the coming Christ. On the law, see 14, 155, 6ff where he interprets the cherub at the gates of paradise allegorically to mean the *offitium praedicandi legem*. Thus Adam's faith is *fides in Christum impleturum legem* (cf. 39 I, 403, 15-17).

Argument 27²⁰⁹

Against the Response

D. Jonas:²¹⁰ The godless and those who do not accept the gospel are obdurate (2 Cor. [4: 4]). Therefore, the convicting word is not effective in those not accepting the gospel. Therefore, the law is useless and unnecessary.

D. Martin Luther repeats the argument: The law is ineffective with the hard and uninstructed without the gospel. Therefore, the impenitent can be moved by the gospel, not by the law.

Response: The law is for all, but not all feel its power and effect. Nevertheless, the law is to be taught whether people are converted or not. For God instituted the ministry of the law for this purpose: to reveal and manifest sin. Those who are struck by it are struck. We have been commanded to teach that everyone is a transgressor of the law and under sin, and that whoever wants to be freed from sin and fulfill the law should believe in Christ. In summary, God requires the obedience and righteousness of the law from us as from his own creatures. But no one achieves this, because he requires not only external obedience, but also purity of heart, as Christ testifies: Unless your righteousness exceeds that of the scribes and Pharisees you will not enter the kingdom of heaven [Matt. 5: 20]. Therefore, the gospel must be preached: He who believes and is baptized will be saved [Mark 16: 16]. But this does not imply that the law is ineffective.

Here the respondent is asked by the proponent of the argument: What do you say about Paul who, though he was totally immersed in the law, did not know anything about the law, because he says: I was once alive without the law? [Rom. 7: 9].

Response: Before his conversion Paul did not feel the power of the law, he taught the law and yet was ignorant of it. But when he heard: Saul, why are you persecuting me? [Acts 9: 4] he was struck by the law, and would have despaired had he not been raised up again by this voice of Christ: Rise and enter the city [Acts 9: 6]. I do not deny that a person may be led to repentance by the cross or death of Christ.

²⁰⁹39 I, 404, 11-405, 11. The following two arguments (according to the numbering of DHMVW 27 and 28) offer two different accounts of the same discussion. The text of Arg. 28 is missing from G. StA 5, 300-308 prints the *Protokoll* in synoptic fashion (as well as texts T and U of Rel. B) to facilitate comparison of the ductus of the argument and the words used.

²¹⁰A few MSS have the name Justus Jonas as opponent (HW for Arg. 27, RV for Arg. 28).

This and the following argument need to be considered together since they are doublets, the only real difference being that this one is not as detailed. The first *responsio* begins with a statement already made in *argumentum* 3: *Lex omnibus est communis, sed non omnes sentiunt eius vim et effectum, nihilominus sive homines convertantur sive non, tamen docenda est lex* (404, 16-18). The law is one thing and the *vis* or *sensus legis* another, which God effects when and where he wills. Our mandate is simply to preach the law and to leave the rest to God: *qui ea tanguntur, tanguntur*, which Luther repeats in German for emphasis: *wens trifft, den trifft*--for the efficacy of the *ministerium legis* does not depend on its results, but on its divine institution.²¹¹ The law however demands the impossible, *non solum externam obedientiam, sed etiam munditiam cordis*, as Christ himself makes plain in Matt. 5: 20. Therefore, the gospel announces salvation apart from the law, but this does not nullify the law. It simply means that for faith its demand has been fulfilled in Christ (404, 18-405, 3).

The second *responsio* addresses the question of how Paul could be so totally immersed in the law [*qui in media lege*] and yet not be convicted by it. What Paul himself says in Romans 7: 9 about once living *χωρὶς νόμου* is basically what Luther means when he argues that while the law is meant for

²¹¹Note that the ministry of the law has been instituted by God and not by Christ: *In hoc [scil. docenda lex] enim instituit Deus legis ministerium* (404, 18-19). We take the *mandatum* in l. 20 to be a reference to the *ministerium legis* also, even though Christ is mentioned as the fulfiller of the law: *Nobis mandatum est docere, quod omnes homines sunt transgressores legis et sub peccato, et qui velint liberari a peccato et legem implere, ut in Christum credant* (404, 20-22).

all not all feel its power.²¹² Again: *qui ea tanguntur, tanguntur*, but only God is the subject of the *tangere*.

The second *responsio* also answers very succinctly what Luther intended in *argumentum* 20. In a word, that the *vox Christi* heard by Paul at his conversion cannot automatically be equated with the gospel, as the antinomians claim, because it contains both law and gospel. However, he concludes that this does not exclude the fact that a person can also come to repentance *ex cruce seu morte Christi*, as he admitted already in *argumentum* 24 (405, 7-11), because the cross and death of Christ function here as law.²¹³ This is another example of how Luther understands the law functionally; that is to say, the law is first and foremost that which performs the office of the law.

Argument 28²¹⁴

D. Jonas: The ungodly who do not accept the gospel are obdurate²¹⁵ (2 Cor. [4: 3-4]). Therefore, the convicting law is not effective except in those who receive the gospel. Consequently, the law is of absolutely no value to the ungodly without the ministry of the gospel. This is clear from Paul, who, although he had heard the law often enough, having been educated and reared in the law from his youth, as he boasts, and indeed at the feet of Gamaliel, the greatest expert in the law, yet it is of no use, neither was he converted to Christ [Acts 22: 3].

Doctor M. Luther: This argument holds that the law is ineffective with the ungodly without the gospel. Therefore, the law is all together

²¹²Luther takes this up again later; see, 39 I, 483, 9-19 (2 AD, Arg. 25), and 529, 3-530, 3 (3 AD, Arg. 16), 530, 5-17 (3 AD, Arg. 17, left col.).

²¹³StA 306, n. 1581: Rel. B formulates this as a new argument.

²¹⁴39 I, 405, 13-407, 15.

²¹⁵Instead of *obdurati*, StA 5, 300, 3 reads *obscurati* (i.e. their minds have become veiled or darkened).

ineffective in converting people, because it is clear that the ungodly are not at all moved to conversion by the law, as is plain from Korah, Judas, Cain, Absalon, Saul and others.

Response: In first place, the law is for all, but the sensation of the law is not common to all. So too the gospel is for all, for the forgiveness of sins is offered to all, but the understanding of the gospel and faith is not common to all. Nevertheless, the law is to be taught and the gospel is to be taught, even though there are but few who are struck by the law or who either assent to or heed the gospel, for this is the way God has decided to convert people and prepare them for receiving Christ. Meanwhile, it strikes whom it strikes; we can do nothing more. We are ministers, not lords who can teach and move the heart at the same time. Therefore, it has to be said that all people are under sin and eternal death and are to be liberated through Christ alone. Those who believe it, well and good, as for those who do not, let them go, they are ἀπηλγηκότες [Eph. 4: 19], that is, people who are past grieving, as Paul says, who are moved neither by the law nor the gospel. Who can resist? Moreover, God is the Lord who requires obedience from all his creatures. He who obeys, let him obey, he who does not had better look out for himself. However, the law must always resound: Unless your righteousness exceeds etc. [Matt. 5: 20]. For through it God is effective and acts mightily, where and when he wills, and what is it to you if it is ineffective?

Objection: But what do you say to the example of Paul, from which alone it seems that those who spread this opinion about the law die?

Response: Paul knew nothing about Christ before his conversion, thus neither did he know anything about the law, even though he was totally immersed in the law; he used to teach the law, but he was ignorant of it (Rom. 2 [: 19-24]). But when the law begins to sound from heaven: Saul, why are you persecuting me? here for the first time Paul is struck by the law and feels its power and force so that, smitten with fear, he said: Lord, what do you want me to do? Here Christ adds a second word: Therefore, go etc. [Acts 9: 4, 6]. Indeed, a person should be led to repentance on the basis of Christ's cross or passion, but it does not follow that the law is therefore utterly useless, ineffective, and nothing, and is to be totally abolished. Rather, we come to repentance both from a knowledge of the law and from a knowledge of Christ's cross or salvation. The law proceeds wholly and simply, as we usually say, by accusing, condemning, convicting, driving to hell, and it deals with us most severely. But the gospel is not like that. It compels and entices you to repent in a most alluring way by means of a certain art or rhetoric. For besides the forgiveness of sins and eternal life which it offers believers on account of Christ, it also presents Christ as a shepherd, who took us straying sheep up in his arms [Luke 15: 5], and again as the one who

conquered our sin in himself, and who having triumphed over it gloriously, nailed it to the cross. Whether you come to repentance by means of the law or the rhetoric of the gospel, you will be one and the same. Be that as it will, it is of no importance. However, we do not abolish the law itself for this reason, but on the contrary, we establish it; it is not removed but confirmed.

As already noted, *argumentum* 28 offers a fuller account of the previous argument. In both cases the *argumentum* aims at proving the utter uselessness of the law without the gospel. Luther wholeheartedly agrees that the law in and of itself cannot lead to repentance, but he rejects the conclusion that because the law is *inefficax* in converting the *impii* it is therefore useless and unnecessary. We can do no more than faithfully preach the law and the gospel, which God then uses to work repentance where and when he wills: *Nos ministri sumus, no domini, qui docere et simul corda movere possimus* (406, 7-8). Those who reject the judgment of the law and refuse to see themselves as God sees them, sinners under sentence of eternal death, are in grave danger of becoming ἀπηλγηκότες. Although God can be rejected when he works through the law because he is acting mediately, such persistent rejection can result in a hardening which in the end puts one beyond the reach of law and gospel. We however can never make that judgment and so that we can only continue preaching the law to the impenitent (304. 10-16).²¹⁶

In his second *responsio* in this *argumentum* Luther deals with the example of Paul in more detail than in the *argumentum* 27. Even though Paul is steeped in the law and was taught it by the most famous rabbi of his

²¹⁶See 39 I, 368, 5-369, 16 (1 AD, Arg. 3) for our comments on the fact that the law is common to all, but not the *effectus legis*, while on the other hand, the gospel, although meant for everyone, is not common to all, but must be preached and believed.

day, it is unable to convert him to Christ. With the pre-Christian Paul we have the classic case of a man who knows the law and yet does not: *etiam cum totus esset in lege, legem docebat, sed eam ignorabat, ut est ad Romanos 2* (406, 19-21). The reason he does not properly know the law is because he has never before been convicted by it or felt its power. This happens for the first time when he hears the *vox Christi* on the Damascus Road: *Saule, quid me persequeris? hic primum tangitur Paulus lege sentit vim ac potentiam legis*. His immediate reaction is fear, which is consistent with the effect produced by the law. Now Luther distinguishes between law and gospel in the *vox Christi*. He needs to insist vis-à-vis the antinomians that just because it is a word of Christ's does not automatically make it gospel. We have seen this already. Here he says that the first part: *Saule, quid me persequeris?* is law and the second part [*altera vox*]: *Ergo vade* etc. is gospel (406, 21-407, 1).

In the second half of the second *responsio* Luther discusses the fact that we come to repentance *ex cognitione legis et ex cognitione crucis Christi seu salutis* (407, 3-4). The way of the law is harsh and merciless, its works *accusando, damnando, arguendo, detrudendo ad inferos*. On the other hand, the way of the gospel is sweet and gentle, and uses all kinds of ways and means or rhetoric to impel and entice us: *blandissime te compellit ac pellicit te arte quadam seu rhetorica ad agendam poenitentiam* (407, 4-8). As well as giving us *remissio peccatorum*, the gospel projects pictures of Christ, of which Luther mentions two: that of shepherd [*pastor*] who takes in his arms the straying sheep; and that of the conqueror of sin, who triumphs over sin gloriously and nails it to the cross. For Luther the important thing is **that** people come to repentance, not his being able to prove **how**. Hence, he will

use whatever means are at his disposal:²¹⁷ *Sive iam lege sive Evangelii rhetorica veneris ad poenitentiam,*²¹⁸ *unum et idem eris.* As in the case of Luther's first response to this *argumentum* (the idea that the ineffectiveness of the law proves its uselessness), the conclusion here is the same: the law is not removed but confirmed (407, 14-15).

Argument 29²¹⁹

Contra 16

A shadow is not effective. The law is a shadow, as Paul says [Col. 2: 17], a shadow of things to come. Therefore, the law is not effective.

Response: Paul in calling the law a shadow is especially speaking about ceremonial and judicial matters. But here we are dealing with the moral law or Decalogue, which accuses and condemns our whole nature. Therefore, it is called a hammer that smashes rocks [Jer. 23: 29], as we say in our theses,²²⁰ something that these ceremonial and judicial laws do not do.

This is the last of three arguments which attempt to prove that the law is not effective. Luther in his brief response makes the crucial distinction between *leges caeremoniales et iudiciales*, on the one hand, and the *lex moralis seu decalogus*, on the other.²²¹ The former are what Paul describes with *umbra* for they belong to the old covenant, which was temporary and

²¹⁷Cf. 39 I, 401, 12-15 (1 AD, Arg. 24): *Sic nos* [like the sons of Korah], *quibus artibus possumus, exhortamur homines ad poenitentiam, id est, ut sentiant vim legis. Idem facit hoc loco* [scil. Rom. 2: 4] *Paulus, quasi dicat: Deus per verbum suum omnibus modis exhortatur te, ut cesses a peccando et audias eius promissionem.*

²¹⁸The WA text has a spelling mistake: *poenitentiam* (407, 12/13).

²¹⁹39 I, 407, 18-408, 2.

²²⁰39 I, 346 (ATh I, Th. 16).

²²¹See also our analysis of 2 AD, Arg. 22.

adumbrated the new. The ceremonial and judicial law of the old covenant is a shadow of, that is, foreshadows, the new covenant and serves a governmental function. Therefore, the cultic and judicial law is transient, it points ahead to Christ, so that when he comes, it has served its purpose and disappears. The Decalogue, on the other hand, is not limited but universal, not transient but permanent, for it is written on the hearts of all people. Furthermore, according to Luther's definition, the *decalogus*, in comparison with the *caeremonialia et iudicialia*, is a true law, for by its very nature is a *lex accusans et damnans*, which destroys the sinful nature. Hence, Luther also calls it *amalleus conterens petras* (Jeremiah 23: 29).²²²

Argument 30²²³

Against the Scope of the Disputation

The church does not err. The church defines repentance as confession, contrition, and satisfaction. Therefore, your thesis²²⁴ is untenable.

Response: This is another one of the abominable and horrible things in the kingdom of the pope, that they have confused public or ecclesiastical repentance with evangelical repentance. The latter is what the law teaches and effects whenever it smites and stabs our heart, and is common to all people who are converted to Christ. But that other ecclesiastical repentance is rather a kind of spectacle and solemn ritual and for a long time already has gone by the board. Moreover, it was of such a kind that anyone convicted of any really serious crime was forced to repent before the whole church. Now although we have no doubt that this was originally introduced with good intentions for specific reasons, the fact is that later on profane and uninstructed men taught it

²²²See 39 I, 429, 5-7 (2 AD, Arg. 2) where Luther cites this passage again to show to emphasise that God uses the hammer of his law to smash stubborn hearts (rocks) and to humble the proud that he may have mercy on them.

²²³39 I, 408, 5-409, 24.

²²⁴*propositio*: "thesis" or "definition."

in a most godless way with injury to Christ, especially since even St. Ambrose writes that it ought to be abolished, and again that it is enough for it to be done once in a lifetime.

Therefore, it is a most serious abuse and an act of godlessness on the part of the monks who, in order to introduce this repentance, taught most shamelessly that we have to make satisfaction for all our sins before God, just as we have to for this or that crime here in the sight of the church. From then on innumerable satisfactions were performed, and the cult of the saints and masses for saints flourished in great number; there were also pilgrimages to the Holy Land and to St. James. Granted, these things had a good beginning, namely, as a terror to the headstrong and hardhearted, and those who were to be readmitted were examined to see if they had truly repented or not. And admittedly, it was good and salutary for those who repented in this way before the whole church and who were thus absolved, because they had the sure testimony of the whole church that they had truly been received back into the church of Christ. But it was a most godless thing to do when our papists, not content with this practice, taught we also have to make satisfaction before God, and yet we are bound to be uncertain as to when God has been satisfied. In the end they rather consigned people to purgatory, but I do not know how they moved us poor wretches from there into fools paradise. Thus, there was nothing certain for miserable consciences, and no greater torture could be devised. This you should know and remember. For their ignorance was so great that even after they had been absolved by the church they were sent to purgatory to make satisfaction for their sins.

All repentances of this kind have now been abolished. Look out that you are not deceived if they ever come back. For this reason teach people carefully the distinction between ecclesiastical and evangelical repentance. For the latter continues throughout the whole of life and does not make satisfaction for sins, but grasps Christ's satisfaction by faith, and constantly fights against the concupiscence of the flesh, of sin etc. Their repentance, on the other hand, is overflowing with errors and blasphemies against Christ, and is all myth, yet we believed it, and revered it as holy. These satisfactions, admittedly, had a good beginning, but how much damage did they do the church by saying no one can ever do them. For from this, as from a fountain, flowed all and indeed the most ungodly errors.

In this *argumentum* the opponents seek to overthrow Luther's definition of repentance as stated in his first thesis²²⁵ with the papal definition: *Ecclesia definit poenitentiam esse confessionem, contritionem et satisfactionem*. The assumption behind the argument is: *Ecclesia non errat*. The argument as such does not attempt to promote any antinomian doctrine, nor do the opponents, one should think, in practice really agree with the Roman definition of penance, for they themselves are evangelicals and claim to be staunch followers of Luther. It seems rather that their purpose is to adduce yet another argument to demonstrate the untenability of Luther's definition of repentance, this time by showing that it stands in conflict with that of the Roman Church. However, Luther was at odds with the church of Rome on many counts, and secondly, the antinomians are being highly arbitrary,²²⁶ for they only cite the church as an authority where it suits them. Luther, on the other hand, holds that the church can and has erred, and that not the church but scripture alone is the final authority in all matters of doctrine.²²⁷

Luther begins his *responsio* by making the important distinction between *publica seu ecclesiastica poenitentia*, on the one hand, and *evangelica*

²²⁵39 I, 345 (ATh I, Th. 1): *Poenitentia omnium testimonio et vero est dolor de peccato cum adiuncto proposito melioris vitae*.

²²⁶We can only assume that the *argumentum* represents a position actually held by the antinomians, and is not simply an unrelated syllogism given out for the purpose of academic debate.

²²⁷This is argued most persuasively in the great treatise he prepared in readiness for a general council WA 50, 507ff (Von den Konziliis und Kirchen, 1539).

poenitentia, on the other (9408, 8-9). At the time of the disputation the former had already been abolished or reformed. Luther however warns his students against it in case that such a flagrant error, abuse, and blasphemy should ever creep back into the church (409, 15-24). As is well known, the chief error was connected with the Roman doctrine of *satisfactio*, which was Pelagian to the core, because it assumed that human beings could merit favor *coram Deo*, or pay off debt, by means of satisfactions imposed by the church. The basis for this goes back to the monkish idea: *quod oporteat a nobis satisfieri pro omnibus peccatis coram Deo, quemadmodum hic in conspectu Ecclesiae pro hoc aut illo flagitio* (408, 19-21). The former gave rise to *infinite satisfactiones et cumulati cultus sanctorum et missarum*, along with *peregrinationes ad terram sanctam et divum Iacobum* (408, 21-409, 1). The latter resulted in *confessiones coram hominibus* (the congregation) which were so horrific that Ambrose recommended that such confession only be made once in a lifetime, and then as close to one's death as possible.²²⁸ Originally, Luther concedes, this public confession had a *bonum propositum*, especially where grievous sin had been committed, for who had repented in this way before the whole church and had been absolved had *certum testimonium totius Ecclesiae, se vere ad Ecclesiam Christi receptum esse*. However, this ended up as abuse and blasphemy because Christ's substitutionary death was forgotten and human satisfactions put in its place.²²⁹ It

²²⁸Ambrosius, *De poenitentia* 2, 10, 95; MPL 16, 520=CSEL 73, 200. See StA 5, 310 n. 1691.

²²⁹Whenever people are misled into thinking that they can please God by means of their own pious works they immediately fall into trap of not knowing how much they need to do. This uncertainty is always characteristic

showed how deeply the church was mired in the law and bereft of the gospel when those who had been absolved were still sent to purgatory to make satisfaction for remaining sins. Luther is bemused by how the church ever ended up getting such people out of purgatory *ins Schlauraffenlandt* (409, 4-10). Evangelical repentance, on the other hand, is not once in a lifetime but lifelong, it cannot be separated from faith, and it constantly fights against the sin in the flesh.²³⁰

Argument 31²³¹

Against the Response

The contrition of Peter and Judas are different. Judas's contrition is only anger, error, and despair, but Peter's is not like that. Therefore, it is necessary for Peter's contrition to have some other source than the law.

Response: This is what we have said above. The law and the prophets are until John [Matth. 11: 13]. This is long enough for it and it ought not be endured any longer. But sometimes that demand, exaction, and power of the law becomes so great, and is so sharp and acute that unless the gospel came to our aid people would perish. Indeed, it is the nature of the law to accuse, expose, terrify and condemn sins, to lead us to hell, and to throw us into the teeth of death. But we do not permit it to lead us to despair and kill us completely, as it did Judas, Cain, Saul, and others, for it ought to be a pedagogue and driver not to hell, but to Christ, as Paul says [Gal. 3: 24]. Therefore, if the law shows itself outside these limits, have nothing to do with it, and watch out! I myself will help stone Moses with the law. Hence, the law must be opposed²³² if it

of life under the law which want to know how much is enough. See 409, 6-9: *Sed tamen fuit impiissimum, quod nostri papistae non contenti hoc usu docuerunt, quod nos oporteat etiam satisfacere coram Deo, et tamen nos debere incertos esse, quando Deo satisfactum esset.* The answer to this uncertainty for the papists was purgatory: *tandem monstrabant magis in purgatorium.* Cf. 39 I, 395, 8-10, 12-15; 396, 4-5, 13-16, 18-21 (1 AD, Arg. 21).

²³⁰See 409, 16-18: *Haec [scil. poenitentia evangelica] enim durat per omnem vitam et non satisfacit pro peccatis, sed arripit fide satisfactionem Christi et pugnat perpetuo cum concupiscentia carnis peccati etc.*

²³¹39 I, 409, 27-411, 21.

advances any further: Now be off with you, don't you remember anything? Until John! That is, it is enough that you are allowed to demand and exact, but do not condemn or remove Christ. For you alone do not belong to us, but also Christ himself, for he says: I indeed want your sin to be revealed to you, but by the same token, once it has been revealed through the law, neither do I want you to die. Let this be my will, and you, law, may accuse. But yet I delight more in life than in death [cf. Ezek. 33: 11]. Hence, these are also the sweetest words in the gospel: Be of good cheer, I have overcome the world [John 16: 33].

Therefore, these two things should not be separated from each other for long, as the papists did, but they are to accompany each other. Otherwise, what happened to the papists will happen to us: when they taught only the law--in fact it was not even the law, but merely human decrees--people fell into constant despair, and we used to lament, as David says: I will moisten my bed with tears [Ps. 6: 7]. And it could not have been any different, because no one ever spoke to us about faith in Christ: I do not wish the death of the sinner etc. [Ezek. 33: 11]; again: Christ came into this world to save sinners, of which I am the chief etc. [1 Tim. 1: 15]. For Peter was as much saddened and struck by the law as Judas, and his repentance was the same. But this was of benefit to Peter because it is written: The Lord looked back at him [Luke 22: 61]. And, when you are converted, comfort your brothers [Luke 22: 32]. That is the point. In this regard Peter surpassed Judas. Because if this had not happened, he would have died there and then like Judas. The Lord desires that we repent. But if we remain in our sins, he will suddenly come upon the ungodly and will kill and overthrow them, as he did Sodom and Gemorrah, which he utterly blotted out and destroyed. But humble yourself and acknowledge that you are a sinner, and God will also forgive you [1 John 1: 9], so that you too will hear these words: I do not desire the death of the sinner.

However, because the law strikes and terrifies some more than others, even though all are offered comfort and salvation equally, Christ came to save sinners [1 Tim. 1: 15]. Also [the Lord says]: I do not desire the death of the sinner, but even this one believes strongly, another weakly. And as each of these believes, so he triumphs over sin. Anger, hatred, pride, dissipation are not those great sins, which besiege especially the saints. Rather, the sins that assail the saints are the sins of Judas, the sins of despair, presumption, hatred or anger toward God, and other similar things. But in these also we should run to Christ by faith, so that at any time we can say: Thanks be to God who have given us the victory through our Lord Jesus Christ [1 Cor. 15: 57], and can say together

²³²Reading suggested emandation *occurrendum* for *occinendum*, see 39 I, 410, 11.

with Christ: I have overcome the world [John 16: 33], but only in Christ, the victor.

Luther is in fundamental agreement with the both premises but rejects the conclusion. Both Luther and the opponents agree that the *contritio* of Peter and of Judas is different, but the antinomians conclude from this that the *contritio* of Peter must have had its source in the gospel, whereas that of Judas was based on the law. For Luther the explanation for the difference lies not in an either-or but a both-and. The law is the starting point for repentance, that notwithstanding the fact that sometimes the gospel can exercise the office of the law in leading a person to repentance, as he showed in arguments 24 and 28. But the law itself cannot produce repentance, only contrition (the first part of repentance). So the difference between Judas's *contritio* and Peter's *poenitentia* is the gospel. Without the gospel there can be no true repentance only despair, and as we will see later in the later disputations, despair in God and not in oneself: *Legis quidem est accusare, arguere, perterrefacere, damnare peccata, deducere ad inferos ac morti obiicere*. In the case of Cain and Saul and others like them, the law is indeed a *paedagogus et exactor, non in infernum, sed in Christum* (410, 4-8). If left to its own devices the law will drive you straight to hell, and if the gospel is not close at hand to rescue you, that is precisely where you will stay. That is why Luther warns that these two must not be kept apart for long: *Itaque non debent haec duo longe inter se separari, ut fecerunt papistae, sed se invicem comitari* (410, 18-19). This, as we will see in chapter 4, has important implications for the preaching of the law. In a word, Luther says that law and gospel must always be distinguished but at the same time they must not be kept apart for too long.

The Lord has set limits to his law, that is, it is to be a *paedagogus et exactor in Christum*. When however the law is allowed to kick over the traces and become a law unto itself, Luther's advice is: *valeat et caveat sibi*, for then the law must be warned off and put in its place:²³³ *Apage, sis, numquid meministi? usque ad Ioannem, hoc est, sufficit tibi, quod requirere liceat, quod exigere*; at the same time Luther can even plead with the law: *noli quaeso damnare aut Christum auferre*. For the law is not the only one to have a vested interest in the Christian: *nam tu [scil. lex!] non sola ad nos pertinet*; Christ himself does too, as he says: *Volo quidem ut tibi ostendatur peccatum, sed ostenso iam per legem peccato volo etiam, ne moriaris* (410, 8-16). Luther's interpretation of Matthew 11: 13 is illuminating in this regard. John in his office as the one who prepares for and points to Christ is at the same time, in Luther's mind, synonymous with the end of the law (cf. Rom. 10: 4): The law and the prophets (who point to the law's fulfillment in Christ) run until John; then comes the Christ. Luther's interpretation of the Baptist here is not allegorical but theological. He sees John and Christ as representing two eras, one the law, the other the gospel. Behind this lies his whole understanding of the relationship between the two testaments, which cannot be discussed here. The point he wants to stress however is that when Christ comes, the law in its office as *lex arguetrix et accusatrix* must yield. How the law operates under Christ for faith is a different story, and must await a later discussion.

²³³Cf. also Luther's defiant resolve to join in stoning Moses if he goes beyond his limits: *Ich wolt selbst den Moysen helfen steinigen mit dem gesetzte* (410, 10). See 39 I, 366, 1-368, 2 (1 AD, Arg. 2) for a discussion of what it means that "the law and the prophets are until John" (410, 1-2).

The way that the law and the gospel are meant to work together is superbly illustrated in the conversion of Peter in comparison with Judas: *Petrus enim tam contristatus est et tactus lege, quam Iudas, et fuit eadem poenitentia*. The decisive difference is the gospel, and Luther takes the *respexit eum dominus* (411, 4) as being tantamount to absolution. It is precisely because he knows the grave danger posed by the law if it is not followed without delay by the gospel that he says that the sins that most assail the saints are not the sins of the Second Table, serious as they are, but those of the First, the sins of Judas: *desperatio, praesumptio, odium aut ira adversus Deum et alia similia* (411, 15-18). Such sins can only be overcome *in Christo victore* (411, 21).

From this discussion it is already clear that the law will not reach its divinely intended goal if it is not superceded by the gospel.²³⁴ The antinomians have no understanding of how law and gospel each has its own *proprium* and that the Lord uses each in its own way to bring about repentance. Hence, Luther rejects the antinomian *conclusio* that Peter's *contrito* has its source, not in the law, but in the gospel alone.

Argument 32²³⁵

Contra 4

Mortification comes about through the knowledge of Christ and through the Holy Spirit. Contrition is mortification. Therefore, contrition does not come about through the law.

Response: The mortification before faith is contrition. But this comes about through the law because the law kills. The power of sin is

²³⁴Cf. 410, 19 *se invicem comitari* (cited above). This will become even clearer in later arguments when Luther discusses this at greater length; see 39 I, 441, 2-443, 4 (2 AD, Arg. 6); 445, 5-446, 5 (2 AD, Arg. 8).

²³⁵39 I, 411, 24-412, 8.

the law [1 Cor. 15: 56], which always accuses and mortifies us . Mortification in the justified however is not contrition, if indeed I have been liberated from the law [Rom. 7: 6; 8: 2], as Paul says: he [Christ] redeemed us from the curse of the law [Gal. 3: 13]. But the law remains as well as mortification because our flesh is always rebellious. Therefore, the Holy Spirit or faith always impresses the law on his flesh that it may give over, lest sin be allowed to rule [Rom. 6: 12] or do as it pleases. But this mortification is bearable and is a mark of the justified.

The *argumentum* equates *contritio* and *mortificatio*. Luther in his *responsio* makes a distinction between the *mortificatio ante fidem* and the *mortificatio in iustificatis* (412, 1-3). Hence, it is incorrect to say that the former proceeds *per agnitionem Christ et per Spiritum sanctum*. This is true only of the saints who are eager for the Spirit or faith to apply the law to the flesh in order to keep it in submission²³⁶ *ne patiatu regnare peccatum, ne quod velit peragat* (412, 6-7).²³⁷ On the other hand, mortification in the ungodly proceeds only by way of the law, which always accuses and kills.²³⁸

²³⁶Notice Luther's formulation in his description of how the Spirit or faith uses the law in the Christian's life: *Itaque Spiritus sanctus seu fides semper inculcat legem suae carni ut cesset, ne patiatu . . .* (412, 6-7); cf 39 I, 394, 17-18 (1 AD, Arg. 21): *Ibi [scil. in terroribus piorum] pugnat fides contra diffidentiam et desperationem, item contra libidinem, iram, superbiam, vindictam etc.* Note that here too in this citation, as we saw in the previous argument, Luther sees the sins of the First Table as constituting the greatest battle to be waged in the saints. It is also worth noting that he says that faith applies the law to the flesh to restrain it, not to the conscience to train it. While we would not want to press this to the point of creating a false antithesis, nevertheless, the formulation does reflect the chief way in which Luther views the role of the law in sanctification. This will be discussed further in ch. 4.

²³⁷Since the Christian is under grace (Rom. 6: 14) and led by the Spirit (Gal. 4: 18), sin (or the flesh) must be subjugated by the law so that it is no longer *peccatum regnans*, but merely *peccatum regnatu*.

It may at first seem as if Luther contradicts himself because he starts out by saying that *mortificatio ante fidem est contritio* (412, 1), which is a refutation of the antinomian equation *contritio est mortificatio* (411, 24-25), and then finishes up saying that it is bearable for, and is a mark of, the justified: *Sed haec mortificatio est tolerabilis et iustificatoris* (412, 7-8). However, this is no contradiction at all once we remember that the Christian is still burdened with the $\sigma\acute{\alpha}\rho\kappa\acute{\iota}$ and hence needs the law to kill the flesh and keep sin in check; in other words, to keep the Christian in lifelong repentance. Moreover, Luther refuses to use the term *contritio* to describe the *mortificatio* of the Christian since for him *contritio* is nothing more than *dolor de peccato*, whereas the Christian is *iustificatus per fidem* and hence able to bear the mortification imposed by the law. Thus, he says: *Sed haec mortificatio est tolerabilis et iustificatoris* (412, 7-8).²³⁹

The law is only impossible and intolerable when it is unfulfilled as the *lex implenda*, for then it is the *lex accusans et condemnans*. But since we have Christ's own fulfillment as a gift through faith, the law is no longer burdensome, although naturally it is still that for the flesh for which it remains the *lex implenda*.²⁴⁰ However, even when the law does come with

²³⁸Luther also speaks of *lex [semper] accusat in credentes qua sinners*; see 39 I, 367, 11-13 (1 AD, Arg. 2): *Impiis tamen manet lex requirens et pios quidem etiam accusat et terret, sed non potest in desperationem adigere et damnare*; see note to our discussion of Argument 2 for further parallels.

²³⁹Cf. 39 I, 374, 14-16 (1 AD, Arg. 7): *Sic legis exactio est illis, qui extra Christum sunt, tristis, odiosa, impossibilis. Econtra iis, qui sub Christo sunt, incipit fieri iucunda, possibilis in primitiis, tamen non decimis*.

²⁴⁰See the discussion on the *iugum Christi* in 39 I, 380, 14-381, 10 (1 AD, Arg. 13); note esp. 381, 9-10: *Ideo lex manet, sed onus seu iugum eius non*

its demands on account of the flesh, it is no longer unbearable because for the justified the gospel should always accompany the law [*se invicem comitari*] and point the Christian away from the law's demand to the Christ as the law's fulfiller.²⁴¹

Argument 33²⁴²
Contra 24

Where there is sin there is also law. In the church of the Lord there is no sin. Therefore, in the church of God there is no law.

Proof of minor premise: Eph. 5 [: 26-27]: Cleansing her by the washing of water in the word of life, that he might present her to himself as a glorious church, without wrinkle or blemish.

Response: This text will be fulfilled in the future life, just as all other statements about holiness and righteousness. Now we see in a mirror dimly, but then face to face [1 Cor. 13: 12]. Here we are deemed righteous on account of Christ, but there we will really be pure and righteous, shining like the sun [Matt. 13: 43]. We who live here are not without sin. Otherwise, why do we pray: Forgive us our debts etc. [Matt. 6: 12]. Likewise, I believe the forgiveness of sins.

The minor premise: *In Ecclesia Domini non est peccatum* (412, 11-12), points to an unbiblical ecclesiology and indeed anthropology, as will become clear in Luther's *Praefatio* to the Third Disputation. Here, the assertion that the church is without sin is used to argue, syllogistically, that the church is

premit cervices eorum, quibus Christi onus impositum est, quod suave et leve est.

²⁴¹Cf. 39 I, 392, 11-13 (1 AD, Arg. 18): *Sed propter Christum legis impletorem credentes non adiguntur in desperationem accusatione et terrore legis, sed verbo ipsius rursus eriguntur.* For a full discussion of what Luther means by the *mitigatio legis*, see our analysis of 39 I, 474, 8-475, 6 (2 AD, Arg. 21) as well as ch. 4. Luther's counsel in the previous *argumentum* applies: Law and gospel must not be separated too long in preaching to the *credentes*, but must be applied alternately [*se invicem comitari*], for it is the gospel that makes the law bearable.

²⁴²39 I, 412, 11-413, 2.

also without the law, based on the assumption (for which no proof is offered) that where there is no sin there is also no law. However, Paul's way of arguing (in relation to the 430 years between the promise to Abraham and the law given to Moses) is rather to say that sin is not counted (in the sense of being booked to one's account) where there is no law (Rom. 5: 13). Paul never makes the general statement that the church is without the law; rather, he always distinguishes carefully between law and gospel in their application to the baptized as *simul iusti et peccatores*. The Ephesians 5 passage with its baptismal allusion [*Mundans eam (scil. ecclesiam) lavacro aquae in verbo vitae*] is adduced by the antinomians as a proof of the minor premise. However, this evinces a false understanding of justification which is connected with a defective anthropology and eschatology, for it refuses to confess the *simul* which for Luther is an unfailing mark of the life of the baptized this side of heaven, for Christians are always *simul iusti, per fidem*, and *simul peccatores, in quantum peccati*. When Luther says of Paul's statement in Ephesians 5: *Hic textus implebitur in futura vita* (412, 17), he stresses the eschatological fulfillment in order to counter its absence in the exegesis of the antinomians. However, we hardly need to prove that Luther also knows the already-now but not-yet of faith, which can claim this text for itself (and the church) here and now, ἐν Χριστῷ, without thereby denying that Christians, insofar as they still have the flesh, are also still awaiting their final cleansing at the resurrection, after which the church truly will be without wrinkle or blemish, no longer just *per fidem*, but then also *substantialiter*.

What Luther says about the Ephesians text also applies to *omnes aliae sententiae de sanctitate, iustitia etc.*. Here we are deemed [*reputare*] righteous

propter Christum, but there we will be *mundi et iusti*, no longer *per fidem* or *in spe*, but *realiter* (412, 17-20). In this life we can never be more than *simul iusti et peccatores*,²⁴³ but there we will be purely *iusti* because we will be *sine peccato*.

Luther concludes by pointing the antinomians to two phrases in the liturgy which ought to be a constant reminder that in this we, and hence the church, are still sinners and in need of forgiveness: First, the Lord's Prayer (5th Pet.): *Dimitte nobis debita etc.*, and secondly, the *Apostolicum* (3d Art.): *Credo remissionem peccatorum* (413, 1-2).

Argument 34²⁴⁴

The law of circumcision is superior to the Decalogue. But circumcision has been abrogated. Therefore, the Decalogue has been abrogated even more.

Proof of major premise: The law of circumcision has the promise concerning the seed [Genesis 17].

Response: Circumcision is not better or greater than the Decalogue just because it had the promise concerning the seed, since the Jews also

²⁴³Luther views the church in this same *duplex* way; see the long Preface to the Third Antinomian Disputations, 39 I, 489-496 passim; see also 351, 17-20 (ATh, III, Th. 25-26); 514, 13-20 (3 AD, Arg. 6); 544, 3-4 (3 AD, Arg. 22); cf. also 165, 10-18 (CMP, Arg. 16); 145, 9-147, 15 (CMP, Arg. 3):

Non debetis imaginari, Ecclesiam veram ita esse sanctam et piam, ut sit absque macula et nulla peccata et errores habeat. Da wirdt hie [= auf Erden] nicht auß. Sed Ecclesia, quae erravit, est excusanda per remissionem peccatorum. Claves enim absolutionis sunt datae Ecclesiae. Si peccavit, remissa sunt ei peccata. Connivet Christus in istos errores tanquam pater filio. Sic videmus Ecclesiam Iudaeorum (cui nostra non est aequalis) fuisse contaminatam vitiis. . . Ideo petimus in oratione dominica: Dimitte nobis debita nostra. Sancti non sunt omnino puri, sed incipiunt. Haec purgatio est initium novae creaturae, sed nondum plenitudo.

On the related term *partim sanctus, partim peccator* (542, 18-19), see our discussion of 3 AD, Arg. 21.

²⁴⁴39 I, 413, 4-20.

had many prerogatives, as Paul says [Rom. 3: 1-2]: to them belong the sonship, the glory, the testament, the giving of the law, the cultus and the promise; to them belong the patriarchs from whom is the Christ according to the flesh [Rom. 9: 4-5]. But then does this not make them better off than the Gentiles, as Paul argues in Romans: Are we superior? By no means! [Rom. 3: 9]. Even the most wicked have for the most part a great many gifts and prosper. The Decalogue however is greater and more excellent because it is inscribed in the hearts and minds of all and will remain with us also in the future life. But that is not the case with circumcision, nor will baptism remain. Only the Decalogue is eternal, as a reality, of course, not as a law, for the very thing that is demanded here will be present in the future life. Finally, the Decalogue is also nobler because it drew Christ from heaven. For unless there had been a Decalogue accusing and condemning us, what reason would Christ have had to descend?

Luther appeals to Paul to refute the *argumentum* that circumcision is greater than the Decalogue on account of the promise of the seed. On the basis of Romans 3: 1-2 and 9: 4-5, which Luther conflates, he cites the *multae praerogativae* of the Jews and then notes that Paul concludes that this in no way gives them any advantage over the Gentiles: *Num quid praecellimus? nequaquam* (Rom. 3: 9: Τί οὖν; προεχόμεθα; οὐ πάντως). Paul goes on to say that both Jews and Greeks are equal ὑφ' ἁμαρτίαν (3: 10). Luther, on the other hand, remarks: *Et pessimi quique homines plerumque habent maxima dona et abundant.*

Luther then introduces the first (and, in our opinion, the chief) reason for the superiority [*maior et praestantior*] of the Decalogue over circumcision: *quia est insculptus omnium cordibus et mentibus et nobiscum manebit etiam in futura vita* (413, 14-16). Here the *decalogus* is equated with the *lex insculpta*, which in turn is the same as the *lex naturae*. Already in *argumentum* 25 Luther maintained that the patriarchs also knew the law, not the law of Moses, but the *lex naturae insculpta cordi*, whose content is the

same as that of the Decalogue.²⁴⁵ This natural law goes back to the very beginning, and so predates the law revealed from heaven at Sinai, which only came 430 years after Abraham.²⁴⁶ Furthermore, circumcision is a purely temporal and temporary phenomenon which had its specific time and people and now is finished. On the other hand, Luther asserts the universality and eternity of the Decalogue, at least in terms of content [*res*]. For as he has already said (arg. 7): *Decalogus vero haeret adhuc in conscientia*, so that even if God had never promulgated the law through Moses, human beings would still have a natural knowledge of the divine will summed up in the command to worship him and love the neighbor.²⁴⁷ Again, Luther says that unlike circumcision or even baptism, *solus decalogus est aeternus*, but he adds an important qualification: *ut res scilicet, non ut lex, quia in futura vita erit id ipsum, quod hic exigebat* (413, 16-18). The law is eternal,²⁴⁸ yet not as

²⁴⁵See above, on the difference between the law of Moses and the Decalogue, see 39 I, 478, 16-18 (2 AD, Arg. 25). For a fuller discussion of the *lex insculpta* and its relation to the Decalogue, see our comments on 454, 4-16 (2 AD, Arg. 13).

²⁴⁶39 I, 402, 12-17 (1 AD, Arg. 25).

²⁴⁷39 I, 374, 1-5 (1 AD, Arg. 7).

²⁴⁸Luther, as far as we can see, does not use the scholastic term *lex aeterna* in the disputations, even though he can say that the *decalogus est aeternus*. He is a long way removed from the "realistic" position of understanding the *lex naturae* as possibly having independent objective existence and finding its ontological basis in the eternal and unchangeable world-law of divine reason (= *lex aeterna*). Schloemann, *Natürliches und gepredigtes Gesetz bei Luther*, 52 n. 186, makes the important point that in this whole problem we should never lose sight of the fact that in Luther, the scholastic usage, according to which "*lex*" can be used to express the total context of God's being and action, still suggested itself, but was more and

lex, but only as *res*,²⁴⁹ that is, not as *lex accusans*, for in this life (as we have seen) *lex semper accusat*, but there it will no longer accuse because it will have what it demands, even as faith already now has that in the *lex impleta*. To put it in terms that Luther will use more often in the other disputations, the law *in futura vita* is not the demanding *lex exigens* or the *lex implenda*, which Christians still encounter here on account of the remnant of sin in their flesh, but the *lex impleta* whose demands have been satisfied by Christ and even now given to faith.²⁵⁰

The second reason that the Decalogue is *nobilior* than circumcision is *quia traxit Christum de coelo*, for without the *decalogus accusans et damnans* there would have been no need for Christ's *descensus* (413, 18-19). Luther is not here trying to show the "necessity" of *cur Deus homo* in Anselmic fashion, for he knows with Paul that our redemption was decided before the foundation of the world. Rather, his argument is rhetorical. In searching for ways to emphasize the superiority of the Decalogue Luther simply looks at the law in the light of God's plan of salvation and says, as it were: *o felix lex*, for it is ultimately Christ who makes the law a means of blessing.

more overcome. The problem of the *lex aeterna* will be taken up again in ch. 4.

²⁴⁹Cf. 413, 26-27 (B): *Tunc erit [scil. decalogus] in esse, quod iam requiritur.*

²⁵⁰See, e. g., 39 I, 350, 1-4 (ATh, II): 46. *Ita post Christum in futura vita manebit impleta facta tunc ipsa, quod interim exigit, creatura nova.* 47. *Quare lex nunquam in aeternum tollitur, sed manebit vel implenda in damnatis, vel impleta in beatis.*

Argument 35²⁵¹

D. Cordatus: Only that should be taught which Christ commanded to be preached in his name when he departed. However, he commanded repentance to be preached in his name [Luke 24: 47] not in the name of Moses or of the law. Therefore, repentance should be taught from the gospel, not from the law.

D. Martin Luther: So [you say] repentance is to be preached in the name of Jesus etc. Therefore, not from the law.

Response: That is not the conclusion. First, because Christ himself preached the law. For although he had come to fulfill the law, not abolish it [Matt. 5: 17], he still showed what the law requires, in order that his gifts may be committed to us all the more, as we have said above. Secondly, repentance includes both law and gospel, for St. Paul wants this repentance to be preached in the whole world in order that the whole world may be held accountable to God [Rom. 3: 19]. But after it has convicted all people concerning sin, righteousness, and judgment [John 16: 8], and shown that all these people have been locked up under sin [Gal. 3: 22], then finally it will reveal him who says: Come to me all you who have been burdened and I will refresh you [Matt. 11: 28]. Look, I am coming and giving it to you. This is what it means truly to preach repentance and the forgiveness of sins in the name of Christ, namely, [to announce] that all are sinners, and secondly, that they are to be justified freely through the blood of Jesus Christ (Rom. 3 [: 24-26]). Here both are taught in the name of Christ, and these two parts, indeed necessary parts, will remain in the church. If it is not taught in this way, people will think that they are righteous, and will not seek Christ, and thus will be condemned. Therefore, also the Holy Spirit is sent, and where he takes full possession of people, they immediately begin to recognize more and more their sins, and they begin to recognize also the blessings that we receive freely through Christ. This is why the same Holy Spirit convicts the world concerning sin, righteousness, etc.

This *argumentum*, brought forward by Cordatus, who as we saw in the previous chapter was sympathetic to Agricola, is essentially a variation on the theme of *argumentum* 19.²⁵² He contends that *poenitentiam tantum ex*

²⁵¹39 I, 414, 2-415, 6.

²⁵²39 I, 392 (1 AD, Arg. 19): *Quicquid Christus praecepit suis apostolis, idem omnibus successoribus praecepit. Christus praecepit apostolis, in nomine suo praedicare poenitentiam, ergo non per legem est agnitio*

Evangelio docenda est, non ex lege (414, 4-5). In his response Luther emphasizes that Christ's mission has two parts to it. His main purpose was the *adimplere legem* (with the implication that he came *non solvere legem*). However, before we are ready to receive his *beneficia* he needs to show us *quid lex requirat* (414, 8-11).²⁵³ Secondly, repentance is based on the preaching of both law and gospel. That means first of all preaching that *omnes homines conclusos esse sub peccatum*, and then pointing them to Christ as the one who offers refreshment particularly to those who have been burdened by the law (414, 11-17).²⁵⁴

Luther also finds these two parts of Christ's mission expressed in the mandate, given to his disciples in Luke 24: 47, to preach repentance and forgiveness of sins. Since the two parts of his mission correspond to law and gospel, the law being his *opus alienum*, the gospel his *opus proprium*, it follows that for Luther, preaching repentance here means preaching the law, while the proclamation of the gospel corresponds to the announcement and bestowal of forgiveness. However, this clearly is contrary to antinomian exegesis, according to which *in nomine suo* is to be taken in apposition with *praedicari poenitentiam*, leading to the conclusion: *Ergo poenitentiam tantum ex Evangelio docenda est, non ex lege* (414, 4-5). Furthermore, Luther holds that each part of the divine mandate, repentance and forgiveness of

peccati, sed per Evangelium. Igitur lex est tollenda. Virtually the same argument is proposed in 565, 13-15 (3 AD, Arg. 32/5).

²⁵³414, 9-10: *Etsi enim venisset, ut adimpleret legem, non ut solveret, tamen interim ostendit, quid lex requirat, ut sua beneficia eo magis nobis commendentur, ut dictum est supra.*

²⁵⁴Cf. 39 I, 407, 3-4 (1 AD, Arg. 28): We come to repentance both *ex cognitione legis* and *ex cognitione crucis Christi seu salutis*.

sins, is to be taught *in nomine Christi* (414, 20).²⁵⁵ He finds this interpretation to be consistent with Pauline theology and thus concludes that this is what it really means to preach repentance and forgiveness of sins *in nomine Christi*, namely, *quod omnes sint peccatores, et deinde, quod iustificandi sint gratis per sanguinem Iesu Christi* (414, 17-19).

It is clear from Luther's exegesis of Luke 24: 47 that he is not taking *poenitentia* there in the strict sense of *dolor de peccato* and *bonum propositum*, as he himself defines it in his first *Thesenreihe*, but rather in the broader sense of *dolor* or *contritio*, unaccompanied by faith, and hence produced only *ex lege*. Nevertheless, how one defines repentance is not the decisive issue, as long as it is clear whether one is defining it *stricte* or *late*. In either case it constitutes a denial of the antinomian claim that repentance is to be taught only *ex evangelio* and not *ex lege*, for even when it arises from the preaching of the gospel, it is not strictly speaking the gospel itself which is working repentance but it is a case of the gospel using the office of the law for that purpose.

Luther finishes his *responsio* by briefly explaining why neither law nor gospel may be omitted, and more specifically, why it is impermissible to say

²⁵⁵See above n. 170 on the textual problem associated with Luke 24: 47. We saw in our analysis of arg. 19 that Luther there takes a slightly different tact than here. He emphasizes that to preach repentance *in nomine Christi* does not ipso facto mean to preach *contra Mosem*, for Christ himself exercised a twofold office, his *officium proprium* and his *officium alienum*. Here he stresses that the two necessary parts of the church's proclamation, law and gospel, correspond to the preaching of repentance and forgiveness, and that both are to be preached in the name of Christ. Cf. 39 I, 345, 16-23 (ATh, I) where in Th. 1 and Th. 4 he says that the two parts of repentance are *dolor (ex lege)* and *bonum propositum (ex evangelio)*.

that repentance arises only *ex evangelio*. First of all, he insists that without the preaching of law and gospel [*hae duae partes*] there would be a grave danger that people would consider themselves righteous and not seek after Christ [*ad Christum aspirabunt*] and thus be condemned. Secondly, Luther links this work of law and gospel *in nomine Christi* to the work of the Holy Spirit. When the Spirit fully indwells a person, he immediately begins to recognize his sin more and more clearly as well as the blessings he has received through Christ [*subinde magis ac magis innotescunt peccata, innotescunt et bona, quae per Christum gratis accipimus*] (415, 1-5). Luther leaves us in no doubt that he is not thinking here of the Holy Spirit as the author of the law, who convicts us of sin, but of the Holy Spirit as gift and gift-giver, sent by Christ to sanctify and vivify.²⁵⁶ Consequently, Luther's emphasis here is not on the Spirit's law-work of convicting us of sin but on his gospel-work of strengthening faith. However, as a result of his work and in the light of the gospel, we come to a far deeper knowledge of our sin than we could have ever attained to under the law,²⁵⁷ and at the same time a grateful recognition of the boundless blessings [*bona*] which God has given *gratis* us in Christ. But is not this line of interpretation now called into question by Luther's last final sentence in which he says that the same [*idem*] Spirit convicts the world concerning sin [*arguit mundum de peccato*] etcetra, since this is the very text which he used earlier to demonstrate the law-work

²⁵⁶This distinction, it will be recalled, was made by Luther in 39 I, 388, 23-391, 20 (1 AD, Arg. 17).

²⁵⁷To use the language of 1 AD, Arg. 32, this is not *contritio*, which is *ex lege*, but *mortificatio*, which is *ex lege et evangelio*.

of the Spirit? In our opinion this transition does not contradict the point we have just made. It rather reminds us that even the Spirit's law-work [*opus alienum*] is oriented to the gospel [*opus proprium*], and that without it we would not be in the position of being able to receive the *bona* God gives us in Christ. This then is in line with what Luther says at the beginning of his *responsio*: Christ came to fulfill the law and yet at the same time he shows us what the law requires in order that we may the better be able to receive his gifts.

Argument 36²⁵⁸

Question: Show me in what passage Christ has commanded us to preach the law.

Response: Christ says in Matt. 5 [: 19]: He who teaches and does thus will be called great in the kingdom of heaven.²⁵⁹ It is sophistry to argue: Christ does not say, preach the law, therefore, the law is not to be preached.

Response: That is true according to grammar and if the words are taken at face value or τεχνικῶς. For in grammar, repentance and law are certainly different words, but in point of fact, to preach repentance and to preach the law is the same thing; they are not different but the same. The law is the revelation of wrath because repentance, at least in part, insofar as it reveals sin, and the revelation of wrath, are effects of the law. For even if we do not use these letters LEX, we are still dealing with the reality itself. The trembling of the conscience, even sadness, are transferred from letter and grammar into sensation, and kill the heart. If the gospel concerning Christ did not come, the result would be despair and the repentance of Judas. But lest this should happen, Christ commanded that repentance and the forgiveness of sins be preached in his name, that is, the gospel [Luke 24: 47]. What is at stake here is not the word law, but the reality itself.

²⁵⁸39 I, 415, 8-416, 3.

²⁵⁹Instead of the following, R makes a new argument: But he does not command the law to be preached, nor is any statement to be found in the NT commanding the law to be preached. Therefore, in the NT the law is not to be preached.

Luther's *responsio* here is very important because it goes to the heart of one of the central issues in the antinomian controversy. The nub of the issue is this. One of the arguments used by the antinomians to justify their dismissal of the law is that Christ nowhere commands us to preach the law. Luther, on the other hand, counters their argument by pointing out that Jesus plainly commands that we preach repentance, and that in point of fact, to preach repentance is the same thing as to preach the law [*quoad rem idem est praedicare legem, et non sunt diversa, sed idem*], even though the words *poenitentia* and *lex* are different *iuxta grammaticam* and if taken *materialiter seu τεχνικῶς* (415, 13-16).

Luther then approaches the matter from another angle and maintains that both repentance—or to be more precise, a part (the first part) of repentance, *quatenus ostendit peccatum*--and wrath, or more exactly, the revelation of wrath, are *effectus legis* (415, 16-18). In other words, repentance and the law are bound together because the effect of repentance, the revelation of sin, and the effect of the law, the revelation of wrath, are correlatives.²⁶⁰ Luther could have also said that repentance, at least *ex parte*, is an *effectus legis*. His main point however is that the effect of the law does not depend on the letters LEX; for even if you do away with the letters, you cannot abolish the reality itself [*ipsam rem*] which the word *lex* signifies (415, 18-19). The letters LEX do not point to a higher reality but to the inescapable *effectus legis*, such as *ira, pavor conscientiae, tristitia* (415, 17-19). The reality of the law can never be removed even if one discards its letters. Although Luther does not say it here, we

²⁶⁰On the equation of law and wrath, see 39 I, 397, 9-11 (1 AD, Arg. 21).

know from previous arguments that the reason for this is the fact that the law has been inscribed on the heart.²⁶¹ Speaking metaphorically, he says that these effects of the law are transferred into sensations and kill the heart [*transferuntur in sensum et cor occidunt*] (415, 18-20).²⁶² And this would be terminal (as it was for Judas) were there no gospel to rescue us from the catastrophic *effectus legis*, whose natural end is *desperatio*.

Finally, Luther points out that it was in order to provide a way of escape from just this despair and death that Jesus commands repentance and forgiveness to be preached *in nomine suo*, for the *remissio peccatorum* is nothing else than the *evangelium* (416, 2-3). Therefore, to bring the argument back to where it began, Luther maintains that our Lord's mandate in Luke 24: 47 includes the proclamation of the law, even if the word law is not mentioned *expressis verbis*. His main point remains irrefutable: What is really at stake here, vis-à-vis the antinomian rejection of the law, is not a matter of words or letters [*grammatica, vocabula, vox*], but of the reality itself [*res ipsa*].

Argument 37²⁶³

It is superfluous to use many things to do what can be done by fewer. The gospel presupposes that we have sins. Therefore, it is not necessary for the law to be taught.

Response: Law and gospel cannot and ought not be separated, just as repentance and forgiveness of sins cannot and ought not be separated, because they are so bound together and intertwined. For to preach the forgiveness of sins is nothing else than to make know and show the

²⁶¹Cf. 39 I, 456, 19-457, 1 (2 AD, Arg. 13): *Nam etiamsi tollas has literas: LEX, quae facillime deleri possunt, tamen manet chirographum inustum cordibus nostris, quod nos damnat et exercet.*

²⁶²The *sensus* or *vis legis* already belongs to the *effectus legis*.

²⁶³39 I, 416, 5-417, 6.

presence of sin. Forgiveness itself shows that sins are present, and it cannot be understood what fulfillment is unless it is understood what the law is, so that the forgiveness of sins cannot be understood unless it is first known what sin is, nor can fulfillment even come about unless some law is established. Therefore, it is significant that Christ says: I have come to fulfill the law [Matt. 5: 17] and not a jug of wine. What would Christ have fulfilled if the law had been abolished? Moreover, whence would we know what we are by nature? or again, that the whole world is in the power of the evil one [1 John 5: 19]? Whence would we and all people, from Adam to the last person born, know that we are sinners, if the law had been entirely abolished?, the very thing that these good-for-nothings are attempting.

The *argumentum* that Luther refutes here is that the law and its work is unnecessary because the gospel presupposes that we are sinners. In order to counteract the antinomian error of pulling law and gospel apart Luther here stresses their inseparability: *non possunt nec debent separari*, for they are *inter se colligata et implicata* (416, 8-10). He can go part of the way with the antinomians when they say that the gospel presupposes that we are sinners. However, that presupposition is justified only because the law first does its work in revealing sin. But he goes even a step further. Not only does forgiveness presuppose sin, it also shows it and makes it known: *Nam praedicare remissionem peccatorum nihil aliud est, quam indicare et ostendere adesse peccatum. Ipsa remissio indicat adesse peccata* (416, 10-12). Forgiveness requires a prior knowledge of what sin is. The same holds for fulfillment. Christ cannot fulfill the law unless the law is first established: *nec fieri etiam potest impletio, nisi constituatur aliqua lex* (416, 13-14).

Luther's thinking is being guided by the words of Matthew 5: 17 where Jesus describes his mission as *legem implere*, not, as Luther quips, *aliquod vasculum vini implere*. Without the law we would not know the facts of our sinful condition. Here he lists three things in particular: 1) what we are by

nature; 2) that the whole world is in the power of the evil one; 3) that we are sinners (416, 16-20).

However, as we have already seen, he also says that forgiveness not only presupposes that we are sinners, but also makes it known to us, insofar as the very act of being forgiven *per fidem* makes us mindful of the fact that it is precisely as sinners that we are recipients of his forgiveness. Or to put it another way, those who receive forgiveness can do no other than confess that they are poor, wretched sinners. Such a confession and knowledge of sins is not only presupposed by the gospel but also indicated and confirmed by it. However, this does not mean, as the antinomians claim, that the gospel renders the law superfluous. It is the law after all that exposes sin in the first place, even if this is done under the auspices of the gospel. On the other hand, our being forgiven confirms to us that we are indeed sinners. Here then we have the right relationship between law and gospel, where each has and does its own *proprium officium*, without which the other could not do what it does. This, finally, is why Luther insists, *contra antinomos*, not only that the law must be retained and taught in the church, but also that law and gospel cannot and ought not be separated.

PART 2
The Second Disputation Against the Antinomians
12 January 1538

Introduction

Luther was annoyed that Agricola had not been present for the First Disputation. Hence, another disputation was necessary. As planned, a second set of theses was drawn up by Luther and circulated before the end of December 1537. They deal with the proper distinction between law and gospel in

justification. This is an important topic because, as we saw in the last chapter, Agricola was critical of Melanchthon for teaching that repentance is necessary for justification. In reaction to this, Agricola held that the law played no role at all within the context of justification. Luther's theses show that neither legalism nor antinomianism is the answer. Rather, law and gospel need to be correctly distinguished. How this is to be done will become clear as we proceed. The theses for the debate are now set out in translation below followed by a summary of their content.

Theses²⁶⁴

Translation

1. Not only is the law not necessary for justification, but it is utterly useless and completely impossible.
2. However, for those who keep the law in the hope of being justified, it even becomes a poison and bane for justification.
3. When justification is at stake, one cannot say enough against the impotence of the law and that most pernicious trust in the law.
4. For the law was not given in order to justify or make alive or to help in anyway toward righteousness.
5. But in order to reveal sin and work wrath, that is, to render the conscience guilty.
6. Death is not inflicted that through it we might live, nor the sin with which we are born that through it we might be innocent of it.
7. Therefore, the law was not promulgated that through it we might become righteous, since it can offer neither righteousness nor life.

²⁶⁴39 I, 347-350: *Disputatio secunda D. Martini Lutheri contra Antinomos.*

8. In sum, as far as heaven is from earth, so far ought the law be separated from the justification.

9. And nothing is to be taught, said, or presented in the matter of justification, except only the word of grace offered in Christ.

10. But it does not follow from this that the law is to be abolished and removed from what is preached in the church.

11. Rather it is more necessary that it be taught and urged that it is not necessary but impossible for justification.

12. And that people who are proud and presumptuous about their powers be instructed that they cannot be justified through the law.

13. For sin and death are to be shown as much as possible, but not because they are necessary for life and innocence.

14. But that people might know their own unrighteousness and lost condition, and thus be humbled.

15. If sin is ignored, a false innocence is presumed, just as it can be perceived in the heathen and later in the Pelagians.

16. If death is ignored, it is presumed that this life is all that there is, and that there is no other in the future.

17. For unless the law teaches both it is not clear enough that the law is especially necessary and useful.

18. Anything that reveals sin, wrath, or death exercises the office of the law, whether it occurs in the Old Testament or in the New Testament.

19. For to reveal sin is nothing else, nor can it be anything else, than to be the law or the effect and most proper power of the law.

20. The law and the revelation of sin, or the revelation of wrath, are interchangeable terms, just as being human and risible or rational.

21. To remove the law and retain the revelation of wrath is the same as denying that Peter is a man while affirming that he is risible or rational.

22. It is just as smart to remove the law and yet teach that sin has to be forgiven.

23. For the scripture of the Holy Spirit says that without the law sin is dead [Rom. 7: 8], and, where there is no law there is no transgression [Rom. 4: 15].

24. Just as it is impossible for there to be sin or for it to be known without the law, whether written or inscribed [Rom. 2: 15].

25. It follows from that: Since there is no sin (the law having been removed), there is also no Christ as redeemer from sin. For thus Christ himself says: The healthy have no need of a doctor? [Matt. 9: 12]

26. Since however Christ came not to abolish the law but fulfill it, he came in vain if there is no law to be fulfilled in us.

27. And since God's law requires our obedience to God, these nomomachians also do away with obedience to God.

28. It is clear from them that Satan, in these instruments of his, says the words which teach sin, repentance and Christ.

29. But, in fact, he removes Christ, repentance, sin and all of scripture, together with God himself, its author.

30. And it is his intention to cause the most pernicious security, contempt for God, freedom from punishment and continual impenitence, more than Epicurus himself.

31. That saying of theirs attests to this, namely, that the law convicts sin, and indeed without the Holy Spirit, only for the purpose of condemnation.

32. Here it is clear that the kind of sin they want taught is that which does not condemn, perhaps even that for which there is salvation without Christ.

33. For if sin does not damn, it remains possible that Christ did not redeem us from damning sin, and thus neither from the wrath of God.

34. For sin that does not damn is a better sin than righteousness and life themselves.

35. For what is more blessed than having sin that does not damn, that is, nonexistent sin.

36. Therefore, with the law removed, we are saved from sin in such a way that we do not need Christ the mediator etc.

37. But this too is false, that the law convicts sin without the Holy Spirit, since the law has been written by the finger of God.

38. And all truth, wherever it is, is from the Holy Spirit, and if the law is prohibited God's truth is prohibited.

39. To remove the law on account of this office, that it exposes sin only to condemn, is plain insanity.

40. For this is the power of sin, as Paul says, that sin is the sting of death, and the law is the power of sin [1 Cor. 15: 56].

41. Let us then eat and drink and let us sing under these teachers: Let him who worries about tomorrow perish [Matt. 6: 34].

42. For the law, the power of sin, has been removed, and thus with the power of sin removed, even death and hell have perished.

43. Not through the blood of the Son of God, the keeper and fulfiller of the law, but because we deny that it is the law of God that is fulfilled.

44. Everything (that they say) about sin, repentance, Christ, and the forgiveness is nothing but sheer lies and worthy of Satan himself.

45. For the law was there before Christ, indeed as our accuser. However, now under Christ it has been satisfied through the forgiveness of sins, and from now on is to be fulfilled by the Spirit.

46. Thus after Christ, in the future life, the new creation will then abide as fulfilled fact itself, which meanwhile the law has demanded.

47. Therefore, the law is never abolished in eternity, but will remain, either to be fulfilled in the damned or having been fulfilled in the blessed.

48. These veritable disciples of Satan seem to think that the law is temporary and has ceased under Christ just like circumcision.

Structure

Theme: The Law and Justification

A. The Law is Unnecessary for Justification (1-17)

I. The Law vis-à-vis Justification (1-3)

1. unnecessary and useless (1)
2. *opinio iustificationis* is a bane (2)
3. impotent (3)

II. Purpose of the Law (4-7)

1. not for justification (4)
2. to reveal sin, work wrath, accuse conscience (5)
3. illustrations:
 - a) purpose of death is not life (6a)
 - b) sin does not result in life (6b)
 - c) inference: law is not intended as a means to righteousness (7)

III. The Law does not Justify (9-10)

1. law to be kept separate from justification (8)
2. word of grace in Christ alone justifies (9)

IV. The Law Must Not be Abolished (10-17)

1. the proud and presumptuous must be shown that keeping the law is impossible for justification (11-12)
2. law shows sin and death to humble proud and reveal unrighteousness (13-14)
3. conversely: to ignore sin and death (=to deny the law) leads to false innocence and denial of eternal life (15-16)
4. inference: law is necessary for teaching sin and death (17)

B. The Office of the Law (18-48)

I. Law, Sin, Death and Wrath (18-27)

1. office of the law: to reveal sin, wrath or death (18-19)
2. equation: law=revelation of sin/wrath holds true (20)
 - a) result:
 - aa) impossible to remove law and yet retain wrath (21)
 - bb) impossible to remove law and keep forgiveness of sin (22)
 - b) reason:
 - aa) no law means no sin, no transgression (23-24)

- bb) no sin (assuming no law) means no redeemer (25)
- 3. implications of the antinomian abolition of the law
 - a) Christ the fulfiller of the law came in vain (26)
 - b) abolition of obedience (27)

II. The Antinomian Error (28-48)

1. law, Christ, and sin:
 - a) paradox: per antinomians Satan teaches sin, repentance and Christ, yet per them he also removes Christ, repentance, sin, all of scripture together with God its author (28-29)
 - b) result: demonic security, contempt of God, impenitence (30)
 - aa) proof: antinomian dictum: law exposes sin only for the purpose of condemnation (31)
 - bb) corollary: they want to teach non-condemning sin (32)
 - c) antinomian doctrine:
 - aa) Christ did not redeem us from damning sin nor from the wrath of God (33)
 - bb) no law means no condemnation, and this in turn means that there is no need for Christ the mediator (34-36)
 - d) Luther teaches contra the Antinomians:
 - aa) law convicts sin without the Spirit since God has written the law on our hearts (37)
 - bb) to prohibit the law is to hinder God's truth for all truth is in the Spirit (38)
 - cc) to remove the law because it condemns is insanity law is power of sin and sin is death's sting (39-40)
2. Christ the fulfiller of the law
 - a) antinomian dictum: Let us eat and drink . . . : the law has been removed and thus the power of sin with it (41-42)
 - b) antinomian doctrine: the law fulfilled by Christ is not God's law: hence it is not removed by Christ's obedience (43)
 - c) Luther's doctrine:
 - aa) the antinomian doctrine is sheer lies for the accusing law existed before Christ, but under him it has been satisfied and is now to be fulfilled by the Spirit (44-45)
 - bb) in the future life the law will remain the fulfilled law and the new creation will be complete (46)
 - cc) the law is not temporary, but will abide for ever, either to be fulfilled in the damned or having been fulfilled in the blessed (47-48).

Summary

The second *Thesenreihe* has as its theme the law and justification. Here Luther rejects both the antinomian unqualified rejection of the law and the Pelagian insistence that the law is necessary for justification. By and large the antinomians have misunderstood Luther's rejection of the law in the article of justification and have misapplied this to law in general. Therefore, he has to argue either against the necessity of the law in justification (Theses 1-10) or for its necessity outside justification (Theses 11-48), depending on the particular opponents he is fighting against.

Against the Pelagians Luther stresses that when it comes to justification the law is not only unnecessary, but useless and thoroughly impotent (Ths. 1-3) for the law was given, not as a means to righteousness or justification, but to reveal sin, work wrath, and accuse the conscience (Ths. 4-7). For this very reason the law is not to be abolished. The law humbles the proud by showing them their sin and unrighteousness and threatening them with eternal death (Ths. 11-17). Since the law is basically the revelation of sin and God's wrath, it is impossible to remove the law and yet claim to retain wrath, as the antinomians did. Since there can be no sin or transgression without the law, abolishing the law means at the same time abolishing sin and hence abolishing the need for Christ the redeemer (Ths. 18-27). The antinomians are the mouthpieces of Satan who uses orthodox statements of the truth to mask blasphemous heresy (Th. 28-29). His real purpose is to deceive and mislead; his aim is security, contempt of God, and impenitence (Th. 30). The antinomians accuse Luther of teaching that the law reveals sin only to condemn (Th. 31); they, on the other hand, claim that the condemning law is finished,

and so deny that sin leads to condemnation (Th. 32). Thus, they obviate the need for Christ (Th. 33). Luther mockingly replies that sin which does not damn is better than righteousness and life itself (Th. 34-35). The implication of antinomian doctrine is that it renders Christ as our mediator unnecessary (Th. 36). But they err in thinking that they can remove the law; the fact is that they cannot escape the law, indeed, it convicts sin even without the Spirit because God has written it on the hearts of all people (Th. 37). Hence, the law cannot be removed (Th. 39). Luther teaches that only in Christ is the accusing law satisfied and from now on is to be fulfilled in us by the Spirit (Th. 45), whereas the antinomians do not even believe that it was the law of God which Christ fulfilled (Th. 43). The law will never be abolished: it will continue in the future life as the law which must be fulfilled in the damned or as the law which has been fulfilled in the saints (Ths. 46-48).

Luther's Preface

Luther gives thanks to God for shedding the light of his word on the matters about to be dealt with and for the opportunity to discuss and teach Christian doctrine. In former times all this was shrouded in deep darkness. Not even the law was properly understood, since not only it but almost everything lay buried in godless opinions. Even on the rare occasion when the law was taught the papists presented it in such a way as if it demanded nothing beyond our powers, and they did this to show that our human powers or free will are still intact and that by them we can satisfy and fulfill the law ourselves. This is the error of the Pelagians (who sailed under the colors of the church and of Christ himself), as well as of Occam and the moderns, who falsely teach that reason, without the Holy Spirit, can love God above all else,

and that Christ obtained only the first grace in order to enable us to fulfill the law ourselves.²⁶⁵ Luther furthermore notes that one of them wrote that the grace of the Holy Spirit is not required for a good work. In support of this he appeals to a sentence of St. Jerome in Gratian: Whoever says that God has commanded impossible things, let him be anathema.²⁶⁶ This and similar statements are to be found in the teaching of the scholastics who make the law possible so that it can be fulfilled by us even without the Holy Spirit.

Luther sees the work of the devil behind all this and exhorts his hearers to pray to the Lord that he would also preserve his own members against the power of the evil one. For the devil, ever since he first began to persecute and hate this Christ in paradise, and to bite his heel, cannot stop, nor can we promise any one peace and quiet.²⁶⁷ There is no hope of peace, but here we will always have to be ready for battle, always ready to fight, and indeed to fight with the fiercest foes, as Paul says: Our battle is not against flesh and blood but against the spiritual hosts of wickedness in the heavenly places (Eph. 6: 12).

In view of this, Luther wants to use the disputation to try to prepare his students for this kind of warfare and battle, so that they may be able to stand all the firmer in the evil day (Eph. 5: 13). Nothing is more certain, Luther warns, than that Satan will not leave one stone unturned, and that although his powers have been shaken he will work unceasingly until he has once

²⁶⁵Occam, *Sent.*, lib. 3, qu. 8D.

²⁶⁶Hieronymus, *Adversus Pelagianos*, lib. 2, 11 (MPL, 545).

²⁶⁷Reading the variant *polliceamur* (39 I, 420, 13).

more removed from our midst the scriptural doctrine of justification. For this is what he has always done and will do as we can see from the papacy. Therefore, he urges the men to debate carefully and exercise themselves diligently in this doctrine by listening, studying, meditating, living and dying until they reach that *πληροφορία* in theology, of which Paul speaks in Romans,²⁶⁸ so that they may cling to what is certain and not be blown away from the teaching of the truth by the changing winds of doctrine (Eph. 4: 14). On the other hand, Luther also warns that they should not be falsely secure in this matter, or think that they are too wise or certain. For no mind or wisdom is too great to be deceived by the devil. The extraordinary cunning and wickedness with which he often captivates and fascinates good minds is truly amazing. This, he warns, should make us all the more diligent and attentive, that we may redeem the time (Eph. 5: 16), let the word of God dwell in us richly (Col. 3: 16), and see to it that we are armed and ready for the battle against Satan. What Luther says here will be taken up again in the next chapter when we deal with parenthesis and spiritual warfare.

With that introduction, Luther says that for the present we will confine ourselves chiefly to the matter of the law, whether it is necessary or useful for justification; also whether, when we have the law, we are able to keep it by our own powers. For him the answer to that question is already clear. However, that does not mean that the law is to be immediately abolished and thrown out of the church, as the antinomians claim, for we are born with a natural pride which the law must remove and suppress so that we do not

²⁶⁸*πληροφορία* does not occur in Romans. Perhaps he meant 1 Thess. 1: 5. Yet cf. Rom. 4: 21.

think, like the papists, that we can do all that the law requires. But when at length this beast has been slain and seized by Christ the mediator, the law will become possible and easy.²⁶⁹ This issue will be taken up again in the next chapter where we hope to discuss how to preach the law to the baptized, and at the same time to examine briefly the so-called *tertius usus legis*.

Disputation
Translation and Analysis of Arguments

Argument 1²⁷⁰
[Contra 5]

The chief articles of faith are in scripture. Scripture says that the revelation of sin occurs through the gospel. Therefore, the revelation of sin does not occur through the law.

Proof of Minor Premise: Rom. 1 [: 18]: The wrath of God is revealed from heaven against all wickedness.

Response: The argument rests on the phrase "from heaven." For in this passage heaven seems to denote the gospel which has come from heaven through the Son of God; the law however seems to be from earth. But to say, the wrath of God is revealed from heaven, is to say nothing else than that God's wrath is revealed, and that this wrath is divine and heavenly, not earthly. For clearly our sin is not something simple and light, as the sophists taught by watering down original sin, but rather we are subject and liable to heavenly and divine wrath, by which we are to be damned eternally and punished with eternal death. Therefore, it is significant that it says, "from heaven," that is, divine, not earthly or human like the wrath of the emperor, who can kill only the body and cannot destroy both body and soul in Gehenna, like that divine wrath [Matt. 10: 28].

But back to the argument: "revealed from heaven" must not be understood as referring to the gospel. For as we have said earlier, the proper office of the gospel is to teach and preach Christ and to set forth his gifts. But nobody can preach the gospel without the law. For how is it possible to illuminate and magnify the gifts of Christ unless they are

²⁶⁹Palat. 1827 omits the following arguments 1 to 3 parag. 2, and concludes immediately without a paragraph: *Deinde etiam secundo modo* etc.

²⁷⁰39 I, 423, 1-425, 5.

first put within the perspective of our pitiful condition which we fell into through sinning against the law right at the very outset? In the same way, if a doctor wants to cure somebody in accordance with rules [of medical practice], he must first inquire carefully into the disease and its causes, and only after he has laid these out before the recalcitrant patient and convinced him that he has fallen victim to a grave illness and that, unless treated with medicine, he will die, does he finally begin to speak of medicine, treat him, and promise him health. On the other hand, who would not ridicule a doctor if all that he ever wanted to do was to talk about rhubarb, which cures cholera, and meanwhile never told anybody that they were ill with cholera? Thus here the rhubarb, that is the gospel or Christ, came to cure the cholera, that is sin, the disease of origin, death and the devil, which has beset us. The disease is exposed in order to be healed; it ought not be exposed in order to kill the sick person. This is what Christ did in Matthw 5, when he said: Unless your righteousness exceeds etc., and where he preaches and interprets the law or wrath. This exposure of sin will be the same, whether it happens through the law or the gospel, whose special task it is to teach the Son of God and the forgiveness of sins on account of Christ. For we are not all called to Christ in the same way.

Although Romans 1: 18 has already been mentioned in the First Disputation as a proof for the antinomian doctrine that the gospel exposes sin,²⁷¹ here it is discussed fully for the first time. Luther notes at the outset that the antinomian argument rests on the phrase *de coelo* (423, 7). This does not mean that the gospel reveals wrath (424, 3-4). In fact this verse has nothing to do with the gospel. Antinomian exegesis holds to the equation *de coelo=ex*

²⁷¹For a complete listing of all the arguments in which the antinomian thesis (that the gospel does the law's work of revealing sin) is brought forward, see the note to 1 AD, Arg. 16. Paul Althaus, "Durch das Gesetz kommt Erkenntnis der Sünde." *Zur Auseinandersetzung mit der exklusiv-christologischen Dogmatik*, in, *Solange es 'Heute' heißt*. Festgabe für Rudolf Hermann zum 70. Geburtstag (Berlin, 1957), 7ff, finds in K. Barth the chief thesis of the antinomians, that the revelation of wrath and the recognition of sin is possible exclusively through the gospel, which of course is strongly reminiscent of Agricola's "christological" interpretation of Romans 1: 18; on the very Barthian interpretation of Luther by G. Heintze, see Althaus, 281; against it see G. Wingren, *Die Methodenfrage der Theologie*, 39, 45-46, 53ff, 87ff.

evangelio because it assumes that the gospel comes from heaven. Luther, on the other hand, argues that the phrase means nothing more than that God's wrath is *divina ac coelestis*, hence not *terrena*. This in turn is meant to underscore the seriousness of sin. As Luther has stressed earlier, far from revealing wrath, the *proprium Evangelii officium* is *praedicare Christum et illustrare eius beneficia* (424, 4-5).²⁷²

Luther then uses the rest of the *responsio* to illustrate the fact that the law is the indispensable presupposition of the gospel, and that nobody can preach the gospel without the law. He likens the way a doctor deals with his patient to how God deals with us through law and gospel.²⁷³ It is premature to speak of medicine before the doctor has carried out the diagnosis. If the doctor wants to act *iuxta canones*, in other words, follow standard procedure, he will first inquire *de morbo et de causis morbi*, then in the light of the

²⁷²He makes this point several times in the First Disputation; see 39 I, 387, 2-4 (Arg. 16), 393, 19-20 (Arg. 20) etc.

²⁷³Jesus statement in Mark 2: 17 (although not cited in this argument) is fundamental for understanding his own ministry in terms of the application of law and gospel. When Jesus says parabolically that the well have no need of a physician, that does not imply that there really are people in this world who are perfectly healthy and have no need of the services of the heavenly physician. His point rather is that people think they are healthy until they are told that they are sick, and therefore it is only after they have heard the diagnosis of their condition that they are ready for the doctor to give them medicine to heal them. The proclamation of the forgiveness of sin, which is the *officium* of the gospel, presupposes the knowledge of sin. As we will see at the end of Luther's *responsio*, this can come in two different ways. Be that as it may, the good news of the gospel can only be understood in contrast to (or against the background of) the judgment of the law. See further 39 I, 517, 3-11 (3 AD, Arg. 7). Christ's work would be unnecessary without the law, see 546, 10-19 (3 AD, Arg. 23). The law first prepares the material—the penitent sinner for Christ, see 548, 19-23 (3 AD, Arg. 23). Cf. also 578, 18-22 (3 AD, Arg. 40/13).

diagnosis, he will need to persuade the recalcitrant patient, whom Luther calls *ferox aegrotus*, that the illness is *gravissimus* and if untreated will be terminal. Only at that point does the *medicus* begin talking about *medicina* and cures. Luther ridicules the monomania of the doctor who only talks about cures (he chooses the example of *reubarbarum*, which in his day was the treatment for *cholera*) without ever telling his patients that they are ill.

Now he makes the application to law and gospel: *Ita hic reubarbarum, id est, Evangelium seu Christus venit, ut medeatur cholerae, id est, peccato, morbo originis, morti et diabolo, qui nos obsedit* (424, 16-18). The purpose of the exposure or diagnosis of the disease (*morbus ostendere*) is *aegrotum sanare*, not *occidere* (424, 18-19). Luther views the preaching of Christ in Matthew 5 in exactly the same way. His use of the law there where he *praedicat et interpretatur legem sive iram* may be devastating, but its purpose is salutary. Not until Christ has laid bare the disease of our soul, our *peccatum* and *morbus originis*, can he apply the medicine of the gospel. We note in passing that here clearly Luther interprets Jesus' use of the law in his sermon as the *usus theologicus*. He is aware that *non omnes eodem modo vocamur ad Christum*. Consequently, while he affirms that the gospel's *proprium* is *filius Dei docere et remissionem peccatorum propter Christum*, at the same time the *ostensio peccati* can also happen *per Evangelium* and not only *per legem* (425, 2-5). This brings us back to the antinomian syllogism at the beginning of this argument. On the one hand, Luther could accept the minor premise: *Scriptura dicit, ostensionem peccati fieri per Evangelium*, but on the other, he would have to reject the conclusion: *Ergo ostensio peccati non fit per legem*. For while he grants the possibility that God may use the gospel rather than

the law to make sin manifest, he rejects the antinomian absolutization of this into a law which in principle excludes the fact that *ostensio peccati fit per legem*. God is not subject to any absolute principles that we may propose. He works with each of us in his own way, using law and gospel as he sees fit: *Nam non omnes eodem modo vocamur ad Christum* (425, 4-5).

Argument 2⁷⁴

Against the Refutation

Bad things must not to be done so that good things result. But the preaching of the law is bad. Therefore, the law is not to be taught.

Proof of minor premise: The law drives people to despair. I prove it from a comparison: a doctor should not begin by aggravating a disease, but rather should treat it with medicine. In the same way a preacher should only comfort and not terrify.

D. M. Luther: The argument is this: to drive to despair is bad. The law drives to despair. Therefore, the law is bad. Just as what is diseased becomes more inflamed and enlarged when probed by the doctor, so sin becomes more conspicuous and aggravated when the law strikes us and Moses urges us with his rods and horns.

Response: The security and pride of this most pestilential beast are so great that they cannot be confounded and crushed enough, so that no matter how you oppose it, you can hardly achieve a thing. So deeply has this whole nature been corrupted and plunged into the original sin. Take the case of a good and faithful doctor having a stubborn and recalcitrant patient, who, even though he succumbs to a grave illness, ridicules and laughs at all medicine, even going so far as to throw it in the doctor's face. Here what else can the good doctor do than make him so weak with medicines that finally neither his hands nor his feet can do a thing? In the same way, when God the Father saw that we were held captive by the devil to such an extent that afterwards we could not even remember those laws which formerly he had written with his finger on the hearts of all, he was forced to give us some Moses who would terrify our minds and senses also with written laws in order that finally, moved by the sensation and power of the law, we might learn to beg for help and aid.

The devil, on the other hand, imitating the bad doctors, who because they are angry with sick people give them poison instead of an antidote, tricks people with his cunning, and makes them so sad and dis-

couraged that, deprived of hope, they finally despair of the forgiveness of sins, like Judas, Saul, Cain and others. For this is the nature and characteristic of the devil.

But neither the Holy Spirit nor Christ in the gospel saddens us like that for he drives us to despair in order to save us, not to kill us. For he exposes and reveals sin and leads you to a knowledge of yourself that you may look to Christ the more quickly and eagerly. He says: Look, you have been saddened and afflicted, you have been led to hell through the law and the deadly cholera that torments you, but do not despair. The best rhubarb [remedy] by far is here, namely Christ; take him and you will live. As soon as he has been received by faith he immediately enters a very great battle; the two most powerful giants enter the fray and swallow up in turn the whole world, namely the two deaths, death itself and Christ's death. But Christ immediately shouts out: I am death's death, hell's hell, and the devil's devil; do not be afraid, my son, I have conquered. That is just what happens and the troubled are comforted, if ever they are struck by terror, evangelically, and on account of Christ's death. Terror is present, even acute, depending on the person, but soon we also hear the voice from the other direction: Be assured, my son, I have come to save that which was lost; you will not die.

However, Satan is a bad dialectician, he does not distribute properly, and divides even worse. He is a herald of death and despair, life and the forgiveness of sins is obliterated. Therefore, I admonish you men, who some day in the future will be teachers in the churches: learn and distinguish these things properly. For at some time or other, people with troubled consciences will come to you, whom the devil harasses in an extraordinary way and permits no peace. In such a case there is no need to sharpen the law, for they have already been struck enough by the power of the law, and are afflicted and terrified. Rather, begin like this: My brother, you are sad and feel the law or the wrath of God in your heart. That is good and necessary. But, on the other hand, it is also the will of God that you are not discouraged and tormented too much, but that you also receive comfort and are cheered. Each of these two is the command and will of God: to believe that by the divine law you are held under penalty of eternal damnation, and to believe that he does not want you to despair of his divine mercy toward you but to learn to flee, when contrite and terrified, to the mercy promised in Christ, even when you see nothing but sin and death. For this is how God wonderfully makes his saints, by creating life from death and righteousness from sin.

That is how the churches are to be taught, and you will sometimes find and experience young people in the church (for we are not all equally tempted by Satan) whom the devil holds captive and harasses so much that sometimes they come to an unfavorable conclusion about

their life. But see that you comfort them so: Dearest brother, in harassing you like this, Satan is acting in his customary way, and this is how it must be that in the end you may triumph over him the more gloriously. But they say: God hates me, has forgotten me, and does not want me. On the contrary, he does want you and bids you through my mouth and that of St. Paul's to hope in him and believe that Christ died and was raised for you, and that by his death the wrath of God the Father has been appeased, and that the Father has been reconciled to you. If you doubt and despair here, you sin against the first commandment, which wants you to believe that he is your God, not the enemy, not the devil, not death, and not sin. This you should know, urge, and believe, because final pride and final doubt are each a sin against the Holy Spirit.

And this is also the reason why God has instituted the ministry of preaching in the church, namely, that brother may teach brother and wherever necessary comfort him lest those terrified by the devil immediately despair. He wants us to be humbled, but on the other hand, he also wants the humbled to be comforted. However, the stubborn and recalcitrant, or as scripture calls them, hills and mountains [Is. 40: 4], and those who boast of their own strength, God wants to destroy and confound with his hammer [Jer. 23: 29]. For this kind of people is so hardened that they are not frightened by any law at all, by any threats, not even by any promises, in fact not even by the examples of the flood, the Sodomites, and the overthrow of many kings, especially of the Jews, not to mention that even when they see death present and staring them in the face, they are not at all terrified, nor do they know themselves, much less can they be recalled or drawn back from this position. The power of the devil is so great that he can harden those who boast of their own strength to such an extent that even if they should see Sodom go up in flames before their very eyes and the whole world submerged by a flood, they would still not be terrified.

On the other hand, he saddens and harasses the terrified to such an extent that if they actually heard God himself speaking from heaven, they could scarcely accept or admit the comfort, but would howl it down and contradict it; in fact, anything at all that is offered to them by way of comfort they overturn. Therefore, it is extremely difficult to work as a pastor and have the care of souls. And I frankly confess that in this matter I am often left in the lurch, I work and I fail. I cannot do it myself, nor am I strong enough to be able to resist the devil. However, the safest thing is to take the middle course, inclining neither too much to the right nor to the left. Each is dangerous, and for this reason, as I have said already, the ministry of the word was instituted, that we may teach both, that is, law and gospel. One without the other can neither be properly taught nor considered without danger, just as doctors should not only

busy themselves with inquiring into diseases and showing their causes, nor only with cures, but should see to it that both are done. Thus here too it must be divided properly lest only one part be taught in the church, whether fear and sorrow or comfort and joy, but both are to be taught at the same time. For despair, if alone, is bad and is death itself. But if the gospel is added, then it becomes evangelical despair, which is good. For this leads us to Christ, since it is written: "The poor have the gospel preached to them," that is, the terrified and afflicted [Matt. 11: 5].

The antinomian *argumentum* is really a refutation of Luther's previous counterargument and asserts, using another illustration from medicine, that a doctor should not do anything to aggravate a disease, but simply administer the medicine. The substance of Luther's rejoinder is that on account of original sin, people by nature are stubborn and refuse to believe that they are sick and in need of medicine. Therefore, the law must first do its work in bringing people to the point where they will let themselves be given the medicine. However, Satan exploits the use of the law for his own destructive purposes and hence pastors need to be careful never to separate law and gospel so as to have only one without the other lest Satan drive people to despair. Now we examine the *responsio* in detail.

So deep is the corruption of human nature through the *vitio originis*, that the *securitas ac praesumptio* of our sinful nature, which Luther calls a *pestilentissima bestia*, cannot be sufficiently overcome [*confundi et contundi*] in any other way than through the exercise of the law (426, 2-5). However, the crushing work of the law is never an end in itself, but always serves the life-giving purpose of the gospel. Luther illustrates this using the analogy of *fidelis medicus* and the *prae fractus et ferox patiens*. The patient is obdurately unaware of the seriousness of his condition [*graviter decumbat*] and treats the doctor and his medicine with utter contempt [*imo wirfft sie dem Arzt noch*

dem Kopffe]. In the interests of the patient's health, the *bonus medicus* can only do one thing: *ut medicinis eum ita debilitet, ut tandem nec manus nec pedes quicquam possint* (426, 5-9). Only after he has overcome his resistance can the good doctor give the patient the medicine he needs. However, the analogy breaks down at this point because God does not force his gifts on us. Hence, Luther does not press the point but makes a different application.

Owing to our dreadful plight as *a diabolo captivos teneri*, we suffered such serious amnesia that we completely forgot all those laws *quas antea suo digito in cordibus omnium scripserat*, and consequently God was forced to send some Moses²⁷⁵ with his *leges scriptae* in order that *tacti sensu et vi legis disceremus opem et auxilium implorare* (426, 9-13). From this it is clear that Luther sees no essential difference between the *lex insculpta* and the *lex scripta* or *lex lata* at Sinai.²⁷⁶ The *lex Mosi* was basically a renewal or reminder of the *lex naturae* and was necessitated by the fact that knowledge of the latter had been forgotten due to the fall. This then is an important passage

²⁷⁵The formulation is interesting: *coactus est [scil. Deus] Mosen aliquem dare* (426, 11-12). M. Schloemann, *Natürliches und gepredigtes Gesetz bei Luther* (Berlin: Verlag Alfred Töpelmann, 1961), 105, suggests that the Christian preacher, like Christ as *interpretator legis*, becomes "*Moses aliquis*" who keeps God's absolute demand anew "before the eyes of people" who always try to keep suppressing it in their heart through idolatry. He also notes (*ibid.*, n. 325) that through the "*aliquis*" Moses becomes interchangeable with his law so that he is really only an example of the *lex praedicata* in general. The matter of the *lex naturae*, *lex praedicata*, and *lex scripta* will be taken up again.

²⁷⁶It is the same "*digitus Dei*" that writes the law on the tablets of stone and on the hearts of all people (426, 10-11).

for documenting that in Luther the written law and the natural law are one and the same in regard to content.²⁷⁷

Meanwhile, Luther says that the devil uses the (good) law for evil ends. In this he imitates the *mali medici* who give the *aegroti* not an *antidotum*, but *venenum*, in the hope that he will end up despairing of forgiveness like Judas, Cain, Saul and others. On the other hand, the Holy Spirit and Christ in the gospel²⁷⁸ drive to despair *causa salutis, non mortis*. Again, the purpose of the Spirit's exposing your sin is *ut eo citius, eo ardentius respicias ad Christum*. He does not prolong the suffering of the *contristatus* and *afflictus*, who have been tormented *per legem et choleram nigram*; rather he says to them: *noli desperare, adest reubarbarum longe optimum, scilicet Christus, hunc accipe, et vives* (426, 14-427, 4). The Christian then is caught up in this great battle of the giants, namely, the *duellum* between the *duae mortes, mors ipsa et mors Christi*.²⁷⁹ But the outcome has already been decided, Christ emerges from the fray as *mors mortis*, so that anyone who is suffering pangs of conscience induced by the gospel or the death of Christ [*ei evangelice et Christi*

²⁷⁷For a fuller discussion of the relation between the *lex naturae* or *lex insculpta* and the *lex Mosi* or *lex scripta*, see 39 I, 454, 4-16 (2 AD, Arg. 13).

²⁷⁸The word *Evangelium* in the phrase *Christus in Evangelio* (426, 18) surely refers to the book of the gospel or the literary gospel rather than the preached gospel. There is no need to resort to the difference between the gospel in the narrow sense and the broad sense to explain Luther's phrase here (cf. FC SD V, 27; CA Apol. IV, 62, 257; XII, 31, 45).

²⁷⁹This battle is waged within the Christian and for the Christian rather than being one in which he actively participates: *Hoc per fidem recepto [scil. Christus] statim initur duellum maximum, committuntur invicem fortissimi gigantes, qui vel totum mundum devorarent* (427, 4-6).

more terror incuditur] is thereupon immediately reassured: *noli timere, filii mi, ego vici* (427, 4-11).²⁸⁰

The rest of Luther's *responsio* is basically an admonition to the students of theology present in the audience and so constitutes a digression. It is also a reminder that he saw these disputations as serving a valuable didactic purpose for those preparing to be *doctores ecclesiarum*. In substance it has to do with the application of law and gospel to specific pastoral situations, notably where people come to the pastor so troubled in conscience that they are unable to believe the gospel. Luther attributes such problems to Satan and describes the people as *miseræ conscientiae, quas diabolus mirum in modum exercet nec ullam quietem sinit* (427, 12-16).²⁸¹ He suggests that the pastor be-

²⁸⁰Here clearly the adverb "*evangelice*" is being used in the broad sense and in apposition with *Christi more*. The message of Christ's death can induce terror if heard as law, and it will be heard as such if it is not proclaimed as a death *pro me*. For a discussion of this passage, see the note in connection with our analysis of 2 AD, Arg. 21.

²⁸¹Luther's characterization of Satan as a bad dialectician emphasizes the point that the devil will break every canon of grammar and theology in order to confuse consciences and drive them to despair of Christ: *Verum sathan est malus dialecticus, non bene disponit, peius etiam dividit, mortis et desperationis buccinator est, vitae et remissionis peccatorum obliviscitur* (427, 11-13). The term "*disponere*" refers to the rule of logic which states that a term must be used in such a way as to refer to every member of the class named. Hence, the argument: All men are fallible; Christ is a man; therefore, Christ is fallible is false, for "man" is not properly distributed since it does not accurately describe Christ who is both God and man. The term "*dividere*," on the other hand, refers to the distinction between law and gospel in theology. That means proclaiming the gospel to the penitent, telling the despairing that God wishes them to despair only of themselves and not of Christ, and preaching the law to the proud and secure that, humbled by his judgment, they may be raised up by his promise of pardon. Cf. 427, 29-428, 3 (B): *Sed diabolus male dividit, quia praesumentes et securos in securitate*

gins by saying to the penitent: *Mi frater, tu es contristatus et sentis legem seu iram Dei in corde tuo. Bene est, sic debet fieri.*²⁸² *Sed tamen e contra etiam haec est voluntas Dei, ne nimium te afflictes aut crucies, sed consolationem quoque admittas et exhilareris* (427, 18-428, 1). He tells them to remind those harassed by the devil that God's *mandatum* and *voluntas* are twofold, corresponding to law and gospel: not only are they to believe that they are under the condemnation of the law on account of sin, but they are also to believe the mercy promised in Christ. Those whom Satan has blinded by his cunning think that God is the enemy and wills to destroy them. Therefore, pastors are to tell the *contriti et perterrefacti* that they must learn to flee to the mercy promised in Christ, even when they see nothing but sin and death (428, 1-6). Alternatively, pastors should comfort the penitent this way: *Charissime frater, quod sic te exercet sathan, facit pro suo more, et sic oportet fieri, ut tandem ei gloriosius triumphes.* And when he objects that God has forgotten him and cast him aside, they are to reassure him that, on the contrary, he is dear to him, and that God bids him through the mouth of his pastor, and that of St. Paul, to believe that through Christ's death and resurrection, his wrath

obfirmat, pavidos vero, qui opus habent consolatione, magis perterrefacit, ut eos terroribus et aeterna morte opprimat.

²⁸²These *seelsorgerlich* words are not a proclamation of the law. Rather, they are intended to make it clear to the penitent that his *Anfechtung* stems from his acute *sensus legis*. This acknowledgement of the *effectus legis* immediately prepares the ground for the comfort of the gospel. We might add further that it is important to interpret the *experientia legis* so that people do not simply explain it away psychologically, but understand it theologically as the revelation of God's judgment on sin. Therefore, in the special situation of *Anfechtung* the two words of law and gospel can still be spoken, but in different ways: one (law) is an interpretation, the other (gospel) a proclamation.

has been placated and that he, the Father, has been reconciled (428, 11-16). On the other hand, he must be told that refusal to believe this is finally pride and constitutes a sin against the first commandment and the Holy Spirit.²⁸³

Luther points out that this is why God instituted the *ministerium praedicandi in Ecclesia: ut frater fratrem doceat ac ubicunque opus sit consoletur, ne statim a diabolo perterrefacti desperent* (429, 1-4).²⁸⁴

Luther then goes on to give examples of the power of the devil which manifests itself in two different ways: he hardens people to such an extent that they are not at all frightened by the law, threats or even death; on the other hand, he can terrify the contrite so much that they refuse to be comforted by the promises of the gospel (429, 7-19). In the face of all this Luther frankly confesses the extreme difficulty *agere pastorem et curam animarum*, and his own inability to resist the devil by himself. His advice therefore is this: *Est autem tutissimum media via incedere, neque nimium ad dextram*

²⁸³See 428, 16-17: *Hic si dubitaveris ac desperaveris, peccas contra primum praeceptum*; and 428, 19-429, 1 (addressed to the students): *Hoc iam scire et urgere debetis et credere, quia et finalis praesumptio et finalis dubitatio utraque est peccatum in Spiritum sanctum*.

²⁸⁴The *ministerium praedicandi* here seems to refer specifically to holy absolution in private confession before the pastor, whereas the words below about the *via media* probably refer to the public preaching of law and gospel, which is always more difficult because the pastor does not know the exact situation of his hearers. In such a case he must always preach both law and gospel, being careful to distinguish but not separate them; see Luther's critique of the antinomians in 39 I, 574, 5-575, 2 (3 AD, Arg. 36/9). On the *ministerium praedicandi*, cf. SA III/IV (*Vom Evangelio*), where speaking the gospel *per mutuuum colloquium et consolationem fratrum* is included among the means of grace (BSLK, 449). That Luther understands this as private confession and absolution is clear from SA III/VIII, where he explicates it under the heading *Von der Beicht* (BSLK, 453).

*neque ad sinistram declinare.*²⁸⁵ That this is not merely a piece of Aristotelian ethics is clear from what follows where he relates it to the preaching of the law and the gospel: *Alterum sine altero non potest commodo doceri nec sine periculo tractari.* Just as doctors should concern themselves with both the cause of the disease and its cure, so pastors must not neglect either law or gospel. Luther especially warns about the need to divide properly lest only one part (law or gospel) be taught instead of both at the same time [*utrumque simul*]. The *simul* here does not connote confusion of law and gospel, but vis-à-vis the antinomian rejection of the law, it means that the gospel must not be preached without the law. By the same token, the law must never be preached without the gospel for that leads only to despair, which, left to itself, becomes diabolical. On the other hand, *sin autem accedat Evangelium* despair becomes evangelical, which is good for it leads us to Christ (430, 8-10).

Argument 3²⁸⁶

Contra 48

Take away the effect and you take away what actually caused it. The effect of the law has ceased. Therefore, the law itself has ceased, and as a consequence it is to be abolished and removed.

D. M. Luther: It is a good argument and to the point. When a thing actually ceases, its effect also ceases, just as a builder ceases from once the house has been completed and the thing done. But the effect of the law has ceased, that is, the reason why it was law, because Christ has borne all sin. Therefore, the law has ceased.

Response: We concede the whole argument. Where sin ceases the law ceases, and to the extent that sin has ceased the law has ceased, just as

²⁸⁵Cf. Ovid's *Metamorphoses* (2, 137): "*in medio tutissimus ibis,*" noted in the *Nachträge*, 39 II, 428, to p. 429, 22. The parallel was found by Buchwald.

²⁸⁶39 I, 430, 14-435, 13.

in the future life the law has to cease unconditionally because then it will have been fulfilled. For no trace of sins will be left there, nor any sin which could be accused by the law. So also in this life the office of the law has already ceased insofar as sin is dead. Furthermore, it ceases among Christians in two ways: first, imputatively. When I receive the forgiveness of sins on account of faith in Christ, I am also wholly free from sin, as if there were no sin, as if we were already in heaven. For it is taken away through Christ, as Isaiah [9: 3] says: The yoke of the burden and the rod of the exactor, or that exaction of the law by which we are all condemned. Thus since we have Christ who swallows up our sin in his own body and removes the rod of the exactor, the sin in us is completely removed and truly ceases, but imputatively, not because we have thus merited this.

Following on from this, we observe that sin also ceases in us a second way, formally. Although some remnants of every kind of sin still cling to us—sins against both the First and Second Table, such as lack of trust, vanity, fear, and doubt²⁸⁷ toward God, as well as despair; also sins of anger, concupiscence, hatred, and hostility etc.—nevertheless, sin ceases in us formally because we intercede for these before God the Father, through Christ Jesus, saying or praying: Forgive us, Father in heaven, our debts, and he forgives the sins of those who ask him, according to this word of John: If we, on our part, confess our sins, God is faithful and just to forgive us our sins [1 John 1: 9]. And indeed it is in this way that sin is removed formally and expurgatively because here from day to day I more and more cleanse and mortify the sin that still inheres in my flesh, until finally all this belonging to the old self is removed and destroyed, and a pure and blameless person emerges, without any stain or blemish. But it does not follow from this that the law therefore is not to be taught, because the common people, for the most part, are recalcitrant, proud, rude, and deceitful, wild, and boastful, and without the preaching of the law they would never get to know about their vices and sins. In fact the saints themselves need the law as a kind of instructor since there is a continual battle being waged in them between the spirit and the flesh (Rom. 7 [: 23]): I perceive another law in my flesh at war with the law of my mind etc. But it is only for the saints and believers that this is not imputed on account of Christ and because he fights against sins lest they allow sin to rule. Thus saints are under the law and without the law.

It must also be carefully noted that there is a difference between an empty law, on the one hand, whether quiescent or simply taken for

²⁸⁷Hermelink (ibid., 432, n. 1) notes that all the MSS have the error "*dilectionis*."

granted, and a law that accuses us or the autograph of the decree written on our minds, on the other. As for the angels and saints in heaven, the law is an empty speech for they do the things of the law with joy, and in them the law motivates less than any ciphers. But with us that is not the case. Rather it is an effective thing, which pricks and burns the heart so much that one would despair if comfort had not been provided from elsewhere. It is a law that accuses and frightens us, as Augustine says: The letter is law without grace. In the same way those 10, 000 talents in Matthew 18 [: 23ff], entered into the register or book of accounts, are in themselves nothing but empty ciphers, a kind of barren and miserable arithmetic devoid of substance. But for the person who owes the money (and that is all of us), they are not empty or of no account, as supposed, because they especially vex my conscience, harass me beyond measure, and give me no peace day or night. But yet when some rich person comes along with a sack full of gold and silver coins, which are not empty ciphers but solid, the ciphers are satisfied. Thus Christ came to us and redeemed us from those 10, 000 talents and ciphers that pricked our conscience, paying in excess with sterling silver and genuine gold coins, that is, with his precious blood, as Peter says [1 Peter 1: 19]. Whenever we speak about the law we are not talking about an empty law and ciphers, as can the angels, since they know no law at all and are without the law, but about a law that accuses, holds us accountable, and makes demands.

However, as I have said, we are also free from this law in a twofold way, and it ceases through Christ for he fulfills that emptiness, and I in him. Firstly, imputatively, since my sins against the law are not imputed to me and are pardoned, on account of the precious blood of the spotless lamb, Jesus Christ my Lord. Then expurgatively, since, after the Holy Spirit is given to me, I begin in earnest to hate everything that offends his name and to pursue good works. And if any remnant of sin is left in me, I purge it out until I become wholly clean, and I do this by the same Spirit who has been given on account of Christ. Therefore, for us to try to pay the law out would be an exercise in futility because we do not have the coins, according to the reckoning of the arithmeticians, to satisfy it. But here Christ has come in our place, makes good what we lack, and by his blood erases the autograph of the decree which stood against us [Col. 2: 14], until finally the law was satisfied by the one in the place of us all. That is what we call the law. Formally, sin is removed when it is cleaned out and evacuated, likewise the law itself formally ceases when its demand is fulfilled in us and we do it spontaneously and willingly, not so much because of the law demands it as out of a love for righteousness, for what is upright, and for God himself. A law is empty which does not have what it demands or convicts, because people do by nature what it requires, just as that law, "be fruitful" is empty for a fruitful and fruit-

bearing tree because it produces fruit by nature. Here the law has no greater efficacy than wax or ciphers made with chalk in paying off a debt; such is the law for the angels themselves. On the other hand, a law is effective which demands, accuses, and damns those who are subject to it but do not satisfy it. Such is the law for humans beings, but Christ has paid the whole debt, once for all, which kept us under obligation to the law, and has made satisfaction for us so that, although the law is otherwise effective in our case, it is nevertheless empty and has ceased for us also, and that in two ways, first imputatively, and then formally and expurgatively (as we said before). Therefore, I concede what the argument implies, namely, that the law has ceased; nevertheless, how that is to be understood is not explained.

Luther's *responsio*, which again is fairly lengthy, is not so much a refutation of the antinomian *argumentum* as an elaboration and clarification, for he agrees with it in principle. The weakness of the antinomian position, and the reason they can argue for the abolition of the law, is their failure to understand the Christian as *simul iustus et peccator*. The main theological point undergirding the whole discussion is that for Christians the law ceases in two ways: imputatively, and then formally and expurgatively. This in turn is based on the premise that *in quantum cessavit peccatum, tantum cessavit lex* (431, 5-6). The kernel of Luther's argument is this: In this life sin still remains, even in the saints, but is forgiven imputatively, *propter fidem in Christum*; however, by the power of the Spirit and prayer it also begins to cease formally in that sin is gradually expelled, but this will only happen fully in the future life. Let us turn now to our analysis of Luther's *responsio*.

In the *futura vita* there will be no *lex accusans* only the *lex impleta* because the law will have *nulla citatrix peccatorum* to accuse. In *hac vita* however, although sin has been forgiven *propter Christum per fidem*, it has not been removed. Therefore, Luther formulates his statements very carefully when he says: *Ita et in hac vita eatenus cessavit iam officium legis, quatenus*

peccatum fuerit mortuum (431, 8-9). The phrase *eatenus . . . quatenus*²⁸⁸ does not imply a progressive justification because Luther plainly says that *propter fidem in Christum* we receive the forgiveness of sins and are entirely free from sin. He also says that sins are removed, and hence the *sceptrum exactoris* (Is. 9: 3) or *exactio legis*, because we have *Christum devorantem in suo corpore peccatum nostrum et sceptrum exactoris auferentem*. This work of Christ for us which is received by us *per fidem*, or as Luther says, *imputative*, represents the first of two ways in which sin is removed (431, 10-17).

Secondly, it is removed, or begun to be removed, *formaliter*²⁸⁹ and *expurgative*, because *hic de die in diem magis ac magis expurgo et mortifico peccatum adhuc haerens in carne mea, donec hoc tandem totum, quod est veteris hominis, tollatur et consumatur et evadat purus et clarificatus homo absque omni macula ac labe* (432, 7-11).²⁹⁰ However, it is of the utmost importance to

²⁸⁸For other instances of this phrase, see the notes to 1 AD, Arg. 12.

²⁸⁹The word *formaliter* is a term from Aristotelian logic which was taken over by the medieval scholastics and used in their fourfold schema of causality. The *causa formalis* (whence *formaliter*) is the third cause, following the *causa efficiens* (the effective cause or agent of the change) and the *causa materialis* (the material cause, the substantial basis of the change, the *materia* on which the *causa efficiens* operates). The *causa formalis*, or formal cause, is the *essentia* or *quidditas* of the thing caused and is determinative of what it is to be. The final cause, or *causa finalis*, is the ultimate purpose for which a thing is made or an act performed. In the logic of causality, the final cause takes precedence over the material and formal causes; that is, the end determines the means. We note also Luther uses the terms *formaliter*, *substantialiter* and *realiter* interchangeably; cf. e. g.: 39 I, 95, 16-18 (Iust., Arg. 6): *Nos autem hic dicimus, quod peccatum originale, quamquam est remissum imputative, et ita submovetur, ut non imputetur, tamen non tollitur substantialiter aut realiter . . .*

observe, if we are not to misunderstand Luther's doctrine of sanctification, that the above sentence is really tightly connected to, dependent on, and descriptive of, the preceding one (431, 18-432, 7) in which he describes the cessation of sin in us *formaliter* in terms of justification and forgiveness. The formulation here is most instructive. He says that although *reliquiae omnis generis peccatorum et contra primam et secundam tabulam* still cling to us, nevertheless, sin ceases in us formally because we intercede for them before God [*pro istis interpellamus apud Deum patrem*] asking his forgiveness in the name of Christ, as we do each time we pray the Fifth Petition of the Lord's Prayer, or because we confess our sins and receive his forgiveness according to the promise of 1 John 1: 9. It is clear from this that Luther sees sanctification predicated on justification, and the formal removal of sin or the cessation of sin (in the sense of 1 John 3: 6: *πᾶς ὁ ἐν αὐτοῖς μένων οὐχ ἁμαρτάνει*) as nothing more than the application to the *credentes* of the forgiveness of sins *per fidem in Christo*. In other words, the active subject in sanctification is Christ and the Holy Spirit, and when Luther speaks of our involvement, he usually qualifies it by linking it with the power or agency of the Spirit.²⁹¹ He makes

²⁹⁰Cf. 39 I, 112, 3-6 (Iust., Arg. 19): . . . *sed debemus expurgari et crescere de die in diem in bonis operibus, et tamen scire, quod vivimus sub misericordia, ubi habemus pacem conscientiae*. Cf. also 113, 22-23 (Iust., Arg. 20); 177, 11-12 (De hom., Th. 39) where Luther also speaks about the possibility of spiritual regression; 236, 11-13 (PT, Arg. 17); 439, 3-6 (2 AD, Arg. 5), 510, 1-17 (3 AD, Arg. 4); 551, 6-7 (3 AD, Arg. 25).

²⁹¹Sanctification could be described as the purification [*expurgare*] of the Christian or the Spirit-led battle against the *reliquiae peccati* or the flesh (cf. the *regressus ad baptismum* as dying to the old and rising to the new) and is really part of the lifelong repentance of the Christian. This purifying or expurgative work is mostly ascribed to the Holy Spirit (see here 434, 8-12, discussed below). Luther often talks about faith fighting against the remnants of sin in the flesh: see e.g. 39 I, 356, 23-24 (ATh, V, Th. 43); 398, 24-399, 1 (1 AD,

this clear a little later when he says that there are two reasons for the non-imputation of sins, first, *propter Christum*, secondly, because Christ himself fights against sin: *quod pugnat [scil. Christus] pugnat cum peccatis, nec patientur dominare peccatum* (432, 17- 433, 1).²⁹² Although Luther says that more and more *expurgo et mortifico peccatum adhuc haerens in carne mea, donec hoc tandem totum, quod est veteris hominis, tollatur et consummatur . . .* (432, 8-10), this does not mean that we become quantitatively less and less sinful to the point where we could actually attain perfection in this life.²⁹³ This idea must be rejected because sinless perfection is an eschatological reality and will only be attained in the *vita futura* when, after the final removal of all sins and the destruction of what is *vetus* in the *vetus homo*, each Christian will appear *purus et clarificatus homo absque omni macula a labe* (cf. Eph. 5: 26-27). Nevertheless, Luther at the same times certainly expects a real

Arg. 21); 474, 17-20 (2 AD, Arg. 21); 493, 6-9; 494, 8-13 (3 AD, Praef.); 513, 1-7 (3 AD, Arg. 5).

²⁹²Luther also makes the connection between justification and sanctification clear when he begins his statement in 432, 7-11 about how sin ceases in us *formaliter* with the words: *Atque hoc modo*, which refer to the preceding sentence in 431, 18-432, 7 with its statement about justification.

²⁹³Cf. 435, 20-23 (B): *deinde replet [scil. Christus] etiam [legem] per Spiritum sanctum in nobis, quia quando credimus in eum, dat nobis Spiritum sanctum, qui inchoat hic in nobis novam et aeternam obedientiam, sed in resurrectione mortuorum perficiendam*. On the other hand, there can be no doubt from the way Luther expresses himself that he does expect real growth in holiness and the fruit of the Spirit in the Christian, in the same way as a good tree cannot but bear good fruit. However, it is the Spirit's fruit, which he produces in us, just as the life of the baptized is Christ's own life lived out in them (cf. Gal. 2: 20). Note also how when Luther talks about *impletio legis formaliter* or *peccatum expurgare et mortificare*, he always does so in connection with the operation of the Holy Spirit. This will be discussed further in connection with the later arguments.

growth in holiness, for after having received pardon for sins *imputative*, he says that I then [*deinde*] receive the gift of the Holy Spirit and begin *expurgative* to hate everything that offends his name and to pursue good works, and if any remnant of sin is left in me, *id expurgo, donec totus mundus fiam, atque hoc in eodem spiritu, qui datus est propter Christum* (434, 6-12).²⁹⁴ By the same token, we know in advance that when he says: *donec totus mundus fiam* Luther does not mean that I actually become altogether pure and holy already in this life in a verifiable way.²⁹⁵ Hence, it can only refer to the gracious

²⁹⁴Cf. 39 I, 99, 25-29 (Iust., Arg. 8): *Primum enim purificat imputative, deinde dat spiritum sanctum, per quem etiam substantialiter purgamur. Fides purgat per remissionem peccatorum, spiritus sanctus purgat per effectum. Haec est mundificatio et purificatio divina, quae de coelo demittitur, sed per fidem et spiritum sanctum* (emphasis ours). Sometimes Luther omits the *primum* and at other times he will substitute *insuper* for *deinde*. Regardless of the variations in terminology, the first part corresponds to justification (Christ fulfills the law *pro nobis, extra nos, and propter Christum per fidem*, God deems [*reputare*] that we have fulfilled it *imputative*), and the second to sanctification (Christ fulfills the law *in nobis, per Spiritum sanctum*). Hence, these two terms and the facts they represent, while they must be distinguished, should not be understood in a temporal sequence, for they belong together, although the second always presupposes and grows out of the first. For other occurrences of the *primum-deinde* Begriffspaar (whether fully or partially expressed), see 39 I, 372, 19-373, 4 (1 AD, Arg. 6) where the *deinde* signals the gift of the Spirit through whom we can delight in the law and who gives us the will to keep it; 380, 2-5 (1 AD, Arg. 12) where the *insuper* signals the Spirit who enables us to begin keeping the law already here; 383, 5-10 (1 AD, Arg. 14). In 1 AD, Arg. 15 the *primum-deinde* contrast refers to something quite different: the twofold [*duplex*] way in which unbelievers sin.

²⁹⁵Cf. 39 I, 444, 4-6 (2 AD, Arg. 7): *In Christo tamen imputative habemus perfectam impletionem, ut in hac vita expurgative non possumus perfecte mundari, propter peccatum habitans in carne nostra.* The antinomians, on the other hand, thought that sin in its entirety was removed *formaliter* in this life already as we see from the fifth *Thesenreihe*: 46. *Videtur satis aperte, Antinomus opinari, peccatum esse formaliter et philosophice seu iuridice*

appropriation and reception of the forgiveness of sins which I am given *imputative* through faith. We cannot satisfy the law ourselves even as *iusti*, *quia wir haben der müntz nicht nach der Arithmetiken*, but we can cling in faith to Christ who fulfilled it *pro nobis* and *loco omnium nostrum* by paying our debt in excess²⁹⁶ with the gold and silver of his most precious blood (433, 17-19).

A few deductions from the above seem to be in order. We have observed that Luther keeps the *imputative* and *formaliter et expurgative* aspects of the cessation of sin together. The *formaliter* presupposes and grows out of the *imputative*, and yet the latter would wither like a fruitless tree if it did not realize itself in a holy life, for there can be no justification without sanctification. At the same time, our sanctification, real as it is to be, will never take us beyond the point where holiness can be anything other than the forgiveness of sins, or where we become the active subjects rather than the *Christum in nobis* who lives his life in and through us. It follows then that in this life our *progressus* (our word not Luther's) in sanctification will never approach perfect holiness in ourselves because there is no sinlessness this side of heaven, only the forgiveness of sin's *propter fidem in Christum*. Rather, any growth in holiness will lead Christians ever and again to the confession of sins and the continual reappropriation of forgiveness through the means of grace.

sublatum per Christum; and again 48. *Relative enim, non formaliter aut substantialiter est peccatum sublatum, lex abolita, mors destructa* (356, 27-32). See Arg. 7 for more on the *imputative-formaliter* contrast.

²⁹⁶Note that the idea of paying the law out in excess (here *mit truckenen taler unnd guten gulden bar uber bezalet*) is an important and characteristic emphasis of Luther's when he talks about Christ's fulfillment of the law.

Now it is precisely because the ongoing expurgation of sin in the baptized is nothing other than living in daily repentance²⁹⁷ (cf. 2 Cor. 4: 10: πάντοτε τὴν νέκρωσιν τοῦ Ἰησοῦ ἐν τῷ σώματι περιφέροντες, ἵνα καὶ ἡ ζωὴ τοῦ Ἰησοῦ ἐν τῷ σώματι ἡμῶν φανερωθῆ) that Christians still need the law: *Imo ipsi sancti opus habent lege quasi monitore quodam, cum perpetuum bellum sit in eis spiritus et carnis, Rom 7 [: 23] (432, 14-16)*. This is an important statement, if only because of his use of the phrase *monitor quidam*. The word *monitor* can denote a prompter, adviser, or instructor. Thus, Luther maintains that the *sancti* need the law to guide or instruct them in the ongoing battle with the flesh for they are *sub lege et sine lege* (433, 1). Although he does not further explicate the role of the law in the *vita christiana*, it seems clear that the accent here again falls on the second use or *usus theologicus*. This certainly does not exclude the fact that the law as *monitor* may also instruct Christians in spiritual warfare and in what good works are pleasing to God, but it appears that Luther envisages no special didactic use of the law for the *sancti* which is separate from the primary *usus legis* as *lex arguens* (in the double sense of exposing and accusing sins). This is clear from the final words

²⁹⁷In 39 I, 396, 10-13 (1 AD, Arg. 21) Luther brings into very close connection the indicative of Christ's substitutionary atonement for us and the imperative of sanctification: *Durat ergo piorum poenitentia per totam vitam. Hinc Paulus ait, nos habere agnum pro nobis oblatum Christum, per quem sumus puri absque fermento, et tamen interim iubet nos expurgare vetus fermentum* (emphasis ours). 113, 26-114, 3 (Iust., Arg. 20) is a very instructive passage because here Luther mentions the *instrumenta* of purification: *Nam quotidie orare, quotidie audire et meditari verbum et accedere ad sacramentum et purgare sanie et putredinem [sic] debemus; ergo debemus uti his instrumentis, ut purgemur, mundemur ex sanie peccati, donec vere et prorsus purgetur*. Cf. 112, 3-4 (Iust. 19); 204, 23-24 (PT, Th. 39); 236, 11-13 (PT, Arg. 17); 350, 24-27 (ATh, III, Th. 9, 10).

of the sentence just prior to where he talks about the law as *monitor: nec sine praedicatione legis sua [scil. vulgus] vitia et peccata unquam cognosceret* (432, 13-14). Even among believers sins cannot be recognized without the law.²⁹⁸

Luther distinguishes between a *lex vacua* and a *lex efficax*, the former applies to the saints and angels in heaven, the latter to sinners on earth. We have already seen him make a similar sort of distinction in the First Disputation when he argued that the law was eternal, not as *lex* but as *res*,²⁹⁹ for here the law is still *lex implenda*, but there purely *lex impleta*.³⁰⁰ That is just another way of saying what he says here: in heaven the law will remain, but only as the fulfilled law because its demand will then be perfectly satisfied so that it will no longer be an operative law, which is always *lex accusans, reos agens et lex exactrix* (434, 3-4). Hence Luther calls it a *lex vacua*, whether *qui-escens* or *simpliciter sumpta*, and distinguishes it from the *lex accusans nos seu chirographum decreti scriptum in mentibus nostris* (433, 1-5). Furthermore, for the saints and angels in heaven the law is a mere *oratio vacua*, for

²⁹⁸When Luther says in 433, 1 that Christians are *sub lege et sine lege*, he means they are *sub lege quoad peccatores*, while on the other hand *sine lege quoad sanctos*. Christians are no longer *sub lege* (and Paul in Gal. 5: 1 warns them against falling back into slavery under the law) because sin is no longer regnant but is now ruled. Cf. Rom. 6: 14: ἀμαρτία γὰρ ὑμῶν οὐ κυριεύσει· οὐ γὰρ ἐστε ὑπὸ νόμον ἀλλὰ ὑπὸ Χάριν.

²⁹⁹See 39 I, 413, 17 (1 AD, Arg. 34).

³⁰⁰Christ has already fulfilled the law for us so that in faith we can already regard the law as *lex impleta*; however, for our flesh it still remains a *lex implenda*, which we ourselves will only completely fulfill in heaven after the flesh has been destroyed.

they do it *cum gaudio* so that they are not motivated by it³⁰¹ in the slightest [*minus agit in illis lex quam ullae cyphrae*]. For us, on the other hand, the law is a *res efficax, pungens ac urens cor*. Luther quotes Augustine here as saying: *Litera est lex sine gratia* and goes on to illustrate this with the 10,000 talents of the parable in Matt. 18: 23-35.³⁰² The ciphers as a book entry are *vacuae cyphrae et infelix et misera quaedam arithmetica, ut cui rerum nihil sub-sit*, but to a debtor, on the other hand, they are not *vacuae neque de nihilo*, but vex and harass the conscience without limit until some *aliquis dives* comes along and satisfies the ciphers with *res solidae*.³⁰³ As we have had occasion to observe before, Luther does not say that Christ simply paid the debt on our behalf, but he stresses that he paid far in excess of what he had to, and furthermore that he paid in the best silver and gold, that is, with his precious blood (cf. 1 Peter 1: 18-19) (433, 5-434, 1). Alternatively, he can also say

³⁰¹For the saints here on earth the story is different; while they delight in the law *κατὰ ἔσω ἄνθρωπον* (Rom. 7: 22), the flesh rebels against it and must be coerced by threats, punishments and promises.

³⁰²Augustine, "Enarratio in Psalmum LXX," 1, 19; *Opera* 4 (MPL 35, 888). Unlike the mature Luther, Augustine puts the gospel under the *Oberbegriff* of *lex* so that he distinguishes between the law without grace and the law with grace = *lex spiritualis*. Although Luther cites him here he has long parted with his notion of *spiritus et littera*.

³⁰³Version B understands the *lex vacua* in a different light. For sinners the *law exigens* is empty and demands fulfillment, whereas for the saints the *lex* is *impleta* and hence not *vacua*: *Lex certe quando ad nos non est impleta, sed est vacua, ideo accusat nos et exigit sui impletionem . . . Quomodo enim vacuae ciphrae vexant debitorem, quando non potest solvere debitum, ita lex est vacua litera seu ciphrae vacuae poscentes a nobis impletionem* (433, 22-434, 20). This is the opposite of what Luther states in 434, 1-2 (A) where he notes that when we speak about the law (as sinners), *non loquimur de vacua lege et cyphris*, like the saints can do in heaven.

that Christ's substitutionary action [*in nostrum locum* or *per unum loco omnium nostrum*] did what we lacked³⁰⁴ [*supplet, quod nobis deest*] when with his blood he wiped out the handwriting of the decree describing our indebtedness, an obvious allusion to the *lex scripta* of the law of Moses [*et suo sanguine delet chirographum decreti, quod erat contra nos*].³⁰⁵

It is worth noting in passing that more often than not it seems that Luther prefers to describe Christ's atonement as satisfying the demands of the law. Earlier he spoke of Christ redeeming us from the *lex accusans, reos agens et exactrix* (the 10, 000 talents and ciphers that pricked our conscience) by paying with his blood (433, 17-434, 4); here he says the same; not that Christ conquers the law (although that is the thrust of Col. 2: 14-15), but that he cancels the debt [*chirographum decreti*] until finally *satisfactum sit legi per unum loco omnium nostrum* (434, 14-16).³⁰⁶

³⁰⁴This phrase is reminiscent of Paul's words in Rom. 8: 3: Τὸ γὰρ ἀδύνατον τοῦ νόμου ἐν ᾧ ἠσθένει διὰ τῆς σαρκός, ὁ θεὸς τὸν ἑαυτοῦ υἱὸν πέμψας ἐν ὁμοιώματι σαρκὸς ἀμαρτίας . . .

³⁰⁵Luther here has in mind Col. 2: 14 where Paul describes Christ's victory over the law: ἐξαλείψας τὸ καθ' ἡμῶν χειρόγραφον τοῖς δόγμασιν ὃ ἦν ὑπεναντίον ἡμῖν.

³⁰⁶See also 435, 8-10, where Luther says of the law: *Christus semel omne debitum, quo legi sumus obligati, exsolvit ac pro nobis satisfacit*. Not that Luther cannot also speak of the atonement in terms of the *Christus victor* motif. Perhaps the classic passage is 39 I, 427, 4-8 (2 AD, Arg. 2) where Christ, once received in faith, enters the fray and fights death to the death. But it is instructive to note that even here it is not the law that Christ engages in mortal combat, but death (and then by extension hell and the devil, for his victory cry is: *Mors mortis, infernus inferni, diabolus diaboli ego sum*). In 431, 14-16 (1 AD, Arg. 28) Luther speaks of Christ devouring sin in his own body, and removing the *sceptrum exactoris* (an allusion to the law). Of course we need to remember that for him there is a close nexus between sin, death, Satan and

The final section of the *responsio* is a summary in itself. While keeping a fine balance between these two parts, Luther surprisingly puts the stress on the *imputative* aspect, even though one might expect it to fall on the *formaliter* and *expurgative* side since this is the side that is most in danger of becoming lost among the antinomians. This testifies to Luther's strong conviction that without the imputation there would be no evangelical expurgation. Formally, sin is removed *quando ipsum expurgatur et evacuatur*, just as the law itself ceases when we do what it demands, spontaneously and willingly [*ultro et volentes*]³⁰⁷—and now comes the gospel motivation for keeping the law, which the antinomians wanted to stress exclusively—*non tam, quia lex exigit, quam ex amore iustitiae et recti et Dei ipsius*.³⁰⁸ Again, as we have already seen, when the law receives it due, as it does *per Christum*, it ceases to be a *lex efficax* and becomes a *lex vacua*, a toothless tiger, so to speak, which is no more effective in driving people to obedience than wax or chalk ciphers are in paying off a debt [*quam cera, seu ciphrae creta factae in solvendo debito*]. This is the law of the saints in heaven. Luther cites as an example of a *lex vacua* the law of growth rooted in God's creative command which he first uttered when he created the world: "*fereas fructum*." This *lex*, as Luther says, is

the law. Nonetheless, it is noteworthy that when he speaks of the law within the framework of the atonement, he is more likely to speak in legal terms, especially that of making satisfaction.

³⁰⁷Luther often says that the new life flowing out of faith is spontaneous: see 39 I, 46, 28-30 (De fide, Th. 34): *Fatemur opera bona fidem sequi debere, imo non debere, Sed sponte sequi, Sicut arbor bona non debet bonos fructus facere, Sed sponte facit*; cf. 250, 4-5 (PT, Arg. 28); 283, 17-18 (VN, Arg. 6/7); 321, 11 (VN, Arg. 43/40); 354, 3-6 (ATh, IV, Ths. 35-36).

³⁰⁸See ch. 2 for background on the antinomian teaching that repentance is to arise *ex amore Dei* or *ex iustitia Dei*.

vacua for *arbor foecunda et pomifera*, because they produce their fruit *natura sua* and need no command.³⁰⁹ We, of course, are not like that, but because of the *reliquiae peccati* we need the *lex exigens et arguens*, which drives, accuses, and damns. Yet on the other hand, we have been liberated from the *lex accusans et condemnans* already, so that *propter fidem per Christum* or *imputative*, we can say: *ut quamquam alioqui efficax apud nos lex, vacua sit tamen et cessarit nobis quoque* (emphasis ours).

Argument 4³¹⁰

Contra 10

Paul says in Gal. 5 [: 18]: If you are led by the Spirit you are not under the law. But the church is led by the Spirit. Therefore, the church is not under the law.

Response: This is an argument I have already mentioned. We are not under the law, that is, the law that accuses us, just as it is incorrect to say that angels are under the law, for they satisfy the law in all points, and they do this spontaneously by their nature, which leads them to do this, not because the law demands it. Therefore, the law cannot accuse an angel. But in a different way, neither are we under the law nor can it accuse us, because it has already been fulfilled by an alien righteousness, that is Christ's, and this in the name of all of us. This therefore is my head, that is, Christ, and since he is continually with me, I do not worry much about the disturbing law.

My second response is this: we are not under the accusing law. For having received the Holy Spirit, we begin to loathe and hate sin, and to purge this out with the help of the Holy Spirit, not assenting to sin, but fighting against it. Since however the sin that we have is of such a kind that it does not rule, but rather is compelled to serve me for good, what is it that we fear or that causes us grief? For we have the sure testimony of the Holy Spirit in our hearts, that on account of Christ our sins have been certainly pardoned, for he has given me his fulfillment. Next, there

³⁰⁹FC SD VI uses similar examples from the world of nature and the nature of the planets to describe analogically how Christians qua saints do things with a free and merry spirit, spontaneously, without any instruction, exhortation, or outward coercion (see BSLK, 964 et passim).

³¹⁰39 I, 435, 16-437, 3.

is the testimony that even if occasion, place, and time permit me to engage in fornication, adultery, theft etc. without any disgrace or penalty, I nevertheless do not do it. Here in fact and in myself I know that the Holy Spirit dwells in my heart and is at work there.

Luther's two part *responsio* is basically a short summary of his much longer response to the previous *argumentum*. The antinomians argue that Christians are not under the law, taking as their *sedes* Paul's words in Galatians 5: 18: εἰ δὲ πνεύματι ἄγεσθε, οὐκ ἐστὲ ὑπὸ νόμον. Luther clarifies that by saying that we are not under the law in the sense of the *lex accusans*. This is true in two ways: first, because it has already been fulfilled vicariously by the *aliena iustitia, id est, Christi, et hoc omnium nostrum nomine*.³¹¹ The law cannot accuse angels either, but for a different reason: they fulfill it perfectly *ultro natura sua*, and not because the law demands it (436, 1-8). The second reason [*Deinde etiam respondeo secundo*] why, according to Luther, Christians are free from the *lex accusans* is because after they have received the Spirit they begin to fight against sin and expel it: *Recepto enim Spiritu sancto incipimus detestari peccatum et odisse, expurgamusque hoc ipsum adiuvante Spiritu sancto*, and one of the ways in which we clean out the sin is by *non consentientes peccato, sed repugnantes* (436, 8-11).³¹² However, even the

³¹¹Cf. 436, 20 (B): *Non estis sub lege, primum imputative propter Christum*. As we noted already in connection with the last argument, Rel. B sees the law in the Pauline sense (*lex accusans*) as empty: *Nam Paulus per legem intelligit legem vacuum, non impletam* (436, 19).

³¹²Cf. 436, 22-25 (B): *Deinde et vos ductu Spiritus sancti incipitis satisfacere legi, atque ita non estis sub lege imputative, neque formaliter . . .* The *impletio legis* happens in a twofold way (as we saw in the last Argument), the first by imputation of Christ's alien righteousness, see 39 I, 203, 16-17 (PT, Th. 17); 235, 17-236, 8 (PT, Arg. 17); 242, 20-23 (PT, Arg. 23); the second by the working of the Holy Spirit in us and with us: see 380, 5-6 (1 AD, Arg.

reliquiae peccati that are to be expelled no longer rule believers, but are rather compelled to serve our good. The saints may still feel carnal impulses, yet they no longer follow their evil promptings, but instead fight against them (cf. Rom. 7: 20). Therefore, Luther exclaims, since we are under the control of the Spirit and not of our flesh, what have we to fear from sin [*quid est, quod timeamus aut doleamus?*].

Luther closes his *responsio* by offering two reasons why we have nothing to fear from the *reliquiae peccati* which still clings to us. First, we have the sure testimony of the Holy Spirit in our hearts, [*certum testimonium Spiritus sancti in cordibus nostris*] that *propter Christum*, our sins have certainly [*certo*] been pardoned, for he has given us his *impletio* as a gift (436, 13-15). Here the Spirit's *testimonium* points us to Christ's work of justification *extra nos* as the abiding ground of our confidence before God. Secondly, we also have the *testimonium* of the Spirit pointing to his own work of sanctifi-

12): *Insuper [Christus] dat Spiritum sanctum, ut incipiamus hic implere, in futura vita erimus similes imitatores Christo; cf. 236, 11-13 (PT, Arg. 17); 373, 1-6 (1 AD, Arg. 6); 468, 14-469, 3 (2 AD, Arg. 16). The first happens through faith, the second through love: 203, 14-15 (PT. Th. 16): Lex igitur dupliciter impletur, scilicet per fidem et charitatem. The first is already perfect, the second is still imperfect and will only be perfected after death: see 39 II, 214, 4-8 (Marb., Arg. 15): Fides heist ann sich selbst iustitia perfecta, et e contra charitas imperfecta. Nos autem oportet habere iustitiam perfectam. Unde ergo habemus, cum charitas sit imperfecta? R.: Per Christum, qui iustitiam habet perfectissimam, et nos eam applicamus fide; 39 I, 241, 25-27 (PT, Arg. 22): Sic duplex erit iustitia, perfecta, quae est imputatione perfecta, imperfecta, quae per suam naturam ita est, et haec est ex operibus nostris, non ex fide; cf. 443, 25-444, 18 (2 AD, Arg. 7) (B): Iustificatio et impletio legis debent fieri, sed utraque est duplex, perfecta et imperfecta. Perfecta impletio aut perfecta iustificatio est, quae nobis imputatur propter Christum fide. Imperfecta impletio legis est, quando Spiritus sanctus incipit formaliter implere legem in nobis, seu quando per Spiritum sanctum nos incipimus implere legem. Cf. 208, 9-19 (PT, Arg. 3; the respondent is not named).*

cation within us, to the effect that even if the opportunity [*occasio, locus, tempus*] arose to indulge in carnal sin, theft, etcetera with impunity [*sine omni infamia aut poena*], we nevertheless would not do it (436, 16-437, 1).³¹³ Luther sees this as a real internal witness [*hic reipsa et in me*] to the presence and work of the Holy Spirit in our heart: *Hic reipsa et in me ipso experior Spiritum sanctum habitare in corde meo et efficacem esse* (437, 1-3). In our opinion, this last point is to be taken as a second *testimonium* of the Spirit even though Luther does not repeat the term.³¹⁴ The first *testimonium* is to justification (*imputative*), the second to sanctification (*formaliter*). These two also go hand in hand. Like law and gospel they must always be distinguished but never separated. Indeed, Luther says that the very fact that he struggles against sin and does not let it gain the upper hand (cf. Rom. 6: 12-14) is for him evidence that the Holy Spirit dwells in his heart and that he is *efficax* (437, 1-3).

These two *testimonia* are important for the argument *contra antinomios*. Not only do they demonstrate a coherence between justification and sanctification, which is absent in antinomianism, but also an agreement be-

³¹³As Rel. B (436, 22-437, 18) shows in more detail, this is not without a struggle in Christians. Saints also feel *carnales motus et cupiditates*, but they resist them by the Spirit. Sometimes however they fall: saints can be overcome [*stuprare*] by another man's wife or children, they can [be tempted to] take vengeance on their enemy, but even though they are incited to action by these *primi affectus in carne mea--utpote et libido--*yet they do not succumb to these *pessimas consultrices*, but heed [*parere*] the will of God.

³¹⁴Grammatically, we take the second *quod* in l. 16 (introduced by *deinde*) to be also governed by *testimonium Spiritus sancti* (l. 14). This second testimony is also reflected in the *peccatum detestari et odisse* or again in the *non consentientes peccato, sed repugnantes* (436, 10-11).

tween the sanctified life lived κατὰ πνεῦμα and the content of the Decalogue as *lex insculpta in cordibus nostris*. Therefore, the antinomian attempt to drive a wedge between the Spirit and the law (= Decalogue) has been shown to be a false antithesis. The law is not against the Spirit but against the flesh (the battle of the πνεῦμα against the σὰρξ is lifelong), and secondly, the law is received by faith as the *lex impleta* and this is the very path along which the Spirit leads those who have the *lex Christi impleta* through faith.

Argument 5³¹⁵
Contra 10

Whatever keeps us from God's love is not to be taught. The law keep us from God's love. Therefore, the law is not to be taught.

Proof of the minor premise: From the canonical book of John: Love casts out fear (1 John 4: 18).

Response: This is a good argument. The scholastic doctors make a subtle distinction here between servile love and filial love. But they can be separated more easily in words than in reality. Therefore, it is more advantageous to continue in the way of law and gospel. That way we will come closer to it. The law, in exacting and demanding its fulfillment, accuses, kills, drives people to despair and makes them so anxious that they do not know which way to turn. But you will say: Therefore, it is only right that it should be driven out from human society, since it produces nothing but terror and not love in our hearts. My response to that is no; rather the law is to be summoned all the more and set before your eyes that when you hear it you may know that you do not love, and that that fear is a sure sign to you and to others that there is no love in your heart. For if you had love, the law would not distress you the way it does. The law is not so great that it can drive love out of your heart, if it is true and unfeigned, but the more you fear, the more the law needs to be urged, until you see that you do not love with your whole heart as the law demands. This is also what John says in that same passage: whoever fears is not perfected in love (1 John 4: 18), which is to say that by the very fact that you fear you show that you do not yet love or have not yet grasped the gospel concerning Christ. Furthermore, what John says, namely, that perfect love drives out fear, is right. For that is how it must

be, because what he is describing there is that continual battle of the believing saints (which we often hear about in Psalms) as they cry out and lament over their troubles, even when they are not burdened by any actual sin, since they are overwhelmed by terror, fear and trembling, as the Psalmist says: Fear and trembling have overtaken me and I am in great anguish (Ps. 55: 5, 6). Paul also writes in Rom. 7 [: 22]: I delight in the law of God etc. For this reason, when fear or terror of such a kind gets at you that and there is no denying that you do not yet have perfect love and you realize that you are not going to resist here, then it is that with all your might you should hasten to Christ and try as you are able in these terrors and troubles to know and apprehend Christ and faith. But this faith ought to be so great that love is kindled in us and that day by day fear is banished more and more until finally, when all fear and terror has been completely overcome and banished, love will rule in us wholly. Where fear now drives me to love, it happens in such a way that finally love will swallow up fear and become perfect love. It is concerning this that John says here, as it were: You ought not be so fearful and afraid, neither ought you remain and persist in this fear, but break through this monster as much as you can to love, and do not stop until this fear does not rule in you any longer. For what is needed is that the Spirit is ruling, as Paul says: To be sure, I face sin and despair; I see death. Is not how it is always going to be? By no means, but I must strive and hasten with might and main to this: I do not desire the death of the sinner (Ezek. 33: 11). You will not die (2 Sam. 12: 13). Here love rejoices far longer than there was terror. For now I have something else set against this, namely God, who loves me, and I love him and the neighbor. Any remnants of fear and terror perish in this love. You will observe that consciences are to be taught in such a way that from the midst of hell they learn to look up to the highest heaven and lay hold of God who in Christ is lovable and reconciled.

Now I return to the argument. The word fear is equivocal. For fear is duplex: fear without love, and fear with love. Fear without love calls me away from love, and is satanic and evil; this the law does not teach. But, on the other hand, fear with love, or fear based on the law, calls me evangelically to love in such a way that having been humbled I may know myself, who I am, namely, a person who does not have love. Therefore, where it is revealed it ought to cease; now that its office has been discharged, it ought not terrify, diabolically and carnally, that is, simply drive to despair, but after my evil has been revealed, it ought to compel me to take refuge in Christ. This calling away and mortification is salutary, evangelical, and useful, in that it calls us away from ourselves and not from grace or the forgiveness of sins, or from Christ. Therefore, learn well how to distinguish between those two things. For the devil

drives and terrifies in such a way that you perish and die. On the other hand, the gospel and God do not want you to perish, but rather to be saved and live (Ezek. 33: 11). It is enough that you have been terrified and mortified, now believe in the Son and you will live.³¹⁶

The *argumentum* calls for the abolition of the law based on two premises: the first, that God's love is paramount, and the second, that law and love are antithetical, for the law gives rise to fear and perfect love drives out fear. Luther's *responsio* begins with a reference to the scholastic distinction between *charitas servilis* and *charitas filialis*, which he abandons in favor of his own law-gospel distinction because of the former, he says, *facilius verbis, quam re possunt separari* (437, 2-3).³¹⁷ The reason he abandons this *modus loquendi* is because it finally tries to locate the ground of certainty *coram Deo* in our pious hearts [*in nobis*] instead of at Calvary and in the word, Baptism, Absolution, and the Lord's Supper [*extra nos*]. Then after a very instructive interlude on the nature of repentance under the gospel in terms of the relationship between fear and love in the *vita christiana*, based on 1 John 4: 18,

³¹⁶Hermelink notes (39 I, 440, n. 1) that Palat. 1827 fol. 30^b has a marginal note from the hand of the editor who has corrected all the worst errors of the first copyist, which says: *Desunt quaedam argumenta et eorundem solutiones*.

³¹⁷The distinction is made by Thomas Aquinas, *Summa theol.* 2, 2 quaest. 19 art. 6. Cf. the related terms *filialis timor* and *servilis timor*; see CA XII, 38 (*De Poenitentia*) where *filialis timor* is defined as *talis pavor, qui cum fide coniunctus est*, whereas *servilis timor* occurs *ubi fides non sustentat pavidum cor* (BSLK, 258, 38); cf. FC Epit. IV (BSLK, 788, 12; *von guten Werken*, Affirmative, Th. 7) and FC SD IV (BSLK, 966, 16; *vom dritten Brauch des Gesetzes Gottes*), where the terms are not used but the idea occurs. Although it is *timor* and not *charitas* that is in focus here, these references nevertheless exhibit the same type of scholastic distinction between *servilis* and *filialis* as we find here. The same terms recurs at 39 I, 565, 8-11 (3 AD, Arg. 31/4), where the argument is also parallel to the one here.

he returns to the argument where he makes an important distinction between evangelical and diabolic fear and the different ways in which they work in repentance. This, as we shall see, is Luther's answer to the scholastic distinction (accepted by the antinomians) between filial and servile fear. But we begin with an analysis of Luther's discussion of fear and love.

The principal objection to the law here raised by the antinomians is neatly summed up by Relation B: *Lex accusat et adigit ad desperationem. Sed desperatio parit odium, quod est charitati contrarium. Ergo lex avocatur a sui impletione, id est, a charitate* (437, 27-29). They claim that the law ought to be eradicated from human society altogether [*ut extra hominum consortium eiciatur*] because it produces nothing but terror and not love (437, 15-438, 1). Luther, in typical dialectical fashion, comes back and says, on the contrary, it is precisely for that reason that the law needs to be urged all the more until you see that you do not love with your whole heart, as the law demands.³¹⁸ If you did have love, the law would not distress you the way it does, for love casts out fear (1 John 4: 18).³¹⁹ Luther interprets the lack of love as an indication

³¹⁸438, 2-4: *eo magis accersenda est lex et collocanda ante tuum conspectum, ut illa sonante scias, te non diligere, et ille timor certissimum signum est et tibi et aliis, nullam charitatem esse in corde tuo.* This at first sounds strange because we are accustomed to hearing Luther say that people who are full of fear and terror need to hear the gospel, not the law. However, the antinomians held that, one of the reasons the law was not to be taught was that it could only cause fear and not love. Luther however wants to emphasize that is exactly what the law is meant to do, for love can only arise from the gospel. Hence, people first need to be shown their own lack of love so that they look away from themselves and are ready to receive Christ's perfect love as a gift.

³¹⁹Cf. also, 1 John 4: 19: ἡμεῖς ἀγαπῶμεν, ὅτι αὐτὸς πρῶτος ἠγάπησεν ἡμᾶς.

that you have not yet let yourself be fully permeated by Christ's love [ostendis, *te nondum diligere seu arripuisse Evangelium de Christo*] (438, 10-11).

The Pauline motif of the struggle between the flesh and the spirit which will continue in those who are *simul iusti et peccatores* until death, finds its correlate here in the tension between fear and love.³²⁰ However, the fear produced by the law as it reveals our sin, our lack of love, is not an end in itself but a means to an end, the gospel of Christ in which God's love overcomes and banishes all fear, but that will only be accomplished in the *eschaton*. Until then fear can serve an evangelical purpose (Luther will talk more about this later) when it makes us cognizant of our lovelessness and leads us to despair of the hope of ever finding any help in ourselves, and then (with the aid of the gospel) directs us to him who is our only hope and consolation, whom we can grasp in faith amid all our terrors and troubles.³²¹ Since love will not rule in us wholly [*prorsus*] until after the death of the flesh, faith lo-

³²⁰Luther alludes to the struggle of the saints, who cry out and lament over their troubles [*mala*], even when they are not afflicted by any actual sin [*etiam cum non adferunt actuale aliquod peccatum*], since they are shaken by *terror, timor et tremor*, as the psalmist says: *Timor et tremor ceciderunt super me et contristatus sum nimis* [Ps. 55: 5, 6], and again Paul in Rom. 7: 22: *Condelector legi Dei etc* (438, 12-17).

³²¹438, 17-439, 3: *Ideo autem eiusmodi terror aut timor immittitur, ut reipsa experiaris, te nondum habere perfectam charitatem, quod cum sentias, non hic resistendum erit, sed quantum potes, accelerandum ad Christum et conandum, ut possis in illis terroribus et malis et agnoscere et apprehendere Christum et fidem.* The *terror aut timor*, which are the *effectus* of the law, reveal that the law has not been fulfilled (the lack of *perfecta charitas*). The solution however is not to resist the fear in the hope of overcoming it and growing in love, but of recognizing one's poverty of love and hastening to the one place where love freely abounds, to him who is love incarnate, and taking hold of him by faith.

cates its confidence not in our love for God but God's prior love for us in Christ. Nevertheless, under the impetus of faith love grows day by day in overcoming fear, but this will always remain incomplete until the last day when fear, death, and the law are finally conquered, faith is fulfilled, and love alone holds sway [*Haec autem fides tanta debet esse, ut accendatur in nobis charitas et timor de die in diem magis et magis eiiciatur, donec tandem devicto et eiecto omni terrore et tremore prorsus regnet in nobis charitas*] (439, 3-6).

This description of sanctification in terms of love overcoming fear is the Johannine counterpart to Luther's customary Pauline mode of expression which pictures it more in terms of the ongoing expurgation of sin through the working of the Holy Spirit. The saint-sinner struggle can be described in different ways. Paul writes that we should walk by the Spirit and not gratify the desires of the flesh (Gal. 5: 16). Luther, trying to stay more with the language of John, says that we should not remain a captive to fear but break through this monster as much as possible and take hold of love, and that we should keep doing this until the fear subsides [*Tu non debes ita timere ac terri, neque in istis manere ac persistere, sed quantum potes per ista monstra perrumpere ad charitatem neque cessare, donec haec non timor in te regnet*] (439, 8-11). The *timor regens* is a correlate of *lex regens et accusans*, whereas Luther says that Christians are marked by the *charitas regens* which corresponds to the *Spiritus regens* and as given with justification. The only way forward is to listen to the gracious, liberating words of Christ

When we are burdened by the accusation of the law and tempted to doubt that the promise of the gospel is for us, the only way to break out of this

bind is to listen again to those gracious death-destroying and life-giving words which, for Luther, epitomize the gospel: *Nolo mortem peccatoris. Non morieris* (Ezek. 33: 11; cf. Ps. 118, 17).³²² This is the word we long to hear, for it banishes fear and terror. And when consciences have been taught to properly distinguish between law and gospel, they can look up from the abyss of their existential hell and believe the promises of the gospel in spite of the fact that death stares them in the face and all that they feel is the weight of the law pressing upon them. That is the time to cling in faith to the great "nevertheless" of the gospel which proclaims to us that God loves us and has forgiven us, despite all appearances to the contrary³²³ (439, 12-440, 1).

This first part of the *responsio* has been instructive in that we have heard Luther discussing repentance in terms of fear and love rather than contrition and faith. However, he has studiously avoided using the language of the two loves because to attempt a distinction between *charitas servilis* and *charitas filialis* within us can never lead to certainty. In this life our love can never be free of fear because the law needs to coerce and restrain the sinful flesh, and insofar as we are still sinners, the law is always accompanied by fear. What Luther does is retain the fear-love way of speaking (given in the *argumentum*) but at the same time couples it with a careful distinction be-

³²²In the confidence of God's grace faith can always rejoice that his love will outlast his terror. Thus Luther: *Hic exultat charitas longe maior, quam ipse terror erat* (439, 15). This evokes Ps. 30: 5.

³²³Consciences taught to distinguish law from gospel no longer trust their own feelings but only him who in the gospel is set over against the terrors of conscience and the accusations of the law [*Iam habeo aliud obiectum, videlicet Deum, qui me diligit, et ego eum diligo et proximum*] (439, 15-17).

tween law and gospel, where fear is the *effectus legis* and the *charitas Dei* corresponds to the gospel. And when he exhorts us to break through the monster of fear to love, that is possible only because Christ has broken through it from his side and has overcome it with love.

The main point Luther makes in the final part of the *responsio* is that the word *timor* is an *aequivocatio*, for *timor* itself is *duplex* (440, 1-2). It can either be evangelical or diabolical, depending on who is driving it, or whether it is with love or without love. This is equivalent of the contrast between godly grief and worldly grief that Paul makes in 2 Corinthians 7: 10, the one leading to repentance (evangelical), the other to death (diabolical).

Once again taking 1 John 4: 18 as his point of departure, Luther distinguishes, not between two kinds of love, but between two kinds of fear based on his distinction between law and gospel: *Timor sine charitate* and *timor cum charitate*. The former is *sathanicus et malus*, and hence not taught by the law, because it calls away from love [*avocat a charitate*]; the latter, on the other hand, is *ex lege* and so should be allowed to humble me only until I recognize that of myself I am *sine charitate*, and then, after it has exposed my *malum*, it ought to compel me to take refuge in Christ [*compellere me, ut confugiam ad Christum*] (440, 6-9). This *avocatio et mortificatio* Luther calls *salutaris et Evangelii et utilis* because it turns us away from ourselves, and unlike the other, which simply drives to despair, does not call us away from grace, nor the forgiveness of sins nor from Christ. In short, the devil uses *timor* or *avocatio* (these terms are correlatives) for his own purpose, which is always death; God, on the other hand, uses *timor* or *avocatio* for his own purposes, which means life and salvation. Here the law must not be permit-

ted to go beyond its limit,³²⁴ but after it has done its work, the penitent needs to be told to believe in the Son and he will live [*Satis est, te esse perterrefactum et mortificatum, nunc crede in filium et vives*] (440, 3-15).

Argument 6³²⁵

Contra 1

Whatever diminishes sins makes for righteousness. The law diminishes sins. Therefore, the law makes for righteousness.

Proof of Minor Premise: The law is our pedagogue to Christ [Gal. 3: 24].

Response: You know that the use of the law is twofold, first for restraining sins and then for exposing sins. Furthermore, Paul says in Rom. 4 [: 2]: If Abraham was justified by works of the law, he has grace, but not before God. Therefore, that pedagogy is absolutely useless before God. The righteousness of the world has its own glory and its reward in this life among human beings, but not before God [Matt. 6: 1-18]. Secondly, if pedagogue is taken as referring to worldly pedagogy, it is understood, as I have just said, that nothing is effected in the sight of God by means of this pedagogy. But if it is taken spiritually and accepted in the sight of God, as I have said a little earlier with regard to the law terrifying the conscience, not diabolically but evangelically, it is different, for there pedagogy does effect something. For this phrase, "pedagogue to Christ," is a word of comfort, and the most proper and delightful definition of the law. It affords me great consolation and confidence because I hear that the law is a pedagogue, and indeed to Christ, and not a devil or robber, who does not use pedagogy but despair. However, the law does not operate like that but exposes your sin. This it piles up as much as it can, and especially terrifies your heart so that you despair completely. But in the midst of your terrors, Paul comes with a word of comfort: do not be overly sad, do not torture yourself like that, as if there were no hope; there is no dying, because the law is not a robber or a devil but a pedagogue who wants to lead you in this way to Christ.

Certainly a pedagogue does not act in such a way with children that he simply kills them or banishes them from their inheritance, appointing other heirs in their place. That is the nature of the enemy, of the kidnapper, and of the devil. But it is nature of a good pedagogue to train, with great faithfulness and care, the child committed to his guardian-

³²⁴On the limits of the law, see 1 AD, Arg. 31 and 2 AD, Arg. 8.

³²⁵39 I, 440, 18-443, 4.

ship, to accustom him to his proper duties, and to shape his character in such a way that the child may become as fit as possible for whatever duties are to be undertaken, and be the finest heir of his father. Indeed, he disciplines him and sometimes treats him very harshly, not to kill him, but to return him to the head of the household a better child. That is how you should think about the law, says Paul, and not consider it as anything other than a pedagogue to Christ. If it terrifies and harasses you, that is only good and right, but always say to yourself: I am being taught. Now I am certain that I am dealing with a pedagogue and not a robber, that I am under a pedagogue and not a robber. That is, the law is the kind of pedagogue that, by terrifying, harassing, and mortifying you, leads you to Christ and prepares you for Christ himself. This is how I regard the pedagogue: staff of the exactor and the switch on my shoulder (Is. 9: 4). Why? to kill me? No, but to lead me to Christ. For it is a pedagogue to Christ, not a robber to the devil. Therefore, a godly preacher speaks about the law in such a way that the minds of the godly are not thrown into despair, but rather cease from being saddened and take hold of Christ, who came to save the lost (Matt. 18: 11), the restorer of all things, as Peter says (Acts 3: 21).

The *responsio* starts out with an articulation of the Luther's *duplex usus legis*.³²⁶ First, the law is used to restrain sins [*primum coercendi delicta*], secondly, to expose sin [*deinde ostendendi delicta*]. He needs to make this distinction in order to show the ambiguity in the antinomian syllogism with its implication that the law serves to make one righteous [*facit ad iustitiam*] because it diminishes sin. Luther's rejoinder, based on Romans 4: 2 is that Abraham's obedience to the law does not merit grace and that *illa paedagogia apud Deum prorsus inutilis est* (441, 1-5).³²⁷ Here *illa paedagogia* is equated

³²⁶Instead of *duplex usus legis* Luther can also simply say *duplex est lex* in 39 I, 460, 21 (2 AD, Arg. 14); cf. 483, 14-19 (2 AD, Arg. 28), where he distinguishes the law *grammatice et civiliter*, on the one hand, and *theologice et spiritualiter*, on the other.

³²⁷441, 19-20 (B) makes this even clearer: *Maior est ambigua. Quicquid minuit delicta, facit aliquid ad iustitiam politicam, sed nihil tamen facit ad iustitiam coram Deo.*

with the *primus usus legis*. This produces the *iustitia mundi=iustitia civilis*, which has its *gloria* and *praemia* in this life *inter homines*, but not *apud Deum*. The same *inutilis paedagogia* results when the *paedagogus* of Galatians 3: 24 (the antinomian proof-text) is understood *de carnali paedagogia*.³²⁸ However, when the *paedagogia=secundus usus legis* and is thus taken *spiritualiter et coram Deo*, and where the *paedagogus* is correspondingly understood *in Christum*, then this *paedagogia* is not useless but *aliquid efficit* (441, 5-11).³²⁹

The nature of this pedagogy (=secundus usus legis) is then illustrated by means of the example of the young boy placed in the custody of a *paedagogus*. The *bonus paedagogus* does nothing that is not in the boy's best interests, and even though the discipline he must inflict will at times be painful, its aim is to prepare him for his *officia* as heir and return him to the *paterfamilias* a better child. The *malus paedagogus*, on the other hand, does not have the boy's best interest at heart, but wants only to torment, kill or kidnap him. Luther says this is just like the way the devil uses the law.³³⁰

³²⁸See also the conclusion to the Second Disputation (39 I, 485, 9-24) where it is clear that the antinomians refer the *paedagogia* of Gal. 3: 24 to the *usus civilis*.

³²⁹Luther does not push the argument all the way here. The antinomian *argumentum* asserted: *Lex minuit delicta*, where obviously the *lex* is understood in terms of the *usus civilis*. However, Luther will make it clear in other arguments that when *lex* is understood in terms of the *usus theologicus* (which is the real issue here), then the opposite is the case, and instead of diminishing or restraining sin the law actually incites sin in order that, as Paul says, ἡ ἀμαρτία may be shown to be καθ' ὑπερβολὴν ἀμαρτωλὸς cf. Rom. 5: 20. The antinomians of course reject the theological use of the law for this very reason (see Pos. Ant., Th. 16; 1 AD, Arg. 10).

Thus we have not only two uses of the law in the sense of the *duplex usus legis*, but also two ways in which the law can be used, that is, either *evangelice* or *diabolice* (441, 10).³³¹ In the former sense, all discipline should be regarded as training [*paedagogia*]; even the fear and terror produced by the law are not to be seen as ends in themselves but as means to the evangelical end of leading people into the arms of Christ by first having them despair of themselves and their own claims to goodness *coram Deo*. In the latter sense, on the other hand, the devil abuses the law by deflecting it from its proper purpose and driving people away from Christ instead of to him.³³² Thus used evangelically, the law is a *paedagogus in Christum, non latro ad diabolum* (442, 12-443, 4). The demonic use of the law, which is really the *abusus legis*, is nothing else than the diabolical perversion of the theological use of the law.

Argument 7³³³

Contra 2

We have faith in Christ on account of righteousness. The fulfillment of the law happens for us through faith. Therefore, the fulfillment of the law is effectual on account of justification.

³³⁰Luther will make it clear in 2 AD, Arg. 8 (39 I, 445,20-446, 5) that the law by itself can do nothing but strike terror into our hearts. Only the gospel can turn the *latro* into a *paedagogus*.

³³¹See 39 I, 430, 18-20 (2 AD, Arg. 2) (B): *Duplex est desperatio, evangelica et diabolica. Evangelica desperatio, ad quam lex adigere debet, non est mala nec manet semper, sed quasi praeparat ad concipiendam fidem in Christum*

³³²The devil wants people to despair of salvation (hence of God) and not of themselves; in this he is like the bad doctor whom Luther describes in 2 AD, Arg. 2; see esp. 39 I, 426, 29-427, 25 (B). Luther makes it very plain that the law is not meant to lead people to despair but to Christ; see 410, 6-8 (1 AD, Arg. 31); 530, 7-8, 17-531, 19 *passim* (3 AD, Arg. 17).

³³³39 I, 443, 7-444, 11.

D. Martin Luther: The argument is this: we are justified through Christ, and having been justified we fulfill the law. Therefore, the fulfillment of the law is effectual on account of justification.

Response: If there is no equivocation in the words justification and law I concede the whole argument, because according to Rom. 8 [: 3, 4]: God sent his Son in the flesh that the law might be fulfilled in us. Moreover, because the law must be fulfilled, it is necessary that justification and fulfillment each occurs in us. But if the argument means that our fulfillment of the law is justification, then the whole argument is false, because we do not fulfill it, yet it is true that to the extent that we do fulfill it we are justified. But we fulfill it imperfectly, therefore we are justified imperfectly. In Christ however we have the perfect fulfillment imputatively, for in this life we cannot be perfectly cleansed expurgatively on account of the sin dwelling in our flesh. Also that righteousness of the law in us is not simply poison per se, as our thesis says. But it becomes a poison when people, whoever in the world they might be, become proud of themselves and of their salvation on account of this kind of righteousness. However, it is especially commended in the saints because they have the Holy Spirit, who works such virtues in them in his own way.

Much of what Luther says here about the twofold fulfillment of the law, that is, *imputative* and *expurgative*, has already been discussed in connection with *argumentum* 3. However, what he says about the *iustitia legis in nobis* needs to be clarified. He agrees with the antinomians that *impletio legis valet propter iustificationem* (the conclusion of the syllogism) provided there is no equivocation in the words *iustificatio* and *lex* (443, 7-12). By that Luther means that so long as Christ is the fulfiller of the law our fulfillment of the law is in Christ.³³⁴ But he also knows with Paul that not only is the law to be fulfilled in Christ, but also *iustificatio et impletio* must each occur in us: *Misit Deus filium suum in carnem, ut lex impleretur in nobis.*³³⁵ By as-

³³⁴An equivocation at this point would be the belief that our fulfillment of the law merits justification (= *opinio legis*).

serting the *impletio legis* is effectual [*valet*] *propter iustificationem* the antinomians mean that the law is fulfilled in Christians completely at the moment of justification, not only *imputative* but also *realiter* and *finaliter*. They did not distinguish between these two because they did not teach that Christians have the *reliquiae peccati* clinging to the flesh. We have already seen that they dropped the *simul* for the same reason. Hence, they taught that the *iustificati* were *solum sancti* and not also *simul peccatores*.

Luther, while agreeing that first and foremost Christ has fulfilled the law *pro nobis* and *extra nos*, also stresses that the law is fulfilled in *nobis*. This means: first, Christ's fulfillment of the law, which is imputed to Christians *per fidem*, is also effective in them as the basis of their own *formaliter* fulfillment. Secondly, the law is to be fulfilled in Christians themselves *expurgative* as the remnants of sin adhering to the flesh are begun to be expelled by the activity of the Holy Spirit. Even as *sancti* we cannot fulfill the law ourselves, not even with the help of the Spirit. Therefore, our own fulfillment can never be complete nor can it ever be anything we can claim credit for. Hence, the rule obtains: *Quantum implemus, tantum iustificamur*. Here *iustificare* for all intents and purposes can be equated with *sanctificare*. Luther uses *iustificare* here in the sense of the second and final *iustificatio* which will ultimately coincide with our complete *sanctificatio*. He does this to emphasize that justification will not be completed in us until the perfect fulfillment of the law given us by imputation is perfectly fulfilled in us (which will only take place after the final destruction of the σάρξ). In the first justification sin was conquered in Christ's body, in the second justification it is to be con-

³³⁵Rom. 8: 3-4: ὁ θεὸς τὸν ἑαυτοῦ υἷον πέμψας ἐν ὁμοιώματι σαρκὸς ἁμαρτίας . . . ἵνα τὸ δικαίωμα τοῦ νόμου πληρωθῇ ἐν ἡμῖν

quered in us also. While the first justification was instantaneous and complete [*totus-totus*], the second (= sanctification) is progressive and partial [*partim-partim*]. Because this side of heaven our fulfillment of the law is only partial, our formal justification therefore is only imperfect [*Sed imperfecte implemus, ergo imperfecte iustificamur*], nor can we be perfectly cleansed *expurgative* on account of the sin dwelling in our flesh (444, 2-4). By linking the cleansing of sin *expurgative* to *iustificare*, it is clear that Luther is not speaking about the first justification here but about the second or formal justification.³³⁶

It is significant that Luther uses the language of justification where we have traditionally spoken of sanctification. This however serves to emphasize the close connection that Luther sees existing between justification and sanctification.³³⁷ Indeed, for him justification is sanctification, but unlike the antinomians he makes a distinction between the already-now of faith and the

³³⁶Furthermore, the statement, *quantum implemus, tantum iustificamur*, would not make sense if applied to the first justification because in 1 AD, Arg. 14 Luther says that the law is impossible for justification; on the other hand, in 3 AD, Arg. 7 he discusses the danger of saying that the law commands us to do the impossible. Moreover, if the statement applied to the first justification it would suggest that it could be something partial, which Luther himself rejects. Again, with *quantum implemus, tantum iustificamur* Luther is not suggesting that in theory at least it would be possible for us to justify ourselves, or that some need less grace than others because they have advanced further in fulfilling the law, for he knows with James: ὅστις γὰρ ὅλον τὸν νόμον τηρήσῃ πταίσει δὲ ἐν ἐνί, γέγονεν πάντων ἔνοχος (James 2: 10).

³³⁷This is also reflected in the two ways that CA (Ap. IV) speaks about justification: both as *iustos effici* and *iustos reputari*. Thus: *Et quia iustificari significat ex iniustis iustos effici seu regenerari, significat et iustos pronuntiari seu reputari. Utroque enim modo loquitur scriptura* (BSLK, 174, 72).

not-yet of hope because he holds to the Pauline doctrine of the Christian as being *simul iustus et peccator*.³³⁸ Therefore, our justification *propter Christum per fidem* is perfect and complete, *coram Deo*, since it is given to faith *imputative*. Likewise our sanctification too, *coram Deo*, is perfect and complete, even though it is still incomplete *coram mundo*. To balk at this point is to fall under the condemnation of introducing a split between justification and sanctification, ascribing the former to God and the latter to us or to some synergism.

In the light of the above, we can properly understand Luther's words: *Quantum implemus, tantum iustificamur* (444, 2-3) as a reference to final justification or sanctification when the law will be fulfilled in us completely, not just *imputative*, but *realiter* and *substantialiter*. Therefore, he can say that *iustitia legis in nobis* is not *simpliciter venenum per sese* (444, 6-7).³³⁹ Thus, the *iustitia legis in nobis* is not a bane per se, but can become such if people become proud of it and see this as their own achievement (444, 7-9). Therefore, it should never be commended those outside of faith, for it will inevitably be understood in the way of the *opinio iustificationis* (= works-righteousness), which is innate to fallen human nature. On the other hand, Luther highly commends the *iustitia legis in nobis* to the saints, *quia illi*

³³⁸There is also a parallel here to the way in which Paul speaks about salvation. On the one hand, we have already been saved (= justified) by faith in Christ, on the other, we will finally be saved from God's wrath on the last day: πολλῶ οὖν μᾶλλον δικαιοθέντες νῦν ἐν τῷ αἵματι αὐτοῦ σωθησόμεθα δι' αὐτοῦ ἀπὸ τῆς ὀργῆς (Rom. 5: 9).

³³⁹He refers to 2 AD, Th. 2 (39 I, 347, 29-30): *Qui autem opinione iustificationis legem servant, iis ipsa etiam venenum et pestis fit ad iustificationem.*

habent Spiritum sanctum, qui tales virtutes in eis operatur pro suo modo (444, 6-11). It can be taught to the saints because they have the Holy Spirit who works the *impletio legis* in them so that the *tales virtutes* or good works that he brings about in us, *pro suo modo*, will not get booked to our account (to our glory) but to his. Nevertheless, the *impletio legis in nobis* must never be allowed to become the ground of our hope and confidence before God which for faith rests in Jesus only. Luther comes back to this point after having followed the line of thought suggested by the *argumentum*. What finally holds beyond any doubt that may be prompted by some reference *in nobis*, is *in Christum tamen* (444, 4).

Argument 8³⁴⁰

Contra 1

For the forgiveness of sins a recognition of sins is required. The recognition of sins comes only through the law. Therefore, the law is required for the forgiveness of sins. And since nobody can be justified unless first their unrighteous deeds are recognized, it follows that the law is useful for justification.

D. Martin Luther: The argument is this: the recognition of sin is required and useful for justification. For there is a kind of salutary despair that brings eternal life. Therefore, the law is useful for justification, for this is its effect: It makes you despair thus and realize that you do not have that righteousness.

Response: When we speak about the law we am speaking about the proper effect of the law, what the law itself can effect or be responsible for in this totally corrupt nature. We all know already from experience that the only thing that the law can effect is to create despair. The law does not make me a better person, it does not make me loving, nor hopeful nor obedient; indeed it cannot. For by itself it can do nothing but afflict, destroy, and disturb consciences. And we speak of these things as often as we mention the law. However, the fact that we say that despair is useful we owe, not to the law but to the Holy Spirit, who makes of the law not a robber or a devil but a pedagogue. Thus when we discuss the law we are discussing the nature, the power and the effect of the law,

what it can do by itself, but when the law is taught the gospel succeeds it or supervenes: Listen here, law, it says, see that you do not overstep your boundary or limits. You are to be a pedagogue, not a robber, you can make people terrified, but beware that you do not end up killing them all together as you once did with Cain, Saul, Judas and others. Remember that you are a pedagogue. This is your office, not that of devil or robber but pedagogue. But this does not happen by the power of the law but of the gospel and the Holy Spirit, who interprets the law in this way. For the law by itself can only strike terror and lead to hell. But then the gospel comes along and removes the barb of the law and turns it into a pedagogue. And indeed the law must be interpreted through the gospel and brought back, through an impossible use, to a salutary use, to Christ. By its own power, the gospel makes the robber into a pedagogue, and snatches those who have been killed through the law and brings them back to Christ; that is something which the law did not do.

Furthermore, you must always stay with the principal definition of the law: that it works wrath, hatred and despair, not joy, salvation or mercy. Moreover, it is quite wrong to say that the law is required for justification. For many things are required for justification, but they do not contribute anything to justification nor do they effect it. For instance, I am required for justification, and food and drink even more so, because without these I cannot live. And since there could be no food and drink without grass, meat, corn, wine and water, these things are required for justification, and sheep and cattle too. But what is it I am saying? For indeed some think that they are very clever when they can come up with some syllogism containing these words: "require" and "necessary." Meanwhile, they fail to notice that these words are equivocals and speak only about the material cause and not the efficient cause. The ancient dialecticians used to say: Equivocals have no place in disputations. Disputations are for univocals and not equivocals. Also: equivocation is always the mother of error. For equivocations produce inept and silly sophistical arguments about words and not debates about facts. Therefore, you must avoid such things and bring to bear those things which are to the point. I want you to take these remarks as an admonition.

However, we are speaking here, not about the material cause, but the efficient cause: whether the law can effect justification? And our answer is no, because it is only a ministry of death [2 Cor. 3: 7] and works wrath [Rom. 4: 15]. But if I am to become righteous from mortification and fear, then it is necessary for the ministry of the Spirit to be added, that is, the gospel or the finger of John who says: Look, the Lamb of God [John 1: 29], you will not die [2 Sam. 12: 13]. I am required for justification, that is true, materially, of course, but the material thing is not the effective thing, nor does it add anything to its formation, but it suffers it-

self to be formed from an efficient factor or cause. Therefore, on the last day I, Martin Luther, am also required to be present for we will be snatched up into the air to meet with Christ [1 Thess. 4: 17] and then, together with the others, I will be led with a glorified body into heaven. But what will I do there? Nothing, but I will be acted upon. For Christ the Lord will carry us across into heaven, we will not do it ourselves. Therefore, I am justified as one who is acted upon, but I myself do nothing. Thus a robber or miser is certainly not justified actively but passively. We are dealing here with Christians not with Turks, and the disputation is about how one becomes a Christian, through oneself or through another. We are speaking univocally about passive justification, whether there is anything in the whole law which cooperates in producing righteousness. Here we are not talking about material prerequisites, otherwise we might as well also say that an ox, a cow, horse, a hen, and clothing are also required and necessary for justification, because without them life is not possible. To sum up: material remains material unless Christ has taken it, shaped it, justified it and glorified it. And thus, "require" and "necessary" will remain duplex, that is, materially and effectively.

This *argumentum* (like the previous one) opposes Luther's first thesis.³⁴¹ It maintains that *lex est utilis ad iustificationem*. This is predicated on two facts: 1) there is a kind of salutary despair [*salutaris quaedam desperatio*] which brings eternal life; 2) the law makes us realize that you do not have that righteousness (445, 1-4). Before he deals with the question of the necessity of the law for justification, he proceeds to define the law in its proper sense.

Luther makes it clear from the outset that whenever he speaks about the law he is first of all speaking *de proprio effectu legis*, what it can effect or be responsible for [*efficere seu praestare*] in this wholly corrupt nature. As he has said before, the proper effect of the law is to bring about despair, afflict, de-

³⁴¹39 I, 347, 27-28 (ATh, II, Th. 1): *Lex non solum est non necessaria ad iustificationem, sed plane inutilis et prorsus impossibilis.*

stroy, and disturb consciences.³⁴² Luther is emphatic that whenever we mention the law these effects come to mind: *Et de his rebus loquimur, quoties legis mentio fit.* (445, 10-11).³⁴³ Contrary to what natural reason may think, *Lex non facit me meliorem neque amantem neque sperantem neque obedientem facit, imo ne potest quidem* (445, 8-9).³⁴⁴ The fact that *desperatio* is *utilis* for justification is not owing to any special virtue in the law, but is due entirely to the Holy Spirit [*id non fit beneficio legis, sed Spiritus sancti*], who prevents the law from turning the despair of self into despair of God and thus ultimate condemnation as in the case of Judas.³⁴⁵ The Spirit does not allow the law to become a robber, but makes it a *paedagogus*.³⁴⁶ However, in order

³⁴²Cf. 39 I, 382, 6-7 (1 AD, Arg. 14): *Tamen is eius proprius effectus est, ut reos faciat et humiliet homines ac iram Dei ostendat*; 397, 11 (1 AD, Arg. 21): . . . *cum tamen revelatio irae proprius sit effectus legis*; 415, 16-18 (1 AD, Arg. 36): *Lex est revelatio irae, quia poenitentia saltem ex parte, quatenus ostendit peccatum, et revelatio irae sunt effectus legis.* In this world the *propriissimus effectus legis* (348, 27-28 [ATh, II, Th. 19]), can never be separated from the *materia legis*; cf. 454, 19-457, 4 (2 AD, Arg. 13); 458, 27-461, 18 (2 AD, Arg. 14); 530, 7-532, 7 (2 AD, Arg. 17); 578, 1-579, 2 (3 AD, Arg. 40/13A).

³⁴³The spiritual office of the law, to punish and drive to despair, is given with every form of the law, whether it is the *lex scripta*, *lex praedicata*, *lex naturae*, or the *lex lata* of the state.

³⁴⁴Cf. 446, 6-7 where Luther gives as the *principalis definitio legis*, *quod operetur iram et odium et desperationem, non gaudium, salutem aut misericordiam.*

³⁴⁵When we speak about the effect of the law, we are speaking about what the law does per se, without the gospel or the Holy Spirit: *Sic quando agitur de lege, agitur de natura et vi et effectu legis, quid ipsa per sese possit* (445, 13-14).

³⁴⁶Cf. 39 I, 441, 2-443, 4 (2 AD, Arg. 6).

for this to happen the gospel must be preached straight after the law [. . . *sed cum docetur lex, succedit seu subintrat Evangelium*].³⁴⁷

The gospel then addresses the law, so to speak, and tells it to stay within its appointed bounds: *Audi, inquires, o lex, vide, ne extra tuas regiones aut saepta transilias. Tu paedagogus esse debes, non latro, perterrefacere potes, sed cave, ne prorsus occidas, ut olim in Cain, Saul, Iuda et aliis fecisti, memento te paedagogum esse* (445, 15-18).³⁴⁸ The law needs to be reminded that it is a *paedagogus*, for its proper office is to lead to Christ: *Hierher tuum officium, non diaboli aut latronis, sed paedagogi*. Here Luther can describe the *officium legis* as that of being a *paedagogus in Christum*, and yet he has said earlier that the *proprius effectus legis*, what it does per se, is only *efficere desperationem, affligere, perdere, turbare conscientias* (445, 5-10). Consequently, we see that it is God's intention that the *desperatio* etcetera created by the law be used in the service of the gospel. However, that will not happen automatically, because the law is so eager to prosecute sin that unless the Holy Spirit through the gospel actively intervenes to direct the process, the law will miss the mark, overstep its bounds, and end up consigning its charge to hell. The law's memory is long when it comes to accusing people of sin, but short

³⁴⁷This is what distinguishes the *lex praedicata* from the *lex naturae*. The special thing about the law in preaching is that it is always accompanied by the gospel and therefore turns a *latro* into a *paedagogus*. This, as we shall see again later, is the real *mitigatio* of the law produced by the gospel. It does not apply to the law per se, which still threatens the godly *qua caro*, but to the believers who hear the voice of the gospel which has been added after the law and through it calls them to close their ears to the *lex condemnatrix* and to listen only to the comforting words of the *impletor legis*.

³⁴⁸Cf. another address to the law in 39 I, 410, 10-16 (1 AD, Arg. 31) where it is reminded that its days are limited *usque ad Ioannem*.

when it is a question of preparing them for the gospel.³⁴⁹ Here the law needs to be reminded that when it is working to bring about repentance, it is not working for itself, but is employed by the gospel. But more than that, the law is impotent to do anything except *terrores incutere et deducere ad inferos*. Therefore, only the gospel can remove the barb of the law [*aufert cuspidem legi*] (446, 1) so that it does not end up kidnapping its charges, but instead safely delivers them, like a good *paedagogus*, to Christ. This gospel-oriented work of the law can only be understood in the light of the gospel,³⁵⁰ just as it is only the power of the gospel which does the impossible, bringing the law into a salutary use by leading people to Christ: *Atque ita debet lex per Evangelium interpretari et reduci per impossibile et ad salutarem usum, ad Christum*. And where the law has already exceeded its bounds and robbed people of life, the gospel makes it a pedagogue who snatches them back from death and brings them to Christ [*et Evangelium sua virtute facit ex latrone paedagogum et rapit illum occisum per legem et reducit ad Christum, id quod non fecit lex*] (446, 1-5).

³⁴⁹The action of "reminding" goes in two directions: first, the *lex praedicata* reminds us of the natural experience of the law, which is always prior [see 39 I, 454, 12-16 (2 AD, Arg. 13); 539, 14-541, 5 (3 AD, Arg. 19); 549, 16-550, 7 (3 AD, Arg. 24)], but then the law (both as *lex praedicata* and *lex naturae*) also needs to be reminded of its limits by the gospel.

³⁵⁰The work of the law must be interpreted by the gospel. The *materia (res) legis* cannot be grasped in the law, but really only outside, in the future fulfillment begun by Christ (Schloemann, 123 n. 385). Since the law, although it is good and holy and is not the *causa efficiens peccati*, can have no other effect on us than causing new sin and driving us to despair, on account of our corrupt nature, the *bonitas legis* can only be received by us through faith in the light of the gospel.

In the second part of his *responsio* Luther explains why it is incorrect to hold that the law is required for justification. He points out the need to distinguish between the *causa efficiens* and the *causa materia*. Many things are required for there even to be someone here whom we can speak of in connection with justification. There is all that is needed to feed and sustain him, but these things do not produce or effect justification, but merely belong to the material cause. Here he mocks his opponents way of speaking of what is required and necessary. Luther says: *Nos autem hic loquimur non de materia, sed de causa efficiente*. The reason why the law cannot effect justification lies in the very nature of the law which he has just described in discussing its *proprius effectus* or *principalis definitio*. It is only a *ministerium mortis et operatur iram* so that without the *ministerium Spiritus*, namely, the *Evangelium seu digitus Ioannis* which says: *Ecce agnus Dei, non morieris*, we would be dead and not justified. When we are justified we do nothing, we are *non active, sed passive*, but like *materia* something is done to us, for we do not become Christians by ourselves, but through another. However, the law does not effect our justification but simply prepares the *materia* for it, and likewise the *materia* is not the *res efficax . . . sed patitur se formari a factore seu causa efficiente* (447, 8-10). Hence, if it is said that the law is "necessary" or "required" for justification, we must clearly define our terms because these two words are *aequivoca* or *duplex* for they can be understood either *materi- aliter* or *effective*.³⁵¹

³⁵¹Luther introduces this further distinction between univocals and equivocals to further clarify the matter in hand. He cites the rule of the old dialecticians: *Aequivoca non intrabunt disputationes. Disputationes sint*

Luther's position, as we have already indicated, is clear: the law does not cooperate in justification [*cooperari ad iustitiam*] but rather is useless for that purpose because per se it only kills and damns and must be superceded by the gospel to stop when it has driven people to despair of themselves, before they despair of God also. God's intention is that the law serve the gospel as *paedagogus*, but without the gospel it cannot be anything more than a robber or a devil. Although its office is that of *paedagogus* and not *diabolus aut latro*, this could not be known without the interpretation of the gospel and the Spirit (445, 18-20).

Argument 9352
Contra 7

The law of God is a living word and has been ordained to give life [Lev. 18: 5; Rom. 7: 10; Heb. 4: 12]. Therefore, the law gives life.

Proof of Conclusion: Whatever agrees with the definition of a term agrees also with its etymology.

Response: The argument is good. The law of God is a living word. Therefore, the law of God gives life. God is a living God. Therefore, God gives life. The Holy Spirit is living. Therefore, the Holy Spirit gives life. It appears to be an apt argument and valid in form, but it is misleading. The ungodly, the covetous, and the adulterers have a living law. Therefore, the ungodly, the covetous, and adulterers are justified because the law of God is good, just, and holy [Rom. 7: 12]. Therefore, the law of God makes people good, it justifies and sanctifies them. The law of God is a good and living word. Therefore, it gives life. Here Paul responds in Romans: That which was good has worked death in me. The law indeed is good, but I am carnal, sold under sin [Rom. 7: 13, 14]. Therefore, it neither justifies me nor gives me life, because the material is bad and corrupt because of original sin, sold-out under sin. Besides, God is good and the highest goodness, and yet he does not make everybody good. We see that he is so good and generous that he sends rain on the good and bad, makes the earth fruitful and humans fertile etc [Matt. 5: 45]. But what do

univocorum, non aequivocorum. Again: *Erroris mater est aequivocatio semper* (446, 18-20).

people do? No one gives thanks, no one becomes better through this great goodness of God's, indeed they become worse, as you see. Who is the cause of this? Certainly not God but we who have turned away from God, and sin, which we fell into through the disobedience of Adam, so that his wisdom and goodness are ineffectual in us. Indeed, we have been made foolish through our own wisdom, as it says in Corinthians [1 Cor. 1: 20]. The cause is obvious: our nature is evil and corrupt.

Therefore, the Lord, God the Father, was compelled to dispense and bring to us some remedy, none other than his Son, in whom all, as many as are sanctified, given life, and made good, become good, alive, and holy. God himself is good and holy, and yet the psalmist says: With the good you will be good, with the perverse you will be perverse [Ps. 18: 26, 27; 2 Sam. 22: 26, 27]. He is life for one and death for the other; one he prospers, the other he frustrates. But God is not to blame for that. The cause of all this is our sin, as I have said and as Paul complains: I do not do the good I want, but the evil I do not want is what I do, and this because of sin which dwells in me [Rom. 7: 19, 20]. Augustine says about quicklime: Limestone at first appears the best stone, hard and beautiful. But when it is brought into contact with water it ignites. Why? Because that is the nature of limestone, to burn when brought into contact with water. So it is with us, since we are under sin, born in sins and corrupt through original sin, the law, which is good and holy per se, cannot be anything but terror and trembling.

Luther agrees with the argument as such: *Lex Dei est sermo vivus.*

Ergo lex Dei vivificat. Likewise the same method of argumentation can be used with *Deus* and *Spiritus*. However, while this *argumentum* is *aptum*, it is nevertheless misleading [*fallit*]. For if this argument were applied to the *impii*, it would mean that they are justified on the basis that *lex Dei bonificat, iustificat et sanctificat*. But clearly the good and living law does not simply make good and alive, and the reason for that is sin. In fact, as Paul says, even the *pii* end up doing the very opposite of what they want to do on account of sin dwelling in their members (Rom. 7: 19-23). Hence Luther concludes: *Itaque non iustificat [scil. lex] neque vivificat me, quia materia est mala et corrupta peccato originis, divendita sub peccatum* (449, 1-11). So the fault does not lie with the law but with us and our sinful nature.

A second counterargument is now advanced to refute the antinomian thesis: *Deus est bonus et summa bonitas, attamen non bonificat omnes homines*. In spite of God's kindness and generosity, such as we find it expressed in Matthew 5: 45, the only response is ingratitude; indeed, it does not make anyone better, but only worse. Again, the reason that his *sapientia et bonitas* is *inefficax* in us is not to be found in God, but in us and our sin: *Natura mala est et corrupta* (449, 11-450, 1). This necessitated a remedy on God's part [*Itaque coactus dominus Deus pater aliquod nobis remedium dispensare et afferre*] which he brought us in the person of his Son, *in quo omnes, quotquot sunt, sanctificantur, vivificantur et bonificantur, boni, vivificati ac sancti fiunt*.

God now deals with us in two different ways, through the law and through the gospel. It is in this light that we are to understand the words of the psalmist: *Cum bono bonus eris, cum perverso perversus* (Ps. 18: 26. 27). Likewise, the words of St. Paul: *Huic vita est, illi mors, illi prodest, huic obest* (cf. 2 Cor. 2: 15-16 where Paul, speaking of the apostolic ministry, says: ὅτι Χριστοῦ εὐωδία ἐσμὲν τῷ θεῷ ἐν τοῖς σωζομένοις καὶ ἐν τοῖς ἀπολλυμένοις, οἷς μὲν ὁσμὴ ἐκ θανάτου εἰς θάνατον, οἷς δὲ ὁσμὴ ἐκ ζωῆς εἰς ζωὴν). The impenitent hear the law which leads to death, the penitent the gospel which leads to life. When God judges the wicked [*perversi*] through his law, he is being perverse to his very nature, which is goodness and love, for here he must act in an alien way first in the hope that afterwards he can act in his own proper way. The good [*boni*], on the other hand, have no need of wrath and judgment, and so he can show his goodness. God acts according to the human *materia*: and since we are *sub peccato nati in peccatis et corrupti peccato origi-*

nis, the law, which is *bona et sancta* per se, can only produce *terror et tremor* (450, 1-14). The fact that the good law has such negative effects on people through no fault of its own is further illustrated by the use of Augustine's similitude about quicklime.³⁵³

What Luther has effectively done, first of all, is taken the one-track way of looking at salvation implicit in the antinomian *argumentum* and replaced it with the two tracks of law and gospel. Secondly, he does not understand the human *materia* that God deals with as something neutral, but as inherently sinful. God does not make moribund sinners alive simply because he himself is living; what happens is not an immediate transformation, but a death and a resurrection. The law kills people because of their sinful nature, but now God uses the law in his service so that he now brings to life with the gospel what the law has already killed. This law-gospel approach negates the proof of the conclusion given with the antinomian *argumentum*, namely, *Cui convenit definitio nominis, eidem convenit et etymologia*. There can only be an agreement between the *definitio nominis* (such as *lex Dei est sermo vivus*) and the *etymologia* (*lex Dei vivificat*) if the definition (in this case, of the law) is used to transform the human *materia* based on its etymology. However, Luther rejects this monistic approach in favor of the two tracks of the law and the gospel.

³⁵³Augustine, *De civitate Dei*, bk. 21, ch. 4; *Fathers of the Church*, 24, 346-47.

Argument 10³⁵⁴

Contra 4

Whatever is established by scripture is to be clung to tenaciously. Scripture establishes that we are justified by the law. Therefore, justification by the law is to be clung to tenaciously.

Proof of Minor Premise: Rom. 2 [: 13]: The doers of the law will be justified [cf. James 1: 22, 23, 25].

Response: This is how the papists argue against us, but the proposition, Do this and you will live [Luke 10: 28] is hypothetical. It is true that there ought to be doers, but where are the nine? [Luke 17: 17]. As it is said, where are the nine, where is anyone? However, we who have received Christ by faith are such in Christ, imputatively, until finally in eternal life we will be perfect and true doers of the law.

The *argumentum* brought forward posits that scripture teaches justification by the law, on the basis of a statement like: The doers of the law will be justified. Luther rejects this as a papistic argument, just as earlier he upheld the view that the law is impossible.³⁵⁵ He says that the scriptural statement: *Hoc fac et vives* (Luke 10: 28) is hypothetical. No one can live, that is, be justified, on account of his works because all our works are sinful. However, there is one way, and one way only, and that is through Christ: *Verum nos, qui Christum fide accepimus, sumus tales in Christo imputative* (451, 4-5). This side of the grave it is only through imputation that we can be the *factores* that Paul speaks of when he says: *Factores legis iustificabuntur* (Rom. 2: 13). But we are not justified by our doing of the law, but by another's, namely, Christ's, and we receive his perfect fulfillment now through faith *donec tandem in vita aeterna erimus perfecti et veri factores legis* (451, 4-5).

³⁵⁴39 I, 450, 17-451, 5.

³⁵⁵See 39 I, 364, 9-365, 2 (1 AD, Arg. 1).

Argument 11³⁵⁶

Contra 1

Repentance is necessary for justification. The law is part of repentance. Therefore, the law is necessary for justification.

Response: Repentance considered as a part is law because the law is the first part of repentance. Therefore, materially, it is required for justification. Sorrow for sin, and the law, are necessary for justification, that is, materially. For I need to be present, materially. But we are speaking here about the effect: whether it is necessary, effectively, and our answer is no, as above. Materially, many things are necessary.

There is nothing in this *responsio* that is new. The first and fourth thesis for the First Disputation posited that the law is the first part of repentance,³⁵⁷ and this has also been taken up in several arguments.³⁵⁸ Again, the difference between saying that the law is necessary for justification materially, on the one hand, and effectively, on the other, has already been discussed in *argumentum* 8. Luther is making the same point here: *materialiter*, we can say many things are necessary (including ourselves), but *effective*, nothing is necessary except Christ and the grace of God, for everything is a gift.

Argument 12³⁵⁹

Contra 26

The old law is: You shall love your neighbor as yourself [Lev. 19: 18]. But Christ says: You shall love your enemy [Matt. 5: 44]. Therefore, Christ abolishes the law.

Response: Christ does not abolish the law, but because of the nonsense of the Pharisees, he himself interprets the law perfectly and spiritually. For the particularizing phrase "and your neighbor" also embraces the enemy, which is something the Pharisees used to ignore.

³⁵⁶39 I, 451, 15-452, 6.

³⁵⁷39 I, 345, 16-17, 22-23 (ATh, I, Ths. 1 and 4).

³⁵⁸See 1 AD, Args. 3, 31, 36, 37.

³⁵⁹39 I, 453, 7-457, 4.

The enemy and the neighbor are each to be loved in the way ordained so as not to confirm ungodliness or approve the evil deeds of the enemy. Moreover, Augustine says: Christ fulfills the law either by doing what it commands or by adding what it lacks.

The antinomian exegesis here tries to argue for the abolition of the law by pitting Christ, the authoritative interpreter of the law, against the Old Testament. Moses commands (*vetus lex*): *Diliges proximum tuum sicut teipsum*. But Christ says: *Diliges inimicum tuum*. Luther rightly points out that *proximus* and *inimicus* are not mutually exclusive, but that in the interpretation of Jesus *proximus* includes *inimicus* (452, 11-453, 1). Here Christ holds the two testaments together and opposes not the Old Testament per se, but the pharisaic (or rabbinic) interpretation of the Old Testament, which is *deliramenta*. Christ therefore does not abolish the law, but he interprets it *perfecte et spiritualiter*.³⁶⁰ Furthermore, Luther points out that the *modus ordinatus* in which the neighbor is to be loved follows the proper distinction between law and gospel. In the case of the *proximus*, on the one hand, it should not be *ad confirmandam impietatem*, while in the case of the *inimicus*, on the other, it should not be *ad stabilienda inimici scelera* (453, 1-2). For either simply to sanction ungodly behavior on the part of the *proximus* or to establish the *inimicus* in his sins will only lead to *securitas* and hence impenitence.

The Augustine quotation is no doubt one of many that Luther still has in his head from his early days when his theology was cast in an Augustinian mold. It seems to be cited in support of the view that in the New Testament Christ interprets the law in such a way as to include the enemy in the com-

³⁶⁰See our discussion of 1 AD, Arg. 16 (39 I, 386, 19-388, 20) which specifically deals with the issue of Christ as the interpreter of the scriptures.

mand to love the neighbor. When Luther quotes Augustine as saying: *Christus implet legem vel faciendo, quod praecipit, vel addendo, quod desit*,³⁶¹ he is probably taking the *faciendo* to refer to Christ's fulfillment of the positive command of the Torah to love the neighbor [*quod praecipit*], and the *addendo* as a reference to his supplying what is lacking in the law [*quod desit*], namely, the omission of the command to love the enemy. What Augustine meant by these words however is another question. The interpretation we have suggested is consistent with Luther's emphasis in other arguments on the *abunde* aspect of Christ's fulfillment of the law, which emphasizes that it goes far beyond what the law actually required.

Argument 13³⁶²
Contra 14

Whatever has been abrogated is temporary. The law has been abrogated. Therefore, the law is temporary.

Response: Christ has fulfilled the whole law. For he is the end of the law (Rom. 10: 4), not only of the ceremonial and judicial law, but also of the Decalogue itself, here through the forgiveness of sins, which the

³⁶¹Hermelink (39 I, 453 n. 1) includes the following note: In his argument with the Manichaeon, Faustus, over Matt. 5: 17, Augustine arrives at a formulation that is reminiscent of the one above, but does not mean exactly the same thing: *Et quia utrumque per Christum (namely, charitatis plenitudo and prophetiarum impletio), ideo non venit solvere legem aut prophetas, sed adimplere: non ut legi adderentur quae deerant, sed ut fierent quae scripta erant.* [And because each is through Christ (namely, the fullness of love and the fulfillment of the prophets), he did not come to abolish the law or the prophets, but to fulfill them: not in order that the things that were lacking might be added to the law, but that the things that had been written might be done.] *Contra Faustum*, bk. 17, ch. 6 *Opera* (MPL 42, 344). Cf. also bk. 19, ch. 7 (ibid. col. 352) and *De Sermone Domini*, bk. 1, ch. 8 (MPL 34, 1239): *Nam qui dicit; Non veni . . . , aut addendo dicit, quod minus habet, aut faciendo quod habet.* [For he says: I have not come . . . , either by adding he says that it has less, or by doing what it has.]

³⁶²39 I, 453, 7-457, 4.

gospel bestows on all who believe in him; in eternal life this will be true also *formaliter*. However, the end of the Mosaic law is [signaled] in that text in Deut. 18 [: 18]: I will raise up for you a prophet from among your brethren etc., and I will appear as an avenger to any who do not listen to him. Here he disparages Moses because it is said: You, Israel, have heard this Moses, and you have done well, but his end will finally come and I will send to you another, and unless you listen to him I will be an avenger. And yet Moses was not the author of the Decalogue, but from the foundation of the world it has been inscribed on the minds of all people, as we have said above. For there has never been a nation under the sun that has been so crude or barbarous and inhuman that it has not been aware that God is to be worshipped and loved and his name borne in praise, even if it has gone astray in how and why God is to be worshipped. Thus also in regard to honor and obedience toward parents and superiors, they also denounced vices, as we see from the first chapter of Romans. But later, because people finally reached the point where they cared neither for God nor for their fellow men, God had to renew those laws through Moses, and, after having written them down on tablets with his finger, to set them before our eyes that we might be reminded of what we once were before Adam's fall and what one day we will be in Christ. Thus Moses was only a sort of interpreter and explainer of the laws written on the minds of all people in whatever part of the world they might be.

Master Responder, how is this sentence to be understood: The law and the prophets are until John (Matt. 11: 13; Luke 16: 16).

Response: Simply as it says, in the interim, until Christ, the end of the law, comes, people must hear the law and the prophets, until the one who has been promised comes. Truly this sentence is full of comfort, indeed because of this name [John], because it means that that exaction, terror and condemnation of the law is not going to last for ever just as we have said earlier in connection with the law as pedagogue. All this time, says Christ, the law must terrify you and disturb your consciences until John comes, the pointer to the Lamb, who takes away the sins of the world. Once he is present, recognized and received, I am at last to bid farewell to all the laws that accuse and damn me, even the Decalogue itself. For where I have Christ through faith, I have that which the law requires and demands from me. However, it does not follow from this that the law is therefore to be driven out of churches and sermons. For also the saints, who have received Christ here, still have flesh and blood and sin in their flesh that fights against God's law, and most people are too stubborn to want to acknowledge Christ, as we have said above. There the law is necessary.

Furthermore, the law in this whole disputation must not be understood τεχνικῶς, either materially or grammatically, as we have often said already, but as it is and speaks in your heart, urging and pricking your heart and conscience that you do not know where to turn. For the law is that sensation or power or, as Paul says, that written code impressed on our heart (Col. 2: 14), which chastises and terrifies, so that, if John does not come, we would already have to despair and cry out: O woe, O woe, it is all over with me, I am finished, God does not want me, he has forgotten me, he hates me, he is my judge and condemner, where can I flee from the face of his anger? etc (Ps. 90: 7-11). These words and sensations of the law are empty sounds or syllables, but this one L occupies and fills the whole world, and indeed is so great that the world can hardly contain it. Grammatically, law is of the feminine gender, belongs to the third declension, and is written with small letters. But theologically speaking, the law is of all genders, brings the whole world to trial, and it is not so quickly disposed of, especially when it begins to discharge its office. Therefore, the law is to be urged, inculcated, and sharpened because of the hard, stubborn and untaught people that they might be mortified and terrified and finally learn to yearn for grace and to seek and thirst after Christ, the Lamb of God. For the doctrine of the law is such that, if it truly strikes the heart, the whole world becomes too small for a person, and there will be no remaining help there besides Christ, who is to be offered to anxious and troubled consciences in order that they might know this: the law and the prophets are until John. It is indeed yours, law, to compel, crucify, and to terrify, but only for a time, until the offspring comes (Gal. 3: 19). Look, here Christ is already present without me. For I have that Christ who gives me life, saves and justifies me, and gives me eternal life, and this freely, even though I am unworthy; therefore, he does it without me, and not because of anything I have said. For Christ is there already, that is, peace and forgiveness of sins on account of his blood. Indeed, the saints and good people, like David, Jeremiah and others are also terrified, but this happens for the sake of faith, which is to be exercised, or at least, in order that they might be roused to call on God lest, intoxicated by too great a misfortune, they begin to murmur against God, as Moses says (Exod. 15: 24 passim). Therefore, the law cannot be removed in general. For even if you remove these letters LEX, which can easily be erased, the written code still remains branded on our hearts which damns and harasses us. However, those who are harassed and terrified by the law will, if they neglect Christ and John, be unable to conclude anything but the worst about themselves, like Saul, Judas, and others, for whoever wants to desert Christ stands imperilled.

The antinomian case for the abolition of the law is here based on a syllogistic argument that proves that the law is only temporary [*temporalis*], for if it had been eternal it would not have been abolished. The *responsio* falls into two parts: In the first Luther deals with the relation between the Mosaic law or Decalogue and the natural law. In the second and longer part he deals again with the interpretation of the verse, "the law and the prophets are until John." Both arguments try to show that the antinomian assertion that the law is fulfilled and finished (and hence to be abolished), while true for Christians qua saints, is not true for Christians qua sinners who are still terrified by the law and need the law in two important ways, as we shall see.

Luther begins with the statement that Christ is the fulfillment of the whole Old Testament law [*tota lex*]. Therefore, he can assert with Paul that Christ is *finis legis*,³⁶³ and he interprets that in the most comprehensive sense: *non tantum caeremoniarum et iudicialium, sed etiam ipsius decalogi* (453, 9-10). While it is no surprise to hear that Christ is the end of the ceremonial and judicial law, we need to underscore that here it is said that he is also the end of the Decalogue. However, such a statement would be wrong if left unqualified. It is precisely at this point that Luther parts company with the antinomians. Both can affirm that Christ is *finis legis*, but Luther cannot stop there but must go on to explain how that is true in a twofold way. Here in this life the law (and specifically the Decalogue) is finished for all believers in Christ *per remissionem peccatorum*, but only *in aeterna vita* will it also be

³⁶³Luther it seems understands the τέλος νόμου Χριστὸς both temporally and telically (in the sense of the goal or purpose of the law) and makes no attempt to distinguish them.

finished *formaliter*. This corresponds to the two ways in which Luther speaks about the *impletio legis* (as we have seen above): here, *imputative*, and in heaven, *formaliter*.

The clear inference then is that the law has been fulfilled and hence abolished for Christians qua saints, but insofar as they are still sinful and fleshly, the law has not been and cannot be abolished until the sinful flesh is finally destroyed in the resurrection of the dead. However, at this point in the argument, the emphasis is not on the continuance of the law *propter carnem*, but on the *finis Mosaicae legis*, which Luther sees heralded by the promise of the coming prophet in Deuteronomy 18: 18. This anti-Mosaic thrust is further confirmed in the following sentence: *Da setzt er Mosen herunter, quod dicitur: Tu, o Israel, audivisti hunc Mosen et benefecisti, sed aliquando erit eius finis et mittam tibi alium, quem nisi audiveris, ego ultor ero.* (453, 9-454, 4). The point of emphasizing this is not to strengthen the antinomian *argumentum* that the law is finished for Christians, but rather to attack it at its weakest point. The antinomians constantly identify the law, in the sense of the Decalogue, with Moses, so that for them, to say that Christ as fulfilled, and hence abolished, the law of Moses means that he has fulfilled and abolished the Decalogue. Luther makes the important point, however, that Moses is not the author of the Decalogue [*Neque tamen Moses autor fuit decalogi*], but that it has been inscribed on our minds since the time creation: *Sed a condito mundo decalogus fuit inscriptus omnium hominum mentibus* (454, 4-5).³⁶⁴

³⁶⁴Luther says in a number of places that the law is inscribed on the heart of every person by nature; see 39 I, 374, 1-5 (1 AD, Arg. 7); 426, 9-13 (2 AD, Arg. 2); 549, 15-16 (3 AD, Arg. 24) etc.

Consequently, the real author of the law is God and not Moses, and secondly, its content, which, as we have already seen, is identical with the Decalogue,³⁶⁵ will continue even after Moses has gone.³⁶⁶ Even the most barbaric people have naturally known that God is to be worshipped and the neighbor loved, which is in essence a summary of the Decalogue. It was only because this knowledge had become increasingly vague as a result of sin that God had no alternative but to write the law down on tablets of stone that people might have it before their eyes, externally, and would no longer have to rely simply on their memories. Luther's formulation at point is instructive. The *lex scripta* is not meant to remind [*admoneri*] people of what they are to do, or at least that is not Luther's emphasis here, but of what they once were in paradise and one day will be in Christ.³⁶⁷ Furthermore, the Mosaic law does not contain anything that is not already in the natural law. It was not given to replace the *lex naturae*, nor to supplement it, but in order to explain and interpret it [*Ita Moses fuit tantum quasi interpret et illustrator legum scriptarum*

³⁶⁵See 39 I, 478, 16-18 (2 AD, Arg. 25) where Luther makes it clear that the Decalogue is not law of Moses.

³⁶⁶See 1 AD, Args. 7, 25, 34; 2 AD, Arg. 2 for the same argument, namely, that the *lex Mosaica* or *lex scripta* is identical in content with the *lex naturae*. However, the natural "preaching" of the law comes first, both in terms of time and substance.

³⁶⁷Cf. 39 I, 539, 13-540, 1 (3 AD, Arg. 19) where, according to Luther, God is compelled to set a boundary [*meta*] lest we forget his law completely, that we may remember [*recordaremur*] at least, *qui iam antea fuerimus et qui iam simus*.

in mentibus omnium hominum, ubicunque terrarum sub sole sint] (454, 14-16). We can conclude from this that, although there are times when Luther describes Moses as a lawgiver, here he is seen as no more than an interpreter and illustrator [*interpres et illustrator*] of the law, and to that extent is no different from Jesus who also interprets and explains the law. The difference between them of course is that Jesus not only interprets the law, but also fulfills it for us vicariously.

The second part of the *responsio* takes up the interpretation of the words: *Lex et prophetae usque ad Ioannem* (Matt. 11: 13 and pars.). Luther's exegesis here is really no different to his earlier remarks on this text.³⁶⁸ First and foremost he sees it as a word of comfort [*haec sententia plenissima consolationum*] because it signals that the *exactionem, terrorem et damnationem legis non perpetuo duraturam*, but comes to an end in Christ, for Christ is the fulfiller of the law, and where I have him I have *quod lex requirit et exigit a me*. But this applies only to the penitent (the saints) who acknowledge their sin, and for whom the law is a *paedagogus in Chritum*. But Christians, who are *simul sancti et peccatores*, still carry around the sin-infested flesh and for that reason the law is still necessary, even though it has been fulfilled for faith. Hence, he rejects the antinomian claim, *quod ideo explodenda sit lex e templis et concionibus*.

³⁶⁸Cf. 39 I, 366, 1-368, 1 (1 AD, Arg. 2).

Luther has to clarify his definition of the law, because the antinomians can also say that the law is still necessary for external discipline (*usus civilis*). Consequently, he reiterates: *Porro lex in hac tota disputatione non debet τεχνικῶς sive materialiter sumpta aut grammatice intelligi, ut saepe iam diximus, sed ut est et sonat in corde tuo urgens, pungens cor et conscientiam tuam, ut, quo te veritas, nescias* (455, 13-16). Luther is not talking about the word *lex*, which *grammatice* is a feminine word of the third declension, comprising the letters l e x in lower case. His concern is rather with the theological definition of the word, which is something altogether different and independent of its grammar, because, as Luther argues, even if the letters LEX are removed, the effect of the law still remains, for the law has been indelibly inscribed on the human heart [*Nam etiamsi tollas has literas: LEX, quae facillime deleri possunt, tamen manet chirographum inustum cordibus nostris, quod nos damnat et exercet*] (456, 19-457, 1).³⁶⁹ In order to emphasize how terrifying this little word³⁷⁰ can be, he says that, *theologice loquendo lex est*

³⁶⁹It seems as if the antinomians, in Luther's opinion, had the strange notion that if they were successful in removing the the word LEX from the church, they had actually removed the law; see 39 I, 352, 3-4 (ATh, III, Th. 39); 50, 473, 475 (Wider die Antinomer) etc. The truth however is that we can never escape the law because wherever we flee the law is already there, and the *sensus legis* always threatens us.

³⁷⁰This little word "*lex*" has the diametrically opposite effect to that other "one little word" of Luther's great Reformation hymn, which fells the devil. Unlike the proverbial dog, whose bark is worse than its bite, the *soni aut syllaba* of the law are very ordinary, but the bite or effect of the law is such that *hic unum L occupat et adimplet totum orbem terrarum, atque tam magnum est, ut vix mundus illud possit capere* (455, 21-23).

generis omnis, atque reum agit totum orbem terrarum, and it is so tenacious that once it takes hold of the sinner, it is very hard to shake it off: *neque ita breviter absolvitur, praesertim cum incipit suum officium praestare* (456, 2-4). Indeed, if people tyrannized by the law are not pointed to Christ, they will despair of hope and suffer the same fate as Saul and Judas [. . . *non poterit (scil. qui exercetur lege et perterrefit) non pessima quaeque de se consulere, ut Saul, Judas et alii, wer da will vor dem Christo uberlauffen, der stehe sein fhar*] (457, 1-4).³⁷¹

Luther in the course of his argumentation states that the law is necessary for two reasons; these are not stated formally, but culled from the *responsio* as a whole: First, as we have already noted, he says that the saints need the law because they still have flesh and blood and sin in their flesh that fights against God's law (455, 10-11); secondly, the law needs to be taught in all its sharpness on account of the stubborn and impenitent [*Est itaque lex urgenda,*

³⁷¹Just how dire the tyranny of the law can be is well illustrated by Luther's remark that where John as the *monstrator agni* (in other words, the preaching office) is not present, people can only cry out: *O we, O we, actum est, perii, disperii, non vult me Deus, oblitus est mei, odit me, iudex et condemnator meus est, quo fugiam a facie irae eius?* etc (455, 17-21). This is a classic description of the *effectus legis*, and shows why Luther is so insistent elsewhere that neither the law nor the gospel should be discarded, for if the gospel does not intervene and pluck the *Angefochtene* out of clutches of the law, he will be lost.

inculcanda et acuenda propter duros, prae fractos et insensatos, ut mortificentur ac perterrefiant ac discant tandem aspirare ad gratiam et Christum agnum Dei quaerere et sitire] (456, 4-6). These two reasons for the retention of the law constitute the two aspects of the *usus legis theologicus*, which Luther consistently stresses as the proper use of the law.³⁷²

Toward the end of the argument Luther suggests that also the *sancti et boni*, like David and Jeremiah, are terrified by the law (on account of the sinful flesh), but now this situation can even be seen positively, for it provides an opportunity to exercise their faith by again and again seeking refuge in Christ, or at least it rouses them to pray to God in their misfortune³⁷³ lest it prove too much for them and their heart turn against God, as Israel did when it murmured against him in the wilderness (456, 15-18).

³⁷²These two reasons for the law are related in that in neither case is Luther speaking about a use of the law for Christians qua saints, but either for the *duri, prae fracti, et insensati* (the unregenerated; cf. 39 I, 374, 20-21 [1 AD, Arg. 7]), or for Christians insofar as they still have the flesh which needs to be restrained and compelled by the law.

³⁷³"*Fortuna*" here could also be understood in the sense of *Anfechtung* or any grave temptation that threatens to destroy faith.

Argument 14³⁷⁴

Dr. M. Luther: Can it be that Master Isleben is really present?³⁷⁵

Master Isleben: Although³⁷⁶ these opinions are true and godly, so much so that anyone who thought otherwise or contradicted them is

³⁷⁴39 I, 457, 6-461, 18 (left col.).

³⁷⁵Hermelink (39 I, 457, n. 2) notes that the following should be compared with the report *ex literis Vencelai Arpinatis ad Vitum* [Dietericum], 14 January 1538 (CR 3, 482-3).

It is now the third day of the second disputation presided over by D. Martin, on which he has summoned Agricola, in a clear voice, to come forward and present his proofs. The man was terrified because he had to go up to the rostrum. First, he gave a brief speech where he says that he is not going to dispute in such a way as if he disapproves the topic [*themata*] that he acknowledges to be godly and true, but that he will submit to the authority of the president. He also said he will give two reasons for this: first, that he might glean some knowledge to take away with him from this friendly exchange of views; secondly, that he may make it known to everyone that if he once seemed to some to think a little too cleverly about law and gospel, he now thinks in a godly and Christian way, and subscribes to our opinion. However, he presented these two arguments:

It is necessary for the righteousness of the law to be exposed and condemned, but the righteousness of the law cannot expose and condemn itself. Therefore, it is necessary that there is another different doctrine by which it may be condemned.

The second argument was: Whatever appeared to all people so as to teach us to reject godlessness, this itself reveals that godlessness is a great sin. But the grace of God has appeared (as in the Epistle to Titus) to teach people that godlessness is sin. Therefore, the grace of God reveals very grave sin, not the law.

The doctor responded to these two arguments with finesse and dignity, and afterwards admonished everyone that if previously Agricola had accepted these, he was now to be freed of suspicion, since he had publicly acknowledged that he was of the same opinion as us; he also earnestly exhorted him to preserve faith and steadfastness (= to continue steadfast in faith), and not to act cunningly and insincerely, but honestly and openly.

seen as disturbing the peace of the church, nevertheless, because I am ordered to speak I will not shun the authority of so great a man. Moreover, I will converse with the master responder with all due respect, first of all that some of his erudition might rub off on me and secondly, also to satisfy those to whom it has seemed at times that I have spoken about the law in ways that are inappropriate and different. I will publicly testify here that I am no stranger to this doctrine.

This is my Argument: The righteousness of the law must be exposed and condemned. The law does not condemn nor does it expose the righteousness of the law. Therefore, a different doctrine is needed to condemn the righteousness of the law.

Proof of Minor Premise: If the law condemned the righteousness of the law, it would destroy itself. However, whatever is destroyed is destroyed by its opposite.

D. Martin Luther: It is a good argument. The righteousness of the law cannot condemn itself, and the law would condemn itself if it con-

³⁷⁶The parallel text in the right hand column (457, 8-458, 29) is set out below. Hermelink (39 I, 457, n. 3) observes that this is based on Agricola's handwritten notes in his Hebrew Bible in Wernigerode (cf. ThStKr 80 [1907]: 259-60).

Argument 14

Although these opinions about law and gospel are godly, so much so that whoever has taught a different opinion is seen to destroy holy scripture and disturb the public peace of the church, nevertheless because I am ordered to speak here, and since I esteem the authority of the person so ordering me, no occasion should ever be shunned. I will converse amicably and with all due respect with the Dr. master responder. First, in order to learn something from his erudition. Secondly, in order to show publicly all those who perhaps think that at times what I say about law and gospel is inappropriate, that I do not dissent from these opinions which have instructed me the most.

Argument 1

The righteousness of the law must be exposed and condemned. The law does not condemn the righteousness of the law. Therefore, it is necessary for something else to expose and condemn the righteousness of the law; this is done by the gospel and the word of grace.

The minor premise is clear: because otherwise the law would condemn itself. And nothing is destroyed except by its opposite.

Luther's Refutation: The minor premise needs to be qualified: the spiritual law condemns the carnal law.

demned the righteous of the law, and yet it is necessary that this righteousness of the law be condemned. For God wants this lest we appear righteous and wise to ourselves, as scripture says about Abraham: Indeed, he has something to boast about, but not before God [Rom. 4: 2]. Therefore, a different teaching is needed to drive this beast from the law, this beast being the righteousness of the law and pride.

What do you say to that?³⁷⁷

Response: Again, stick to the univocal sense not the equivocal. When we speak of the righteousness of the law we are not talking about that righteousness which will be in the future life, but that which arises from our human capacities when they are pressured or assisted by the law or the effect of the law, such as that political righteousness of the lawyers which is extracted either by threats or promises, or even by enticements and benefits. This must be condemned, but not in itself, for this political righteousness is good and worthy of praise, even if it cannot stand in the sight of God. And because it is mostly accompanied by such great trust in one's own righteousness and pride, scripture everywhere inveighs against it, especially Paul: Lest I be found in him having a righteousness of my own based on law etc. [Phil. 3: 9]; again, If righteousness were through the law, then Christ died to no purpose [Gal. 2: 21]; also: We are justified freely apart from the works of the law [Rom. 3: 28]; and again: Every person is a liar [Rom. 3: 4].

Therefore, here I answer with Paul that the law condemns itself for it is spiritual, as Paul says to the Romans [Rom. 7: 14]. And understood spiritually it condemns that carnal and external righteousness of the law, which we also have produced while pursuing the righteousness of the law in hypocrisy with an impure and rebellious heart. Actually, contrary to what we seem to have been striving for, we have in fact done what a person does who acts unwillingly and is coerced, either from fear of punishment or love of praise and glory. And if those others are accustomed to the limits imposed by that righteousness, you, at least outwardly, restrain your hand from theft and from doing some great shameful crime, such as murder or robbery, and you refrain from adultery and [giving] a bad appearance. But meanwhile, your heart seethes with dreadful and innumerable passions and desires, against God and other humans, and if the chains and bars of laws and the gravest punishments had not been added [as restraints], you would do anything and would be worse than any robber, fornicator and adulterer. Here therefore that spiritual law

³⁷⁷Hermelink (39 I, 459, n. 1) notes that this is either a question from Agricola (Drews), or, more likely, the question of some other opponent in the audience, at what was an extremely tense moment.

comes in, as Paul says [Gal. 3: 19; Rom. 5: 20], and judges that carnal or external righteousness which the law extorts by force. You indeed are a good man, a responsible citizen, virtuous, you cheat no one, love your wife and flee from any other etc., but to what end do you do this? Is it really through love of the law or praise, or through fear of punishment and shame? It is as if the law says: I am spiritual, that is, I require a heart that is pure and spiritual and I will not be satisfied except with a merry heart and a spirit renewed by the Holy Spirit. Indeed, you do splendid works, which are great and useful, but because you do them with an impure heart and spirit, or out of self-love and fear of punishment, you have not satisfied me. Therefore, the law is duplex and is understood in a twofold way, [whereas] they have understood Matt. 5: [20] in the first sense. For Christ also means these two senses when he says: Unless your righteousness exceeds that of the scribes and Pharisees. For they say "you shall not kill," and think that they have nobly fulfilled the law if they have not killed with their hands. But Christ goes on to say: my dear fellows, the law is spiritual and wants to be fulfilled by the spirit. Therefore, I tell you: He who is angry with his brother will be liable to judgment. The same goes for Racha and all that follows in the same passage in Matthew where Christ interprets the law spiritually [Matt. 5: 21-48].

That then is how you refute this argument that the law condemns and convicts itself, by saying that carnal righteousness is condemned and judged through the spiritual law because before God it is impure, unclean, hypocritical and a lie. And thus the law evacuates the law. That indeed we have to say, even if it is not a proper way of speaking, but yet it would be even better to say that human pride, both the opinion of oneself and of carnal righteousness, is disobedience and is without trust and fear of God. These are condemned by the spiritual law. For although you abound with the noblest of virtues, you will hear the other: If Abraham was justified by works, he has something to boast about, but not before God [Rom. 4: 2]. Therefore, the law can condemn itself, that is, understood spiritually, as interpreted by Paul and Christ. And there is no need for a different kind of teaching to be advocated by which to condemn that righteousness of the law.

This and the following two *argumenta* are the only ones in which Agricola himself participates and for which he is actually present. This is clear already from Luther's sarcastic remark when, as presider, he calls Agricola to come forward: *Numquid adest dominus Magister Isleben?* The histor-

ical significance of this moment has already been discussed in the previous chapter so that here we shall concentrate solely on the theology.

The importance of this *argumentum* lies in the fact that it is Agricola's own direct articulation of his position, and since it is only here and in *argumentum* 15 that he chooses to participate in the disputation, one would expect that what he says here should be central to his concern. The issue at stake here involves the relation between the two uses of the law, the civil and the theological. After his short introductory *apologia* for presenting his case (ostensibly ever eager to seize the opportunity to show his orthodoxy and respect for Luther) Agricola presents his Argument: *Necesse est argui et damnari iustitiam legis. Lex non damnat nec arguit legis iustitiam. Ergo opus est alia doctrina, quae iustitiam legis damnet.* As proof he adduces the axiom: *si lex damnaret iustitiam legis, destrueret seipsam. Quicquid autem corrumpitur, a contrario corrumpitur* (458, 18-26). Luther commends the Argument: *Est bonum argumentum.* All the same, it is clear from Luther's *responsio* that he does not agree with Agricola's line of argumentation because ultimately he rejects his conclusion: *Ergo opus est alia re arguente et damnante iustitiam legis. Hoc est Evangelio et verbo gratiae* (458, 20-23; right col.).

His argument is logical, but not theological: since the law itself cannot condemn the righteousness based on the law (*iustitia seu civilis legis*) without bringing about its own demise (just as a house divided against itself cannot stand), Agricola holds that it falls to the gospel to condemn work-righteousness, which is just another way of talking about the *iustitia legis, coram Deo*. Although Luther is diplomatic in the way he handles Agricola

here, his opening words of caution: *Manete iterum in univoca significatione, non in aequivoca* (459, 11), spoken in response to the tense question addressed to him as respondent: *Quid respondetis?*, already signals his unease with Agricola's *argumentum*. Luther proceeds to make a clear distinction between the two righteousneses, the one in the political sphere, *coram hominibus*, the other in the theological sphere, *coram Deo*.³⁷⁸ The former, the *politica iustitia*, arises *viribus humanis*, and arises out of the pressure law of reward and punishment.³⁷⁹ In other words, it is extorted *vel minis vel promissis* or even *blanditiis seu beneficiis*. This righteousness, which per se is good and should be cultivated, is only a *iustitia, coram hominibus*, not *coram Deo*, that is, it in no way merits grace or justification, as Paul already says in connection with father Abraham: *Habet quidem gloriam, sed non apud Deum*. It is also called *carnalis seu externa iustitia*. The other righteousness, which avails *coram Deo*, cannot be earned, but only received as a gift through faith in Christ (*iustitia passiva*). This is the righteousness that we will have *finaliter in futura vita*. The problem is that these two righteousneses often become confused to the extent that people, through their sin and pride, often attempt to claim credit for their civil righteousness, *coram Deo*, and may even attempt to justify themselves on the basis of their own active (= civil) righteousness,

³⁷⁸Luther, in the 1535 Preface to his *Galatervorlesung* (1531), distinguishes carefully between these two righteousneses, calling the one *iustitia activa* and the other *iustitia passiva* (see 40 I, 40, 15-51, 34).

³⁷⁹In Luther the *iustitia civilis* of the natural man is also the morality of reward and work, where good and virtuous works, *coram hominibus*, are rewarded, while conversely wicked deeds are punished. In the *usus civilis* the *Strafamt* of the natural law drives people in the world to do externally good works (459, 12-460, 22).

instead of receiving the *iustitia Dei* passively as a gift through faith (458, 27-459, 22).

Luther now turns the tables on Agricola and cites Paul to make it clear that *lex seipsam damnet, est enim spiritualis* (Rom. 7: 14: οἶδαμεν γὰρ ὅτι ὁ νόμος πνευματικός ἐστίν). The reason that the *lex, spiritualiter intellecta*, condemns our *carnalis et externa iustitia legis* is because we are *σάρκινός*, and all our striving for righteousness, no matter how noble *coram hominibus*, is *hypocrisis* because the heart is *impurum et repugnans*. No matter how righteous or virtuous your behavior is outwardly [*foris*], inwardly your heart is seething with lust and passion [*cor tuum aestuat horribilibus et innumeris cupiditatibus et libidinibus adversus Deum et homines*] and were it not for the restraint and penalties of the law [*vincula et claustra legum et gravissimarum poenarum*], you would be worse than the coarsest sinner. This is the first or political use of the law, which Christians qua sinners need to restrain and coerce the flesh. However, on top of that the law in its chief and theological use is like a surgeon's knife which cuts through the veneer of our respectability and lays bare our diseased heart and all our impurities. We fall under judgment because, as sinners, the law, which is *spiritualis*, requires *cor purum et spirituale*, has to extract from us what we should do *hilari corde et spiritu per Spiritum sanctum renovato*. God does not only look at the action, he looks to the heart, and if the heart is unclean, so is the deed: *tu quidem speciosa opera, magna et utilia facis, sed quia impuro corde et spiritu vel amore tui timore poenarum facis, non es ille, qui mihi satisfecerit* (460, 1-21). The law is *duplex et dupliciter intelligitur*, as Luther further illustrates from the antitheses of the Sermon on the Mount, where *Christus spiritualiter*

legem interpretatur, that is, where he uses the law in its spiritual or theological sense to expose sin.

Thus Luther shows how one refutes the antinomian argument that the law condemns and convicts itself when it condemns the *iustitia legis*. That is to say, he points out that this righteousness of the law is in fact a carnal righteousness, impure and hypocritical, and therefore it falls under the judgment of the spiritual law: *iustitia carnalis damnatur et iudicatur per legem spiritualem, quod coram Deo sit impura, immunda, hypocrisis et mendacium*. Luther characterizes this, contra Agricola, as a legitimate instance of where the *lex legem evacuat*. But this formulation, which in its negative form was introduced by Agricola, is not precise enough theologically. For strictly speaking, it is not the spiritual law as gospel that evacuates or even overcomes the carnal law, for Luther does not use that sort of antithesis in his mature theology, but rather the law, which is spiritual, condemns the sinful flesh and, hence, all carnal righteousness. Therefore, while holding to the essence of the statement *lex legem evacuat*, he reformulates his objection to Agricola's *argumentum* in a way that properly distinguishes between law and gospel: *Ita quidem est loquendum nobis, etsi sit impropria locutio, sed tamen magis ita diceremus*--when he says: *quod praesumptio humana et opinio propriae et carnalis iustitiae, inobedientia, vacare fiducia, timore Dei*. This then is what is condemned by the "spiritual law," or the law understood in its theological use: pride, self-righteousness, disobedience, and a lack of fear and confidence toward God. No matter how noble the outward deed, there law exposes and condemns our sinful heart and thereby robs us of any ground of confidence in

ourselves by which we might stand before God.³⁸⁰ Our only hope is in him whom God put forward as an expiation by his blood, which we receive in faith (Rom. 3: 25).

We have seen that Luther holds to the unity of the law³⁸¹ even to the extent that he expressly agrees with Agricola's argument that the law would destroy itself if it condemns the *iustitia legis*. However, Luther will only grant that on the condition that the two *iustitiae*, political and theological, are carefully distinguished. But if they are distinguished, it becomes apparent that the law is not condemning itself if it condemns the *iustitia legis*, because this is not the righteousness demanded by the law, but the very opposite, namely, carnal self-righteousness. For the true righteousness demanded by the law can only be given by God himself *propter Christum per fidem*. There-

³⁸⁰When Christians see themselves in the mirror of the civil law they think they are righteous and respectable: *Tu quidem es vir bonus, politicus, castus, neminem defraudas, amas tuam coniugem, fugis alterius etc.* When then the "spiritual" law interrogates us: *quo fine hoc facis? numquid amore legum aut laudum, aut timore poenarum, dedecoris?* It is as if--the *quasi* here refers to the apostrophe of the law, not to the substance of its demands-- the law says: *Ego spiritualis sum, hoc est, cor purum et spirituale requiro, non satisfacit mihi nisi hilari corde et spiritu per Spiritum sanctum renovato; tu quidem speciosa opera, magna et utilia facis, sed quia impuro corde et spiritu vel amore tui et timore poenarum facis, non es ille, qui mihi satisfecerit* (460, 14-21). The implication here is clear, the merry heart and Spirit-renewed spirit that the "spiritual" law requires can only be given by Christ; only his *impletio legis* achieves the *satisfacere* of the law (cf. also 436, 13-13-15).

³⁸¹See ch. 1 for a discussion of Schloemann's thesis on the unity of the law in Luther; for his refutation of Heckel's thesis that in Luther we have a twofold *Naturrecht* and a double *Naturgesetz*, see Schloemann, 10-31, esp. 23-31, where he shows that the unity of the law is a presupposition of the doctrine of the *duplex usus legis*.

fore, when law and gospel are properly distinguished, *lex legem evacuat* is not proper statement for it suggests that the gospel is the new *lex spiritualis* which overcomes the old *lex carnalis*. This way of speaking about the gospel under the *Oberbegriff* "lex," belongs to Luther's early period when he was still doing his theology within an Augustinian schema.³⁸² However, once he learned properly to distinguish between law and gospel, he abandoned that monistic way of speaking in favor of an antithetical way of speaking about human sin and divine grace. This law-gospel approach is reflected in his concluding statement that the *lex spiritualis* condemns all *carnalis iustitia*.

In summary, Luther does three things in his *responsio*: first, he rejects Agricola's logical argument on theological grounds; secondly, although at first he stays within Agricola's conceptual framework and simply reverses his own thesis (*lex legem evacuat*) he abandons it in favor of a proper distinction between law and gospel. When the law does its proper work, it condemns sin, and when at length it has served its purpose and drives the penitent to the mercy of Christ, then the law itself is overcome by the gospel, so that for Luther ultimately it is not a case of the (spiritual) law overcoming the (carnal) law, but the law itself being overcome by the gospel.³⁸³ Thirdly, rather than attempting to understand the gospel as a new law (*lex spiritualis*), Luther teaches two uses within the one law, for the law is *duplex* and is to be under-

³⁸²Schloemann, 28 n. 77, is correct when he notes that the antithesis of the *lex spiritualis* is not *lex carnalis*, but an *intellectus (=usus) spiritualis* that condemns the *carnalis et externa iustitia legis*.

³⁸³Although this final sentence goes beyond Luther's own statements in the present argument, we believe our interpretation is justified in view of his total understanding of law and gospel as it is unfolding in the disputations.

stood in a twofold way, *coram Deo* (theological use) and *coram hominibus* (civil or political use).

Argument 15³⁸⁴

Isleben: ³⁸⁵ Whatever appears to all people and teaches all people so that they learn to renounce ungodliness and lusts etc., this very thing

³⁸⁴39 I, 461, 20-468, 2 (left col.).

³⁸⁵WA editors note that Goth. 264 fol. 84b gives a brief, independent version of this argument of Agricola's [*Aliud M. Agricolae*]. This is printed in the right column, 461, 20-463, 11. Immediately after this, also in the right column, they have given the same argument based on Agricola's own notes [*argumentum 2*] (463, 13-464, 12). Both of these appear below.

Argument 15

Another of Agricola's

Titus [2: 11]: the grace of God has appeared. From this passage I deduce that whatever appears to all people, and trains them to renounce all passions and impurities, also shows that ungodliness is the greatest sin.

In this passage Paul has established that grace does this. Therefore, grace teaches that the greatest ungodliness is the greatest sin. And there is no need for the law.

Response: Paul connects redemption and example because he has redeemed us in such a way that we become imitators of Christ's steps. Therefore, the law is not necessary because everything is there without the law: forgiveness and example. However, the conclusion is not valid because law means the same as example. If two teach the same thing, one author is not to be rejected as a witness. Secondly, each part includes the teaching of the law and the forgiveness of sins. The knowledge of sin comes first and shows the footprint of the law that has been fulfilled and which, by that example, is also to be fulfilled among us. Therefore, Christ's example does not remove the law that is to be taught but upholds it. Christ is our example, in order that we might follow in his footsteps, and also our sacrament. The convergence of these is alone in him, in whom alone we believe.

Argument 2

Whatever appears to all people and indeed teaches them to renounce ungodliness and worldly passions and to live self-controlled,

shows that ungodliness is also the chief sin and that impure lusts are the way to death. The grace of God and of our Savior has appeared, teaching all people so that, although ungodliness has been renounced, this is the chief sin (Titus 2: 11-12). Therefore, the grace of God appearing to all people shows them their sin and death and judgment; consequently the law is not to be taught.

Brief Response: You know that Paul for the most part is accustomed to joining those two things together, as Peter also does: first, that Christ died for us and has redeemed us through his blood in order to purify for himself a holy people (Titus 2: 14). And so first Christ is offered to us as a gift or a sacrament. Secondly, they offer us Christ as an example that, as a

upright and godly lives in this world [Titus 2: 11]; this itself teaches that ungodliness is the greatest sin, and that worldly passions lead to death. That is, it teaches sin and death. The grace of God and of our savior has appeared to all people, teaching them to renounce ungodliness and worldly passions and to live self-controlled, upright, and godly lives in this world. Therefore, the grace of God and of our savior etc. It reveals sin and death. Therefore, no law.

Response: All apostles have the sacrament and example of Christ Jesus. The sacrament is apprehended by faith. The example pertains to conduct in order that we might show him, who has regenerated and justified us out of his gratuitous kindness, that we are worthy. For his grace should summon us to do good to others. The word of God must be rightly divided. Those who have been terrified, if they are inclining to despair, should not be aggravated further, but the law must be taught to the ungodly. The gospel is for the poor, the strong have no need of a doctor [Matt. 9: 12].

The following is another version of Luther's words of reconciliation (466, 23-467, 17). See also the next footnote.

D. Martin Luther: Next, after I had said that I was thoroughly satisfied and was thankful to those men for such teaching, Luther replied: I will also say this publicly. You have been under suspicion. But now that I have heard you speaking I, for my part, am satisfied. And I ask all of you teachers and students to lay aside any suspicions that you might have harbored, for we need to extend our hand to one another. We still have enough to do as it is. If we do go at one another, let it be done without the deceit, without hypocrisy. It is true that there are people here, sent by others, as spies, who would like us to disagree. But more are with us than with them. Thanks be to God.

consequence, we may become emulators of good works. He himself redeemed us from all ungodliness and death in order that we might then proclaim and glorify him by the emulation of his good works. Thus Peter says: Christ suffered for us that we may follow in his steps (1 Peter 2: 21). Augustine also speaks of these two things: *sacramentum* and *exemplum*. Therefore, you will say: The law is not necessary because it is enough that we have Christ as a gift, and then as an example that we may imitate him in all good works, since examples are more effective than laws themselves. We have everything without the law: forgiveness of sins, eternal life and then also an example, such as cannot be excelled, and such as would naturally move me.

Response: Although the argument is true, nevertheless this conclusion does not hold: I have Christ's example or footsteps, I can follow this, likewise I can be taught by the example of Christ. Therefore, the law is not necessary, nor is it to be taught, nor does it hold. In actual fact, however, the law is to be taught all the more, because since it teaches the same, namely, the example of Christ, I am moved by the testimony of two witnesses in order that I may obey more readily and willingly. It is the same as if I were to argue as follows: Here are two witnesses who say and testify to the same thing. Therefore, the testimony of one is to be rejected and not accepted. What do you say to that? Surely this, that what is spoken by the mouth of two witnesses is the whole truth.

Secondly, when we say that Christ has been set before us as an example, as redeemer, this itself amounts to teaching the law. And it is a true preaching of the law. For if the redeemer and savior comes to you, it means that you must have sin and that redemption itself includes sin. However, sin is such that it is not recognized unless we are told through the law, but through Christ given to us, thus it is made evident that we have sin. Likewise he also gives another example. For to set forth Christ as an example is nothing other than to show how life is to be lived in obedience to God as well as to parents and superiors, and how a follower is marked by all good works and virtues, as recounted by Paul and Peter at the end of almost all their letters. In each case we are given an example of the law that has been fulfilled and the law that is to be fulfilled. Therefore, the law has not been abolished through Christ but more strongly confirmed (Rom. 3: 31). Should I not then rather teach like this: My man, Christ, has fulfilled the law, and now it is only fitting that we follow in his steps by living a godly and holy life, and not as an adulterer, thief, or robber, for Christ says to the Pharisee: Go and do likewise (Luke 10: 37). I speak in the same way in connection with Christ set forth as gift or redeemer. For since this benefit is, or at least may be, so great that nobody can express it, it is therefore also impossible for it to be known and understood without the law, as we have said several times above. For

when I say that Christ has redeemed us from the curse of the law (Gal. 3: 13) somebody will immediately think: what is the law? If we want to satisfy others or ourselves here, it is necessary to say what the law is. Christ is set forth to us, either as gift or as sacrament and example, so that we might follow his steps. Insofar as he is an example we can indeed follow and imitate him; however, insofar as he is a sacrament and mystery that is not the case.

Here Augustine, who loves to play with such mathematical matters, uses the term "diapason" to indicate that Christ is the one who does (sounds) both: not only did he himself fulfill the law, but he also fulfilled it for us. Christ is sacrament for me because he redeemed me from sin, death and the devil, something which is not possible through my righteousness, nor can it be grasped by works, but solely by faith. Here Christ says to me and all believers: Do not fear the wrath of the Father or death, for I have made satisfaction for you and you are saved already and have now been set with me in heavenly places [Eph. 2: 6], nor do you lack anything except what has not yet been revealed. But now it remains, as this sacrament signifies, that it is all mine, not John the Baptist's, not Peter's, not Paul's, not the Virgin Mary's, nor any saint's. For Christ himself remains here as Thomas himself and also as his twin, that you might follow my steps by doing well, by suffering, and by confessing. Thus he came to us as first himself, but that Christ has a double, who rings in to us who are the lower note, so that we ring out in harmony with the higher.

Peter and Paul teach these two things almost everywhere: He gave himself for us to free us from our iniquity [Titus 2: 14]. And so the doctrine of the law ought always remain in the discussion of redemption except that it also must be taught in such a way that the terrified and afflicted are not led to despair, for they must be considered. However, all the examples of God's wrath put together will not move the ungodly, and those who are stubborn or obdurate--neither the example of the flood, nor the Sodomites, nor the Jews, because those blind people rush to their pleasures, if they have any. On the other hand, the troubled and anxious souls are terrified even at the sight of some fly buzzing or flying in front of their faces in an unusual way. In fact they feel terror and dread even at the very thought of these things. Therefore, Christ does not want these people and others like them to be troubled or neglected: Encourage the faint-hearted [1 Thess. 5: 14].

Therefore, the mark of the skilled minister is to be able to rightly divide the word of God. The stubborn and ungodly need a hammer, and they must not be told that the law is unnecessary and that Christ has fulfilled it. But this is the bread of the troubled and afflicted. Therefore,

Paul, teaching the forgiveness of sins and how we ought to follow him, does not exclude the law, but rather upholds it [Rom. 3: 31].

D. Martin Luther: ³⁸⁶ And now Master Isleben, lest I brand you with any of these things, it is true that I was suspicious of you. However the fact that I hear your confession is enough. I am content with you; as far as I am concerned you are in the clear. And I also believe that the rest of our masters and brothers will be content. For I want it said publicly in this place that we are friends and there is no difference of opinion between us. There is no need for us to bite, devour, and consume one another. The devil causes us enough vexations outside, and there is enough danger from external things. No doubt there are many people here who are keen to search out and observe our disagreement, and who would probably derive great joy if there were something like that between us. Therefore, I want to admonish all of you also to be of one mind in doctrine, and each to extend a hand to the other, without deceit and pretense, in honesty and sincerity. Otherwise the pretense will be carried on and will one day break out, for it can never last long. Believe me, even though we are of the same mind, we will still have troubles enough, for the devil never rests etc.

This is the second of the two *argumenta* advanced by Agricola, both of which lie at the heart of his theology. It is based on Titus 2: 11-12 and seeks to show that it is precisely the *gratia Dei et servatoris nostri*, which has appeared

³⁸⁶These final remarks are Luther's words of reconciliation to Agricola. The historical background is discussed in ch. 2. Hermelink (39 I, 466, n. 3) notes that these words are attested by two other sources besides the MSS containing the entire disputation: one is Agricola's papers, namely, his own handwritten account from Agricola's Bible in Wernigerode (see 457 n. 2); this is printed in the preceding footnote and is a translation of 466, 23-467, 17, which follows the *Solutio* beginning at 464, 5; the other source is a transcript with the remark, "M. Lobbitzes eigne hant der Wort Lutheri ad Islebium post habitam disputationem Anno 38" in the *Sammelkodex der Erlanger Universitätsbibliothek, Agricolana enthaltend, Cod. Erlang. 1665 fol. 19^b-20^a* (see ZKG 4 (1881): 309. The editors further note that the account (on its author, cf. Drews, 335-6) agrees almost entirely with the main group of our MSS and is taken in account in the text beginning 466, 23 (left col.). Goth. 264 fol. 84^b is also taken into account there, which, with the words: *Et nunc, mi domine Islebi*, again joins the text recension of the main group of MSS.

to all people, teaching³⁸⁷ them to renounce *impietas et concupiscentiae*, which has also revealed to them their *peccatum et mors et iudicium*, and that consequently: *lex non est docenda*. What Agricola has in fact done here is made a subtle change in the meaning of the text. The apostle says that the grace which saves us also trains us to renounce sin and live godly lives [Ἐπεφάνη γὰρ ἡ χάρις τοῦ θεοῦ σωτήριος πᾶσιν ἀνθρώποις παιδεύουσα ἡμᾶς, ἵνα ἀρνησάμενοι τὴν ἀσέβειαν καὶ τὰς κοσμικὰς ἐπιθυμίας σωφρόνως καὶ δικαίως καὶ εὐσεβῶς ζήσωμεν ἐν τῷ νῦν αἰῶνι, . . .], whereas Agricola says that the grace of God (and of Christ), which has trained us in godly living, shows us that ungodliness is the chief sin. This is consistent with Agricola's position which teaches that God's grace in the gospel or in Christ reveals to us our sin, not the law.

Luther agrees with the argument as such, but disallows the conclusion: *Ego habeo exemplum seu vestigium Christi, ego possum hoc sequi, item ego possum erudiri exemplo Christi. Ergo lex non est necessaria nec docenda nec valet* (463, 23-464, 1). He resists the antinomian attempt to drive a wedge between the *lex* and the *exemplum Christi*, for there is a coherence between the two. Christ's example confirms the law for it teaches the same as the law teaches. That in fact is a strong argument in favor of keeping the Decalogue, for not only does the *exemplum Christi* show that Christ himself kept the law, but also the apostolic injunction to emulate the example of Christ in pa-

³⁸⁷Agricola chooses to read σωτήρ instead of σωτήριος, and also inserts a copulative between ἡ χάρις τοῦ θεοῦ and σωτήριος, so that the subject of the παιδεύουσα [*erudiens*] is both the grace of God and of our Savior. The variant certainly is supported by the end of v. 10 as well as v. 13 where θεός and σωτήρ are found in juxtaposition.

tient suffering (εἰς τοῦτο γὰρ ἐκλήθητε, ὅτι καὶ Χριστὸς ἔπαθεν ὑπὲρ ὑμῶν ὑμῖν ὑπολιμπάνων ὑπογραμμὸν ἵνα ἐπακολουθήσητε τοῖς ἴχνεσιν αὐτοῦ; 1 Peter 2: 21) presupposes the abiding validity of the law. Luther sets the example of Christ clearly on the side of the law and therefore sees it as further confirmation that the law is to be retained and taught. Besides that, he sees the *exemplum Christi* as lending weight to the voice of the law so that this twofold testimony may move me all the more to free and willing obedience [*moveor duorum testimonio, ut propensius ac liberius obediam*]³⁸⁸ (464, 2-5).

The example of Christ, of course, although belonging to the law, can also, like the law, be received through faith as a gift, and thus become an encouragement to serve the neighbor in love. However, Luther does not dwell on the *exemplum Christi* in the sense of a *tertium usus legis*, but goes on at once to discuss how the example of Christ, or even the fact that he is our redeemer, is a proclamation of the law [*Secundo hoc ipsum, quod dicimus, Christum esse nobis propositum ut exemplum, ut redemptorem, est docere legem. Et est vera praedicatio legis*] (464, 12-15). The fact that Christ is our redeemer implies that we are sinners. However, our corruption due to sin is so profound that we would never grasp that if the law did not tell us. But this is also the message conveyed by the *exemplum Christi* insofar as it is law. Not only does it exhort us to serve others as Christ served us, but it also mirrors to us our failure to follow the example of Christ in our vocation and stations in life because of sin. Therefore, in bringing us to a knowledge of sin, the exam-

³⁸⁸In addition the *testimonium duorum* has a greater claim to setting forth the whole counsel of God: *Numquid hoc, quod in ore duorum consistit omne verum?* (464, 10-12).

ple of Christ (as well as the simple fact that Christ is our redeemer), takes on the role of the law in its second and chief use. Seen in the way we have been describing it, the *exemplum Christi* is nothing else than the *exemplum implendae legis*.

However, there is another way of looking at Christ as exemplar, and that is from the standpoint of the the gospel, which tells us that the *exemplum Christi* is not a demand but a gift. The very goodness, holiness, love etcetra that characterizes the life and example of Christ, and that many New Testament writers hold up to us to emulate, is no longer merely demanded from us, but is now given to us through the gospel. Seen in this light the *exemplum Christi* is nothing more than the *exemplum impletae legis*. Here Luther carefully distinguishes between law and gospel: to the impenitent--and here we also need to include the old Adam in Christians--the example of Christ can never be anything other than law: the demand to follow in his footsteps. To faith, on the other hand, the *exemplum Christi* is what Christ did for us and what he offers us freely through faith, which is the fulfillment of the law. What we could not do because of sin Christ has done for us and for our salvation. In both cases the *lex* is presupposed, either as *implenda* or *impleta*, and so the example of Christ does not abolish the doctrine of the law, but rather confirms it.

Luther gives an excellent example of how the *exemplum* can be used in a gospel way in our preaching: *Mi homo, Christus implevit legem, et nunc certe decet, ut eius vestigia sequamur pie et sancte vivendo, non sis adulter, fur, latro, ut Christus dicit pharisaeo: Vade, fac tu similiter* (464, 25-465, 1). Here the imperative, "Go and do likewise," is firmly grounded in the gospel

statement, "Christ has fulfilled the law for you"--Luther would surely not object to our adding the "for you." It is not a gospel imperative because the gospel is never an imperative but always and only a gift. Nevertheless, it flows out of the gospel and demands nothing more than the gospel itself gives. In that sense the imperative is always based on the indicative.³⁸⁹ Moreover, faith now eagerly embraces the example of Christ, the Decalogue, and all the directives of scripture in order to learn how best to give expression to the new life that it has been given in Christ. Its final goal is the praise of God (cf. Titus 2: 10: . . . ἵνα τὴν διδασκαλίαν τὴν τοῦ σωτῆρος ἡμῶν θεοῦ κοσμοῦσιν ἐν πᾶσιν).³⁹⁰ Luther again stresses a point that he made in the First Disputation: the gospel is such that it cannot be fully comprehended without the law, for the law needs to show us the magnitude of our sin and our utter corruption before we can appreciate the gospel as the great treasure that it is [*Nam hoc beneficium cum tantum est vel cum tantum sit, ut nemo eloqui possit, ita etiam cognosci, intelligi impossibile est sine lege, ut iam aliquoties supra diximus*] (465, 2-5).³⁹¹

Luther now makes a further distinction within the *exemplum Christi*. Not all that Christ does may be imitated, for where he acts vicariously for us as our redeemer he acts alone. In order to distinguish this unique part of his

³⁸⁹The use of the *exemplum Christi* is a good way of preaching the law to those who have *Angst*, because it can easily be shown to be the *lex impleta* in the light of the gospel.

³⁹⁰Cf. 464, 28-29 (B): *Christus dilexit Deum et proximum suum etc., quod sequi debemus.*

³⁹¹See our discussion of 1 AD, Arg. 16.

work as the fulfiller of the law from that where we are called to follow his example, Luther introduces the *Begriffspaar sacramentum* and *exemplum*. Insofar as he is an example we can indeed follow and imitate him; but insofar as he is a sacrament and a mystery we cannot [*quoad exemplum quidem sequi et imitari eum possumus, verum quoad sacramentum et mysterium non item*] (465, 9-10). Although in the earlier part of his career Luther used these terms within the framework of the Augustinian theology of humility, where law and gospel were not distinguished and *exemplum* was interpreted paradigmatically within the context of a progressive, transformative view of justification, here they no longer carry that freight but are used rather to make a proper distinction between justification and sanctification.³⁹² Christ then is

³⁹²For Augustine's correlation of *exemplum* and *sacramentum* with reference to Christ, see: *De consensu evangelistarum* I, 53 & 54 in *Opera* 3 (MPL, 34, 1069-70); further: *De Trinitate* IV, 3 in *Opera* 8 (MPL, 42, 889-892). Note reference to Augustine's terms *sacramentum et exemplum* in the Fifth *Thesenreihe* (356, 35-38). For a helpful analysis of how these terms were used and understood in Luther's early theology, see Norman Nagel, "Sacramentum et exemplum in Luther's Understanding of Christ," in *Luther for an Ecumenical Age: Essays in Commemoration of the 450th Anniversary of the Reformation*, ed. Carl S. Meyer (St. Louis: Concordia Publishing House, 1967), 172-199. He points out that in early Luther, Christ's death is not seen as that which he, and he alone, does for us, but is rather looked upon as an example (hence understood paradigmatically) for Christians to follow as they learn to die to sins and evil lusts like Christ. Justification then is not something that God effects in Christ but in us, and this process is lifelong. In conceiving it in this way Luther is simply following Augustine who, in understanding the gospel as *nova lex*, is unable to separate what God does from what we do. The result is that justification for Augustine is not God's declaration and bestowal of Christ's righteousness, *imputative*, through faith, but the process by which God gradually conforms us to the image of Christ and we grow in love, all the while mortifying the flesh through penance and discipline until we are finally transformed and God has made us acceptable to himself. Nagel puts it well when he writes on p. 190:

given to us first as *donum* or *sacramentum* and then as *exemplum*. To further emphasize the point Luther makes use of another Augustinian term *diapason*, which comes from the world of mathematics and music, and which is used here as a correlative of *exemplum*. The primary emphasis is always on what Christ alone has done for us and for our salvation; here we do nothing but receive his gifts. The accent falls clearly on the *pro me*: he is my *sacramentum*,³⁹³ he has redeemed me from sin, death, and the devil, he has fulfilled the law for me. Because this is sure and certain I have nothing to fear: God's wrath has been stilled and I am now seated with Christ in the heavenly places. But Christ as *sacramentum* also fulfilled the *exemplum*, through the diapason. His *sacramentum*, which forms the *cantus firmus* of our life, reverberates in the *exemplum* so that our following him is pulled into his fulfillment of the law. His redemptive work for us as *sacramentum* flows into and undergirds the *exemplum*, just as the foundational stop on an organ, the diapason, encompasses the entire range of musical tones. Luther makes the connection between *sacramentum* and *exemplum* clear when he says: *Nam*

Under *sacramentum et exemplum* attention was drawn to what happened in me. My soul died to sin and my body was offered to death and sufferings. This is reversed when attention centers on what Christ did uniquely. Then it is sin, devil, and death that die. They have power and a role only so long as the Law does. They are crucified in that sublime crucifixion. If we look to where *sacramentum* used to be, we find only Christ and what He did. "In Christ, not in me," is the whole crux of the matter.

See also E. Iserloh, "*Sacramentum et exemplum. Ein augustinisches Thema lutherischer Theologie*," in *Reformata Reformanda*, Festgabe für H. Jadin, ed. E. Iserloh and K. Reppen (Münster: Aschendorf, 1965), I, 247-264.

³⁹³See also 465, 18-20: *Nunc autem reliquum est, ut, cum hoc sacramentum significat, solum meum sit, non Ioannis Baptistae, non Petri, non Pauli, non Mariae virginis, neque ullius sancti.*

ipse [scil. Christus] non tantum implevit legem, sed pro nobis implevit (465, 12). Christ not only sounded the diapason on Calvary in fulfilling the law (*sacramentum*), he also fulfilled it for us so that this fulfillment now reverberate throughout our life as we follow his *exemplum*.

Luther's formulation at this point is a marvelous instance of how he anchors his parenthesis in the indicative of the gospel; Christ does what only he can do as our *sacramentum*. Here he remains the *solus Thomista*; but at the same time he is a *gemellus* (cf. Thomas the twin in John 20: 24) so that we can follow in his footsteps by working well, suffering, and confessing. He came to us as only a single one [*simplum unum tantum*], for his redemptive work permits no imitation, however that Christ is a double [*illi autem Christo duplum*] and in the life of sanctification he overtakes us [*et superat nos per diapason*] and walks ahead of us as our exemplar [*exemplum*] so that we may follow in his *vestigia* (405, 20-24). In his *sacramentum* work Christ is behind us and alone (Calvary), but as *exemplum* he is ahead of us and bids us follow him.

Luther says that these are the two things that Peter and Paul are constantly saying: *Ipse dedit se pro nobis, ut liberaret nos ab iniquitate nostra* (465, 23-466, 1). It is important that we note carefully what Luther is not saying here. He is not saying that Christ is *simplus unus tantum* in justification, and then in sanctification he becomes only *duplus* and *exemplum*. Rather he says that whereas in justification he is **only** *sacramentum*, in sanctification he is **also** *exemplum*. In other words, the Christ who stands in front of us as a *duplus* beckoning us to follow in his steps, is the same Christ who as a *simplus* forgives us and now also dwells in us to strengthen us and to live

out his life within us.³⁹⁴ While his *exemplum* may be the goal and guide of our new life, his cross, where he acts for us "sacramentally" (*simplus pro nobis*), provides the motivation for all our good works and the only ground of our confidence *coram Deo*.

What Luther wants to emphasize to Agricola is that teaching Christ as exemplar does not eliminate the law, indeed it upholds it. Thus he says that the *doctrina legis* must always remain within the context of the discussion about salvation. The *caveat* that he sounds however is that it must be taught in such a way as causes the *perterrefacti et afflicti* to despair. This is why Luther elsewhere insists that the gospel must never be separated from the proper office of the law. Here he suggests that the way of preaching the law to Christians should be different from that to the *undurati seu feroces*. The latter will not be moved to repentance even by all the *exempla irae divinae in unum collecta*, whereas the *miseriae et angustiatae animae* are even terrified at the sight of something unusual [*vel ad conspectum muscae alicuius ante ora praeter morem strepitantis aut volitantis*] or even at the mere thought of such things [*Imo etiam ad suas ipsorum cogitationes expavescunt et formidant*] (466, 4-9). Christ does not want such people to be troubled or neglected, but rather comforted with the gospel.

Luther concludes the *responsio* proper with a general exhortation to *recte secare verbum Dei*, for this is the mark of the *prudens minister*. The fe-

³⁹⁴The priority of Christ's role, not only in justification but also in our sanctification is beautifully illustrated by another passage from Augustine, which Luther cites in his Fifth *Thesenreihe*: *Qua dicit [scil. Augustinus], Christum suo simplo concinere nostro duplo et facere perfectum numerum* (39 I, 357, 1-2, ATh, V, Th. 52).

roces et impii need a *malleus* (which includes the *exempla irae divinae* mentioned above), while the *afflicti* are to be told *Christum implesse legem*. In this argument then he has consistently said two things: for the penitent the forgiveness of sins abolishes the law, but this is given only to faith, for the impenitent, on the other hand, and the Christian qua sinner, the law is not abolished but rather upheld. Luther says the same thing using the terms *sacramentum et exemplum*: insofar as Christ is *sacramentum* he cannot be imitated and he frees us from the law: our redemption is pure gift; however, insofar as we are still sinners, the law remains, and not as *lex impleta* (as in the case of the saints), but as *lex implenda* and it is this then that we meet in the *exemplum Christi*. But even then, to the extent that we look away from our own imperfect fulfillment of the law and put our faith in Christ's perfect fulfillment on our behalf, the command to follow in Christ's footsteps will no longer be heard as the voice of the *lex accusans*, but as an invitation to follow him who fulfilled the law for us and who now shows faith the very works that it itself is eager to do.

The final part of the *responsio* is a summary of Luther's speech of reconciliation following Agricola's pledge to conform his teaching to Luther's doctrine of the law (cf. 2 Tim. 1: 13: ὑποτύπωσιν ἔχε ὑγιαίνόντων λόγων ὧν παρ' ἐμοῦ ἤκουσας).³⁹⁵ Luther exhorts Agricola and the students of theology to mutual love, concord and consensus in doctrine, and warns them against duplicity and deception, the very thing of which Agricola was later accused. Luther candidly admits his own previous suspicion but, on the

³⁹⁵See ch. 2 for a discussion of the background of this reconciliation and its subsequent collapse when Agricola failed to honor his pledge.

strength of Agricola's confession, he is now ready to put that behind him and to extend the hand of friendship. As we have already seen in the previous chapter, Luther was perhaps too quick to trust Agricola, especially given the reasonable grounds for suspicion that he had, based on Agricola's prior conduct. On the other hand, it also shows how eager Luther was to do all he could to prevent a schism among the evangelicals, even if he secretly doubted Agricola's intention to desist from his false teaching, for he was well aware of how Satan can exploit such divisions for his own purposes.

Argument 16³⁹⁶

Isleben: Christ says: Unless your righteousness exceeds that of the scribes and Pharisees [Matt. 5: 20]. Also Eph. 5 [: 5] says: Those who do such things will not possess the kingdom of God. Therefore, some part of the law is necessary.

Response: Indeed, not a part, but the whole law is needed. But the dispute is about keeping it: whether, that is, we keep the law by our human powers? No, we do not. Then who does? Christ. He keeps it all and then afterwards we keep it in part, though not by our own powers but by the power of the Holy Spirit who has been given in our hearts in whom we cry, Abba Father [Rom. 8: 15].³⁹⁷

³⁹⁶39 I, 468, 4-469, 3 (left col.).

³⁹⁷Another argument is given in the right col. (468, 4-12):

Argument 16

Isleben: If you wish to enter life [Matt. 19: 17]. Therefore, the law is necessary for salvation. Unless your righteousness exceeds etc [Matt. 5: 20]. Likewise, those who do such things [Eph. 5: 5]. Therefore, at least some part of the law is necessary, that is, inchoate obedience, for righteousness.

Response: On the contrary, the whole law is required, but the dispute is not about requiring but about keeping.

Even though this *argumentum* is ascribed to Agricola in the heading, it is very unlikely that it was given by him in person, since, as we saw earlier, his own personal records indicate that when he was called forward by Luther to present his proofs, he offered the two arguments which we have just discussed.³⁹⁸ Therefore, this present argument was most likely presented by one of the Wittenberg faculty on Agricola's behalf. It posits that at least *aliqua pars legis* is necessary for salvation. We know already from our background study that this has to refer to the civil law for that is the only *pars legis* that Agricola was willing to concede.

Luther in his *responsio* argues that *non pars, sed tota lex requiritur*, but points out that what is at issue is not whether the law is required, but whether we can keep it by our own strength [*Sed disputatur de praestando: An, id est, legem praestant vires humanae?*]. Luther's answer to this question is already known to us from earlier arguments: Christ alone keeps the law fully, then we keep it in part [*et postea nos ex parte praestamus*], but even then we do not do this *nostris viribus*, but *virtute Spiritus sancti* (468, 14-469, 1). This corresponds to what Luther has said earlier when he argues that first Christ keeps the law perfectly himself and grants us his fulfillment by faith, and then (where *postea=deinde, insuper*) we begin to keep it ourselves formally and expurgatively. The imputed righteousness is not our own but Christ's *aliena iustitia*. Although Luther does not use that terminology here that clearly is what is meant by the *totum praestare*. However, as we have seen before, Luther never stops here with justification but goes on to link it inseparably to sanctification, where the law is begun to be fulfilled in us, not by ourselves

³⁹⁸See above n. 111.

but by the power of the Holy Spirit who has been given to us, and by whom we cry Abba Father. Whether we say it is the Spirit or Christ dwelling in us who enables us to begin [*ex parte = incipere*] to keep the law is immaterial, for it is Christ who works through the Spirit.

Luther's main stress here is that Christ and the Spirit have fulfilled the law for us so that our salvation in no way depends on our fulfillment of it, not even *aliqua pars legis*. That alone is to be our ground of confidence *coram Deo*, not the work that Christ and the Spirit work within us, which in this life, always remains incomplete.

Argument 17³⁹⁹

Contra 1

Whatever is one of the proper causes of things cannot be said to be useless. The law is one of the proper causes of justification. Therefore, the law cannot be useless for justification.

Proof of Minor Premise: The law is the first way to justification.

Response: The law is one of the efficient causes of righteousness. This we deny. For justification is not among those things caused by the law, but death, condemnation, fear and trembling, and the knowledge of sin, as we have said above in connection with what is required *materialiter*. Furthermore, those things that may be caused by the law are nothing, and all things are our Lord God's material. For he turns everything into nothing and he makes everything from nothing. These works are the creator's, not ours. However, to say that nothing is necessary for justification is silly. But God destroys everything and makes human beings from nothing, and then justifies them. We are speaking here about the efficient cause, and as it turns out there is no cause of justification except God alone.⁴⁰⁰

³⁹⁹39 I, 469, 6-470, 12 (left col.).

⁴⁰⁰The alternative argument (469, 7-470, 8; right col.) is printed below:

Argument 17 Another Contra

Luther has already come upon this *argumentum* twice: The first time was in First Disputation (Arg. 14) where he offered three reasons why the law is *inutilis et impossibilis* for justification: 1) *quia non aufert peccata, sed ostendit ea*, 2) *non iustificat, sed nos peccatores constituit*, 3) *non vivificat, sed mortificat et occidit* (382, 2-4).⁴⁰¹ Then secondly in *argumentum* 8 of this present disputation Luther refutes the idea that the law is useful for justification because it causes a kind of salutary despair and makes us realize our own lack of righteousness (445, 1-4). The reason why the law cannot effect justification, he says, lies in the very nature of the law which, according to its principal definition, can do nothing else than kill and damn. It is only a *ministerium mortis et operatur iram* so that without the *ministerium Spiritus*, namely, the *Evangelium seu digitus Ioannis* which says: *Ecce agnus Dei, non morieris*, we would be dead and not justified (447, 4-8).⁴⁰² He goes on then to

Whatever is derived from the proper causes of things cannot be said to be unnecessary for justification. The law is one of the causes of justification. Therefore, etc.

Response: This we deny. The thing that the law does cause is death and despair. If the argument concerns things material, it is not germane to the thesis. The law produces contrition which is required for justification, but that is only natural. If I am to be justified I must be a human being, and if a human being I must eat and drink and have a home. The law builds nothing and destroys everything, but it is the mercy of God to make all things from nothing and nothing from all things. They are the works of the creator. We are not speaking here about the efficient cause which is put into action or operation. But surely it is possible to do something? Response: No, because the sole cause of justification is through grace.

⁴⁰¹He promised there (39 I, 381, 18-382, 2) that question of whether the law was useful or necessary for justification would be taken up in the Second Disputation (although strictly it belongs to the locus on justification) That promise was made good already in 2 AD, Arg. 8 and now again here.

make the same point there as he does here: The law is not *una de causis rerum efficientium iustitiam*, for what the law causes is not justification but *mors, damnatio, terror et tremor, cognitio peccati* (469, 13-18). And even these things, Luther points out, are in the final analysis not produced by the law but *omnia sunt unserts herrgots materia*. For God disposes over all things, to create and to destroy. Therefore, even if the law does produce something God destroys it that in his grace he may create everything *ex nihilo*. Luther's Latin here is very pithy: *Nam ipse ex omnibus facit nihil et ex nihil facit omnia* (470, 2-3). That of course does not mean that nothing is necessary for justification,⁴⁰³ for as he has already shown in *argumentum 8* certain material things are a prerequisite, but these things are in no way the efficient cause of justification. In another epigrammatic statement Luther drives home the point that God justifies sinner from nothing: *Attamen Deus destruit omnia et ex nihilo facit hominem et deinde iustificat* (470, 7-9). Luther concludes that if we are going to talk about the cause of justification at all, we should only talk about the *causa efficiens*, which is done by none other than God alone.

When the antinomians make the law one of the *propriae causae* of justification, they err in two ways: first, they fail to understand that the proper effect of the law is terror and despair, and second, they think that because the law comes first, as indeed they argue in the proof [*probatio minoris: Quia lex est prima via ad iustificationem*], that must mean that it causes justifica-

⁴⁰²In addition to the foregoing, Luther also refutes the thesis that the law is necessary for justification in 2 AD, Args. 10 and 11.

⁴⁰³The indirect formulation: *Nihil est necessarium ad iustificationem, ineptum est* (470, 5-6) allows Luther to avoid saying that the law is necessary.

tion.⁴⁰⁴ Luther, on the other hand, when it comes to the *causa efficiens iustificationis*, confesses the *solus* of God and in so doing gives him the glory.

Argument 18⁴⁰⁵

Contra 1

Repentance justifies. Therefore, the law also justifies.

Proof of Conclusion: The law is necessary as an efficient cause of repentance.

M. Luther responded [offering this formulation of the argument, and then giving his response]: The law is part of repentance and that total repentance justifies. Therefore, the law also justifies.

Response: There is agreement that an argument by synecdoche, from the whole to the part, is not valid. It is the same as if I were to argue: A human being uses reason. Therefore, the nose, the body, the eyes and the feet use reason. A tree produces fruit. Therefore, the bark produces fruit. Or again: A tree produces fruit. The leaves are part of the tree. Therefore, the leaves produce fruit.

Objection: But the law is the principal part and has to do with the integral parts.

Response: O no, the devil! For sorrow leads to hell. Christ however is both the first and principal part. Sorrow can be first but not the principal part; the efficient cause of is the best and first of all.⁴⁰⁶

⁴⁰⁴The best way to understand the *prima via* of the *probatio* would be in the sense at that law is the first part of repentance (see 451, 15-452, 2; 2 AD, Arg. 11), where repentance itself is held to be necessary for justification. In the next *argumentum* however Luther will argue that Christ is both the first and principal part of repentance (471, 16-17; 2 AD, Arg. 18, left col.).

⁴⁰⁵39 I, 470, 15-472, 2 (left col.).

⁴⁰⁶The alternative argument (470, 16-472, 2; right col.) is printed below:

Argument 18

Another

Repentance justifies. Therefore, the law also justifies. The law is necessary. Repentance is an essential part of justification. Repentance is a part, the law is a part of repentance and total repentance justifies. Therefore, the law also justifies because the part is the same as the whole.

This and the following *argumentum* are difficult to reconcile with antinomian teaching. The argument here states: *Poenitentia iustificat. Ergo etiam lex iustificat.* Not only does this conclusion run into conflict with the antinomian dictum: *lex est abrogata et abolenda* or *lex non est docenda*, it is also in flat contradiction to Luther's thesis in the second *Thesenreihe*: *Summa, quantum coelum a terra distat, tantum debet lex a iustificatone separari.*⁴⁰⁷ In support of the conclusion it is argued that the law is *necessaria tamquam efficiens causa poenitentiae*. The problem with this is that it runs counter to the first antinomian thesis which states that repentance arises, not from the law, but *ex violatione fillii per Evangelium.*⁴⁰⁸ If this *argumentum* faithfully reflects the teaching of the antinomians, it tells us that they hold that the law is part of repentance, indeed the most important part, and hence *per synecdochen* also justifies.

Luther on the other hand disallows an argument based on synecdoche where what is unique to one part is ascribed to the whole, and therefore

Response: A conclusion that argues from the part to the whole is not to be conceded. A builder builds a house. Therefore, the soul, for its part, also builds. A person uses reason. Therefore, the body also is rational because the body is part of the person. If the whole person is rational, he believes in God. Therefore, the body also believes in God. In the same way it does not follow that since a human being is rational, therefore the nose also is rational. A tree produces fruit. Therefore, the bark also produces fruit because it is part of the tree. Faith justifies, and faith is part of repentance. Hence, repentance justifies. Sorrow is part of repentance, not the principal part. Sorrow leads to hell, faith to heaven. Christ is the principal part. The law prepares the wretched heart for justification. Christ is really the proper cause.

⁴⁰⁷39 I, 348, 5-6 (ATh II, Th. 8).

⁴⁰⁸See 39 I, 342, 9-10 (Pos. Th. 1). This thesis has also been taken up and discussed in 384, 4-386, 16 (1 AD, Arg. 15).

throws the *argumentum* out of court on the basis of a logical fallacy. To argue *a toto ad partem*⁴⁰⁹ means holding that the statement, a tree produces fruit, is the same as saying that the leaves produce fruit, because the leaves are part of the tree. With the same logic the antinomians hold that the law justifies because *tota poenitentia* justifies and *lex est pars poenitentiae* (471, 1-4). However, Luther rejects this not only on logical grounds, but now also on theological grounds. The law is not *pars principalis* of repentance, it is the prior part (in the sense that the law produces contrition), but by itself it can only lead to hell. On the other hand, Christ is both *prima and principalis pars* of repentance,⁴¹⁰ for he alone is the *efficiens causa* of justification (471, 13-472, 2).

However, all this does not answer the question why the antinomians propound an argument that seems contrary to their own stated position. The first thing we need to bear in mind, as we hinted above, is that this *argumentum* may not come from antinomian circles but may have been included because it was an issue that still needed to be clarified and settled. On the other hand, perhaps it is an argument that the antinomians were using in order to

⁴⁰⁹Arg. B (471, 1-2, right col.) switches this round: *Non concedenda consequentia a parte ad totum*. Although the argument by synecdoche can run both ways, logically the *a toto ad partem* of Arg. A (471, 5, left col.) is more correct here as the example show.

⁴¹⁰In the First *Thesenreihe* (39 I, 345, 16-17, Th. 1) Luther defined repentance as comprising two parts, first *dolor* and then *propositum melioris vitae* (= *bonum propositum*). There of course *dolor* has temporal priority. This is not negated when he says here that Christ is both *prima and principalis pars* of repentance, for here he is stressing that Christ is the most important part. Th. 1 does not mention Christ, nor even faith, but speaking simply of the two parts of repentance; Th. 4 (345, 22-23) implies that the *bonum propositum* is the more important and that it arises only from the gospel. See our discussion of 1 AD, Args. 3, 31, 36, 37.

try to trap Luther. If they knew that he would not accept the argument: *Lex est necessaria tamquam efficiens causa poenitentiae* (470, 17-18), they may have hoped at least to have gained some ground from hearing him assert that the law is not necessary as the efficient cause of repentance, even if they could not expect him to agree with them in holding that it is not needed at all for repentance. Hence, the *argumentum* may not be intended so much to defend their own position as to create confusion over Luther's.

Interestingly, Luther does not quote Thesis 8 (cited above) against them, but rather tackles the proposition more positively by stating that Christ, not the law, is the first and principal part of repentance. Although he does not say it in so many words, the implication is that the premise, *poenitentia iustificat*, can stand *per synecdochen*, provided it is understood that Christ (not *dolor* or *lex*) is the *prima et principalis pars*, since the *efficiens causa est omnium optima et prima* (471, 16-472, 2). If this were the case, it would be further testimony to Luther's conciliatory approach, preferring to work with his opponent's arguments where possible in order to clarify and correct them rather than immediately to replace them with his own.

Argument 19⁴¹¹
Contra the Same

Total repentance justifies. Therefore, works justify.

Response: I concede the whole argument. People who believe in Christ have eternal life and are righteous. Thereafter, righteous and godly people, having received the forgiveness of sins, do good works and have a good resolve. But is it necessary that people are first justified by faith alone. For faith is the principal good resolve, from which the rest of the good works later flow as fruit, and it endures for the whole of life. Therefore, after I believe in Christ it is my resolve to want to believe in God and to love and magnify his word. Thereafter, I also resolve that I

41139 I, 472, 5-15.

do not want to be an adulterer, a fornicator, or a drunkard etc. For when faith is posited the Holy Spirit is given, and as he is received, good fruits of every kind follow as from a true and good tree.

This *argumentum* is similar to the preceding. There the conclusion was, *lex iustificat*, here it is *opera iustificat*. Both are based on the premise (*tota*) *poenitentia iustificat*. Whereas in the previous *argumentum* Luther objected on the grounds of the misuse of synecdoche, here he is in total agreement [*concedo totum*]. While it might sound strange at first that Luther would say that works justify, he is prepared to accept this provided it is understood that first of all people must be justified by faith alone [*oportet, ut prius iustificatus sit per solam fidem*] for faith is the principal good resolve and hence the source of all the subsequent good works [*Nam fides est principale bonum propositum, unde postea reliqua bona opera fluunt tamquam fructus, et durat per omnem vitam*] (472, 6-11).⁴¹² Again, the proper sequence is critical: First comes faith in Christ, when the Holy Spirit is given, then afterwards [*postea*] comes the *bona opera* and *bonum propositum*. Indeed, the *opera* are *bona* only because of the *remissio peccatorum* (472, 7-8). First the *credo in Christum*, then the resolve to love and esteem God's word, and only then the resolve to lead an chaste and decent life [*Postea etiam propono, me nolle moechari, scotari, crapulari etc.*]. The good works are

⁴¹²The statement that faith is the chief good resolve will be a good hermeneutical guide in helping us to read Luther's definition of repentance (*dolor + bonum propositum*; ATh I, Th. 1) in the light of the gospel, which is how Luther himself intended it to be read (cf. ATh I, Th. 4). On the other hand, it is possible the Luther is using the term *propositum* here as a term in logic (the first premise). In that case, he would be asserting that faith is the principal good proposition, from which all manner of good works flow. However, in our opinion, Luther's use of the term *bonum propositum* in his definition of repentance is vital to understanding how he uses it here.

nothing else than the works of the Spirit and the fruit of faith; the *fructus* are *boni* only because the tree is *vera bona arbor* (472, 11-15).

Again, Luther has chosen to adopt an irenical approach. Rather than rejecting the proposition *tota poenitentia iustificat* on the grounds that it is ambiguous at best, he prefers to work with it by carefully defining how such a statement must be understood if it is to remain scriptural and evangelical. And that means understanding repentance first and foremost as faith and anchoring the *bonum propositum* firmly in the gospel.

Argument 20⁴¹³

Contra 1

Whatever causes us to come closer to justification justifies. The manifestation of sin or contrition leads to justification. Therefore, the manifestation of sin or the law justifies.

Response: The major premise is false. Whether it comes close or leads away [makes no difference], it still does not justify, because justification is the work of another power, and not of the law. The law and justification are opposite and contradictory and cannot belong to the same genus. The proud person is as far away [from justification] as the despairing. The law can do nothing except produce despair in the heart, as our thesis 27 of the First Disputation says. Fill their faces with shame etc., that is, the shame that comes from the law, and they will seek your name, Lord [Ps. 83: 17]. This does not belong to the essence and power of the law, but to another power, namely, the gospel, because it proclaims the forgiveness of sins on account of Christ.⁴¹⁴

⁴¹³39 I, 473, 3-24 (left col.).

⁴¹⁴The alternative argument (473, 4-16; right col.) is printed below:

Argument 20

Contra 1

Whatever leads closer to justification justifies. The revelation of sin leads us nearer to justification. Therefore, the law justifies.

Response: Whether it comes close or leads away [is immaterial], it does not justify because justification is the work, neither of the law nor of contrition, but of God. For despair is really pride. The effect of the

The conclusion to the *argumentum* is identical to that of *argumentum* 18: *lex* (or: *ostensio peccati*) *iustificat*, although the premises are different. The thesis is not new, but this is the last time it will be debated. The reader should turn back to our discussion of *argumentum* 17 to review the chief arguments marshalled by Luther in his refutation. In our present argument Luther identifies the major premise as fallacious: *Quod facit, ut propius accedamus ad iustificationem, id iustificat*. For that way of viewing justification is clearly quantitative and so incomplete, putting it squarely within the arena of human action and the measurement of the law, whereas in fact justification and the law are opposites and cannot be subsumed under the same head [*non possunt in idem (scil. genus) cadere lex et iustificatio*]. God alone justifies. Nor is the law to be given any credit in justification because it leads people to justification. The latter is not a question of degree. God does it all. In fact the law of itself does not lead a person closer to God or to justification. The effect of the law is precisely the opposite. It incites people to sin, drives them away from God and makes them hate and blaspheme him.⁴¹⁵

Luther reiterates Psalm 83: 17, which he cited in Thesis 27 of the First Disputation, to emphasize that the chief function of the law is to reveal sin and wrath and drive to despair. Here he interpolates an explanatory phrase to make it clear that the shame that fills their faces is the law: *Reple facies eorum ignominia etc, hoc est, legis*. However, the remainder of the Psalm verse: *et*

law is not to seek the name of God, but to fill the face with shame [Ps. 83: 17]. Without faith it is impossible to please God or to seek the divine name [Heb. 11: 6].

⁴¹⁵Cf. 39 I, 445, 8 (2 AD, Arg. 8): The law cannot make me a better, more loving person; 554, 16-555, 5 (3 AD, 28/1): The law stirs people up and incites them to sin.

quaerent nomen tuum, Domine, cannot be predicated on the law, for the law only drives people away, but the turning toward God in faith clearly presupposes the work of the gospel: *Haec non sunt de essentia aut virtute legis, sed alterius viri, scilicet Evangelii, quod praedicat remissionem peccatorum propter Christum* (473, 21-24).⁴¹⁶ The law does not justify, nor does it by itself lead people to justification, for if the gospel did not snatch people out of the hands of the law, the latter would lead them to despair. Only through Christ and the gospel can the law be a good *paedagogus* (to use the language of earlier arguments); this needs to be remembered when we say that the law prepares for the gospel.⁴¹⁷

Argument 21⁴¹⁸

The law terrifies those whom it ought not. Therefore, the law is not to be taught because, when the law is taught, those people are saddened and feel the power of the law who ought rather to rejoice. On the other hand, the obstinate, to whom the law [really] applies, do not care at all.

Response: The law has already been considerably softened through justification, which we have on account of Christ, so that it ought not terrify the justified. Nevertheless, however, Satan himself often comes and sharpens the law beyond the limit among the justified. Thus, it often happens that those people are terrified who ought not be, through the fault of the devil. But even so, the law should not, for that reason, be removed from our churches and not be taught because even the saints have sin remaining in the flesh, which is to be purged by the law until it has been completely expelled. For that struggle goes on in the saints for as long as they live on earth. Here they fight day and night until at last

⁴¹⁶ATH I, Th. 27 (39 I, 346, 38-39) does not make it as clear as the above citation that it is only through the gospel that people can seek the name of the Lord; cf. 473, 14-16, right col. (B): *Sine fide impossibile est placere Deo seu quaerere nomen divinum*.

⁴¹⁷For a full discussion of what it means that the law is *paedagogus in Christum*, see our analysis of 2 AD, Args. 6, 8, 13.

⁴¹⁸39 I, 474, 2-475, 6 (left col.).

they conquer through Christ. Prior to justification the law rules and terrifies everyone whom it strikes. But the law is not to be taught to the godly in such a way that it convicts and condemns, but that it may spur them on to do good. For I ought not say or preach: you are not under the forgiveness of sins, or again: You will be condemned, God hates you etc. For these words do not apply to those who have received Christ, but have in view the stubborn and obstinate. Therefore, the law is to be softened for them and is to be taught as in the exhortation: Once you were heathen, but now you have been sprinkled and washed with the blood of Christ [1 Cor. 6: 11; 1 Peter 1: 2]. Now, therefore, offer your bodies for obedience to righteousness, put off the desires of the flesh, and do not be fashioned after yourself [cf. Rom. 6: 12-19; 12: 1-2]. Be emulators of the good works of righteousness, you are not unrighteous, you are not condemned, like Cain etc., you have Christ.⁴¹⁹

Luther recognizes that the *argumentum* makes a valid point even if he cannot agree that the major premise, and its corollary, constitutes ground for the abolition of the law. Together these two assertions pinpoint the dilemma of preaching the law: On the one hand, *lex terret eos, quos non debet*, on the other, *duri ad quos pertinet lex, nihil morantur* (474, 1, 6-7). Together they describe the twin dangers that can arise from the law, namely, despair and pride. However, the solution to the problem is not to remove the law but carefully to distinguish it from the gospel without discarding it. It is especially the second of these that is to be given special emphasis if the justified are not to be

⁴¹⁹The alternative argument (474, 3-14, right col.) is printed below:

Argument 21

Another

The law terrifies those whom it ought not. Therefore, it is not to be taught. The secure are not terrified but the justified are.

Response: The law is considerably weakened through justification, it cannot terrify because it is fulfilled through the forgiveness of sins and the Holy Spirit. Therefore, its wrath has been removed, but because there remain remnants of sin in the flesh, it ought to terrify the heart insofar as it does not believe.

terrified, and that surely is Luther's chief concern in his *responsio*. Although the law can cause the obstinate to become indifferent or proud, it is even more important that those who have been humbled and chastened by the law are not driven to despair.

Luther's opening statement in his *responsio* is not immediately transparent inasmuch as it seems at first as if Luther is saying that the law is considerably softer [*valde mitigata*] on Christians per se than on non-Christians. On the face of it this seems to be a plausible interpretation of the words: *Lex est iam valde mitigata per iustificationem*, however, there is no evidence in the disputations that Luther ever makes a distinction between the *pii* and *impii* in that way.⁴²⁰ On the contrary, as we have often seen, he will say that the law must continue to be preached also to Christians on account of the sinful flesh. In such instances Luther never suggests that the law should be preached more mildly to the Christian qua sinner. Justification does not change the law as such, but the justified person now hears the law with faith. Prior to justification the flesh ruled unhindered, but after justification the

⁴²⁰This is basically the position of Paul Althaus, *Die Theologie Martin Luthers* (Gütersloh: Gütersloher Verlagshaus Gerd Mohn, 1962), 235. He cites several passages from the *Antinomian Disputations* which we will examine shortly (a couple have already been discussed earlier). The problem with his view is that he wants to posit a change in the law itself after justification so that it becomes more gentle and helpful (as in parenthesis) rather than being only accusatory. It is true of course that in Christians sin is no longer *peccatum regnans* and that *quoad novos homines* they really do desire to walk in the way of the Spirit and to serve the neighbor in love. However, we are not talking about Christians qua saints here, but qua sinners, and that which both the *pii* and the *impii* have in common is the sinful flesh, and the only medicine, or better, language (medicine might suggest that the flesh it to be rehabilitated) appropriate for the recalcitrant flesh is full strength, undiluted law.

flesh no longer rules but is now ruled by the Spirit. Therefore, Luther concedes that the preaching of the law among Christians is to be milder because the flesh has been overcome, and they even begin to delight in the law.

Furthermore, Luther is always concerned for the conscience of the Christian. Even though the law must still be preached to the *pii* on account of the sin that still clings to the flesh, he does not want it done in such a way that their consciences are thereby terrified. He says, for instance, that preachers should not tell their people that God hates them and that they are under condemnation. In view of this then the *mitigata* refers to a particular way of preaching the law that is appropriate to Christians because it is "cushioned" by the gospel. We will return to that shortly.

Luther knows, on the other hand, that Satan is the one who keeps sharpening the law [*supra modum exasperat*] for the saints in order to accuse their consciences and rob them of peace. That however is no reason to remove it from the churches [*templis*], he argues, for the law must remain for as long as there is sin in the saints, for this sin must be purged away by the law until it has been completely expelled. And because the desires of the flesh are against the spirit this gives rise to an unabating struggle in the saints until at length they conquer through Christ [*donec tandem vincant per Christum*].

What exactly does this phrase, "until they conquer through Christ" mean? Has not Christ already conquered sin through his cross? First of all, it is true that "the mother of all wars" has been won by Christ, and death has been overcome and vanquished.⁴²¹ But as in all large scale wars, there is still

⁴²¹See 39 I, 427, 4-11 (2 AD, Arg. 2) where the *fortissimi gigantes* lock in mortal combat, the *duae mortes, mors ipsa et mors Christi*. But immedi-

some "mopping up" to be done, smaller battles to be fought and enemies to be taken captive. So too in the Christian life. And that battle in the saints being waged between flesh and spirit is part of the mopping up operations following the decisive V-day on Mount Calvary. Although the battle is still being fought the outcome is assured. It must continue until every pocket of resistance has been outcome, the enemy completely routed, and the territory reclaimed for its rightful sovereign.

Now in terms of this military image, the law is an important weapon to be used by the saints (more correctly, by Christ and the Spirit) in the "mopping up" campaign. This belongs to the discussion of sanctification. The goal is to eradicate all the remnants of sin that still inhere in the flesh and that fight against the *novus homo*. This "purging operation" however will never be completed until the resurrection of the dead, because not until then will the sinful flesh be utterly destroyed: *quod lege purgandum est, donec expurgatum fuerit totum* (474, 18-20).⁴²² This then is how we understand the impor-

ately the battle begins the sound of victory goes up: *Mors mortis, infernus inferni, diabolus diaboli ego sum, noli timere, fili mi, ego vici*. Whenever Christians are terrified by the law through the preaching of Christ's death--and the intensity of this will vary according to the person [*acuter etiam prout persona est*]--, they soon hear (or should hear!) proclaimed the reassuring voice of the victor over the law and all its terror: *Confide filii, ego veni salvare, quod perieras, non morieris*. There is a similarity here to the problem of how the law is softened *per iustificationem*. In the passage cited above Luther suggests how the *miser* can be comforted when the message of the cross itself (gospel in the broad sense) becomes a source of terror [*si quando ei evangelice et Christi more terror incuditur*]: the gospel, *stricte dictum*, should be preached without too much delay [*mox quoque auditur ab altera parte*]. The significance of this for our present discussion will become clear shortly.

⁴²²This phrase recalls Luther's remarks on the twofold cessation of sin in Christians, first *imputative*, then also *formaliter* or *expurgative*, this

tant phrase *lege purgandum est*. It is not strictly the law by itself that expels the sin, but the law as it is used by the Spirit and the new self (=faith) to restrain, coerce, and finally kill the sinful flesh. And what else is the killing of the old self (=flesh) than repentance. Therefore, sanctification has everything to do with repentance, for repentance is finally nothing else than turning one's back on the old sinful self that makes an idol of itself and serves itself instead of the neighbor. Again, in repentance the Holy Spirit through the law kills the *vetus homo* which is always blocking the flow of God's good gifts through us to others. That in turn brings us full circle, for we most honor and revere God when we let him be who he is: the God of grace who wants nothing than to give gifts to his children for them to give away to others.

We are now in a position to answer the question what it means that the law is considerably softened through justification. It is not that the law per se is ameliorated, but its effect on the believer is softened when the gospel is preached immediately after the law.⁴²³ When the gospel is not preached, or not soon enough, some people with very tender consciences may despair of God's mercy. To say it again, the law (or better, its effect) is really only softened

 second never being complete until the final destruction of the flesh with the resurrection of the body. For more on this, see the discussion on 2 AD, Arg. 3.

⁴²³Cf. 39 I, 11-14 (1 AD, Arg. 21), where Luther, after stressing that because of the *duri* examples of God's wrath must be preached, also says that for the sake of those who are beginning to repent, the *exempla irae Dei* should always be mixed together with the consolation of the gospel that they may receive Christ by faith as the victor over sin [*Et tamen semper commiscenda est consolatio ex Evangelio, quod Deus non velit mortem impii convertentis se, hoc est, incipientis odisse et detestari peccatum . . .*]. The *commiscenda* here surely means that the law is always to be followed by the gospel, even in the case of the *duri*.

ed [*mitigare/mollire*] when it is followed by the preaching of the gospel.⁴²⁴ Our interpretation is confirmed when we read that the law is not to be taught to the godly in such a way that it convicts and condemns them, but that it may spur them on or encourage them to do good [*Sed non sic docenda est lex piis, ut arguat, damnet, sed ut hortetur ad bonum*] (474, 21-22). Before justification, the law rules like a tyrant and terrifies all whom it strikes [*regnat lex et terret omnes, quos tangit*]. But after justification the story is different: Now the preacher must not preach the law in terms of wrath and judgment [*tu damnaberis, Deus te odit*], for such words are meant for the *prae fracti ac feroces*. Rather the law is to be softened, Luther says, and taught as in the exhortation: Once you were heathen but now you have been sprinkled and washed with the blood of Christ. Now therefore, offer your bodies to obey righteousness, . . . do not let yourself be molded to this world. Emulate the good works of righteousness . . . you have Christ [*Itaque lex illis mollienda est et quasi exhortationis loco docenda: Vos aliquando fuistis gentes, nunc autem asperi et abluti sanguine Christi. Itaque praebete nunc corpora vestra obedire iustitiae . . .*] (475, 1-6). This statement incidentally is one of the most important Luther makes. For it not only gives us an insight into how he envisages the law being preached to Christians, but he makes it clear that the preaching of parenesis is still law, even though it is now a *lex mitigata* on account of justification. This is a theme that will be taken up again in the next chapter in our discussion of parenesis and the third use of the law.

⁴²⁴Th. 45 says virtually the same thing when it states that the law has been soothed through forgiveness (39 I, 349, 39-40; ATh, II, Th. 45): *Lex enim ut fuit ante Christum, nos quidem accusans, sub Christo autem per remissionem peccatorum placata, et deinceps spiritu implenda.*

Luther proceeds to cite several passages of parenthesis from Paul to illustrate what he means when he says that the law should be preached to the *pii* in the form of exhortation. First comes the gospel statement of what God has done for us in Christ, and then how we are to order our lives so that they are in conformity with the gospel (cf. Phil. 1: 27: Μόνον ἀξίως τοῦ εὐαγγελίου τοῦ Χριστοῦ πολιτεύεσθε). This retrospective way of preaching the law is particularly appropriate for the *pii* because they are first reminded of what they are in Christ by faith, and then on the basis of that a conclusion is drawn and applied to their life. This of course corresponds to the Pauline method of first preaching the indicative (the gospel) and then the imperative (the law in the service of the gospel).⁴²⁵ Because Christians are both *simul iusti et simul peccatores*, the indicative–imperative pattern of parenthesis best serves to illustrate the proper relationship between justification and sanctification.⁴²⁶

⁴²⁵Luther's remarks on the *iugum Christi* in 39 I, 381, 3-10 (1 AD, Arg. 13) could also be considered in this context. The law remains, but its burden or yoke no longer presses on the necks of those on whom Christ's burden has been placed, since for faith it is sweet and light, because it is the "burden" of the *lex impleta*. Since we have Christ's own fulfillment as a gift *per fidem*, the law is no longer burdensome, but it is that for the flesh inasmuch as for it the law remains *lex implenda*. But even this is *tolerabilis* in the saints, for in the *iustificati* the gospel always accompanies the law to point them away from themselves to Christ's perfect fulfillment for them (412, 5-8; 1 AD, Arg. 32). Again, it is the Holy Spirit who makes the otherwise loathsome law delightful (388, 5-6; 1 AD, Arg. 16). Cf. also 374, 15 (1 AD, Arg. 7); 381, 3-10 (1 AD, Arg. 13). Also pertinent here is the use of the *sacramentum–exemplum* motif in preaching, which we discussed in connection with 2 AD, Arg. 15.

⁴²⁶Although it is not mentioned in the text, it is worth noting that the indicative-imperative pattern of preaching at the same time keeps Christians mindful of the fact that in this life we can never get beyond repenting of our sins.

Argument 22⁴²⁷

Contra 1

The law is a shadow [Col. 2: 17]. Therefore, it is not to be taught.

Response: You remember the rule that anything written is to be understood according to its immediate context, and I make a distinction regarding the law: if it is talking about ceremonies and tabernacles, as in that passage, I concede the argument since the things of which they were shadows are now present. But if it says that the Decalogue is the shadow of Christ, the shadow is indeed a very serious shadow, as Paul says: As in Adam we all die so also in Christ etc [Rom. 5: 15; 1 Cor. 15: 22]. But I understand it to be speaking about tabernacles and ceremonies.

Luther has already responded in much the same way to a similar argument earlier.⁴²⁸ He prefaces his remarks here by drawing attention to a basic hermeneutical rule that statements needs to be understood according their context⁴²⁹ [*Meministis regulam, scripta omnia intelligenda esse secundum materiam subiectam*], and secondly he highlights the need to distinguish between the ceremonial law [*caeremonia et tabernacula*] and the Decalogue. The passage in question, though not cited, is no doubt Col. 2: 17⁴³⁰ [ἄ (scil. ceremonies) ἐστὶν σκιὰ τῶν μελλόντων], where the *umbra* refers to the ceremonial observances mentioned in the preceding verse. The antinomians, on the other hand, claim that *umbra* refers to the Decalogue, or more precisely, to the whole law including the Decalogue, and that this is now abolished in Christ and hence not to be taught. Even assuming for a moment that they are

⁴²⁷39 I, 475, 9-16.

⁴²⁸See 39 I, 407, 18-408, 2 (1 AD, Arg. 29).

⁴²⁹Lit.: neighboring subject-matter [*secundum materiam subiectam*].

⁴³⁰Heb. 8: 5 and 10: 1 could also qualify for consideration, but Col. 2: 17 is more likely because of the preceding verse (the context) which talks about things pertaining to the ceremonial law.

correct in correlating *lex* (as a totality) and *umbra*, the text itself does not compel the conclusion that the law is to be abolished or not taught. It simply makes the contrast between the law, which we know from verse 16 refers to specific ceremonies of the cultic law, and Christ (v. 17 concludes: τὸ δὲ σῶμα τοῦ Χριστοῦ). The contrast is surely meant to throw Christ into relief and to picture him as the sum and substance of God's revelation, in comparison to which all that preceded him and pointed to him, is but a dim shadow.

However, Christ himself makes a distinction between the ceremonial and juridical law, on the one hand, the moral law or Decalogue, on the other (e.g. Mark 2: 23-28), and when he is asked the greatest commandment he sums up the whole law in terms of the two tables of the Decalogue (Matt. 22: 34-40).

Luther, for the sake of the argument, also ponders the implications of assuming that *lex=decalogus*. He concludes that, since the law condemns Adamic man to death [Rom. 5: 15: *Ut in Adam omnes morimur, ita et in Christo etc.*], it is far too serious a thing to be called a shadow [*Sin loquitur de decalogo, quod iste sit umbra Christi, est profecto umbra nimis seria*] (475, 13-15). Furthermore, a shadow pales into insignificance in comparison to the object to which it belongs; it is empty, lacking substance. That however is hardly an apt description of the *lex* as *decalogus*. It is no empty shadow but a terrifying power which damns sinners to hell and which only Christ can overcome. Therefore, Luther is correct, both theologically and exegetically, when he takes Paul in Col. 2: 17 to be referring to *tabernacula et caeremonia* and not the *decalogus* (475, 15-16).

Argument 23⁴³¹
 Contra the Same

An impossible law is set down in vain. But the law is impossible. Therefore, it has been written in vain.

Proof of Major Premise: It is customary for all laws to be proposed in order they might be useful.

Response: This is a juridical argument and proves nothing other than that laws are useful, something that we also say. For this weak nature regards nothing more splendid, nothing more excellent, nothing more antique than laws. What would this life be like, and what would we be without them? Bears, cruel and inhuman beasts. Therefore, when we speak about laws politically, they cannot be praised enough, so great is their splendor and dignity in their realm. But we are speaking about the law that justifies us. Here and in the future life we find no such law. For the office of the law is to reveal sins, cause sorrow, and lead to hell.⁴³²

The thesis, *lex est impossibilis*, was first propound in the opening argument of the First Disputation.⁴³³ In his *responsio* Luther maintained that in Eden the law was not only *possibilis*, but also *iucunda*, and that it was not God who made the law impossible but sin and Satan. Here Luther's counter argument is somewhat different, taking its point of departure from the proof of the major premise, that it is customary for laws to be useful [*omnes leges ideo*

⁴³¹39 I, 476,

⁴³²An alternative argument (476, 4-14; right col.) is printed below:

Argument 23
 Contra 1

An impossible law is decreed in vain. The divine law is impossible. Therefore, it is decreed in vain.

Response: Laws are useful. Nothing is more excellent in human nature than laws and sworn contracts; without them we would be bears and wild boars. Therefore, we cannot speak too highly of laws.

However, we are speaking about the law that justifies before God. But that is not to condemn other laws.

⁴³³See 39 I, 364, 7-365, 6 (1 AD, Arg. 1).

ferri solent, ut sint utiles] (476, 6-7). As in the case of the previous *argumentum*, Luther is again called to make a distinction, this time between the civil law and God's law, or more precisely (for God also stands behind the civil law), between the *usus politicus* and the *usus theologicus*. Luther himself does not use this terminology, but rather makes a distinction between speaking *de legibus politice* and *de lege iustificatione nos* (476, 17-19). Politically, he has nothing but the highest praise for law: *Nihil enim pulchrius, nihil praestantius, nihil antiquius habet haec infirma natura legibus, sine quibus quidnam esset haec vita et nos quid essemus?* Without them the rule of the jungle would prevail. But Luther rejects the attempt to use the argument that laws by definition must be useful, that is, practicable or possible, in order to invalidate the Decalogue on the basis of its impossibility. Here, rather than arguing that it is sin that makes the law impossible for Adamic mankind, he points out that it is an *argumentum iuridicium* to hold that *leges esse utiles* (476, 8-10). To argue that the law should be possible would be tantamount to assuming that it may be possible to be justified by the law. But there is no law that justifies us, either in this life or in the life to come. For the *officium legis* is *ostendere peccata, affere dolorem et deducere ad inferos* (477, 1-2). It is not Luther's intention here to refute the antinomians by arguing that the law is possible, rather he shows that their error lies in their failure to realize that the point of contention between themselves and him is located in the theological use of the law and not its political use.

Argument 24⁴³⁴

Contra 8

The law is required, imputatively, for righteousness. Therefore, the law is required.

Response: These are improper and inappropriate words and neither are they true. For the law is already present. The law in fact is present first. But now we are asking how we can be freed from the law.

The premise is certainly a very muddled sentence, theologically, and Luther does not hesitate to criticize it. It is unlikely that it really represents the antinomian position, rather it is probably an attempt to push Luther's position *ad absurdum* to show that it is untenable. If the opponents are talking about justification, then what is required is not the law (which Luther earlier has expressly rejected as being in any way necessary for justification), but the fulfillment of the law, or more precisely, Christ fulfillment of the law for us. It is this *impletio legis* or *lex impleta* that is imputed to us, or given to us *imputative*, through faith. As Luther says, the law can hardly be required for it is already present: *Nam lex iam adest, ist schon da. Lex prius adest in facto* (477, 7).⁴³⁵ However, his concern here is how we can be free from the

⁴³⁴39 I, 477, 5-8.

⁴³⁵See also 39 I, 353, 37-38 (A Th, IV, Th. 33): *Lex enim nulla nostra necessitate, sed de facto iam invitis nobis adest, ante et in principio, medio, fine et post iustificationem*. Already in the *Promotionsdisputation* of Palladius and Tilemann (1 June 1537) Luther stresses in a similar kind of discussion when he cites Augustine's dictum: *Qui creavit te sine te, non salvabit te sine te. Oportet nos adesse, sed illud non iustificat* (209, 14-15; PT, Arg. 4). The parallel with the law breaks down in that the law is *schon da*. Notwithstanding that, it is wrong to deduce that, because the law is present, it justifies or is necessary for justification. This becomes clear later in the argument just cited: *Lex et cognitio legis est necessaria. Ergo illa iustificat? Respondeo: quod non. Quia hoc non dicit Paulus, sed contrarium. Nam lex terret et conterit corda* (210, 13-15). The law is an *a priori*, a given, but a negative given in that it is the law that we are freed from through justification.

law. The answer to this is the same as the answer to the question: How does the exaction of the law cease? And that, he has already told us, happens *expurgative*, or through forgiveness, and then on top of that, *formaliter* or *expurgative*.⁴³⁶ However, insofar as Christians constantly still have to battle the sinful flesh, the law does not vanish after justification. It is true that *propter Christum per fidem* we are free, but *quoad peccatores* we are still subject to the law.⁴³⁷

Argument 25⁴³⁸

In Jeremiah 31 [: 31-34] a new covenant is promised. Therefore, the law has been abolished. For it distinguishes between the old and the new testament and says: God is going to reveal a new covenant since the old has been set aside. I will make a new covenant, he says, and, what is more, no one whatsoever will teach his neighbor.

D. M. Luther: Indeed, the text clearly says, not like this covenant [Jer. 31: 32]. Therefore, admittedly it seems to exclude, just as that text: The kings of the Gentiles rule, but you do not rule like that [Matt. 20: 25-26], especially also since it says, the new covenant will be for the forgiveness of all sins, and indeed this, let no one teach another.

Response: It is certainly a good argument and also difficult enough, and when the text adds: All will know me from the least to the greatest, it even seems to restrain the proclamation or teaching of the gospel. It is

⁴³⁶See 1 AD, Arg. 12; 2 AD, Arg. 3 etc.

⁴³⁷This is reminiscent of the well-known phrase Luther uses in places, *conscientia in evangelio--caro in lege* (eg 40 I, 213, 28-214, 24; Galaterbriefvorlesung, 1531/35). He will not permit the law to enter the conscience, but relegates it to the domain of the flesh, for he knows that if it were permitted entry the conscience would be robbed of the certainty of knowing that Christ has fulfilled the law for us. See Joest, 101-109, for other passages where this or a similar phrase is used in Luther. However, we cannot agree entirely with his analysis chiefly because he fuses faith and love after justification. While they obviously belong closely together in sanctification (Gal. 5: 6), nevertheless they must be carefully distinguished whenever the article of justification is at stake.

⁴³⁸39 I, 477, 10-480, 9.

certainly an amazing text. But nevertheless my answer is the same as before: If the text is properly understood to be about the ceremonial and judicial law of Moses, likewise about circumcision--something the text itself seems to prove and, as it were, interpret itself when it says: not like the covenant I made with your fathers when I led them out of the land of Egypt--it contains nothing inappropriate and is without difficulty and I concede the argument, because we no longer teach the law concerning sacrifices, burnt offerings, and libations etc. Therefore, the text, understood in that way as referring to the law of Moses and not the Decalogue, is not against our theses. For you know that even if the law is interpreted most widely, it has a standing only among that people, and the law of Moses belongs only to this people. If then it is taken in this way, it is true to say that the law is no longer to be taught.

But you will say: It itself embraces the whole law of Moses and is one with the Decalogue.

Response: The Decalogue is not the law of Moses, neither is he the first to give it, but the Decalogue belongs to the whole world, inscribed and engraved on the minds of all people from the foundation of the world. But if you simply understand it as referring to the Decalogue, my response here is that again it is also correct to say that the law is not to be preached to the justified, that is, the law that is to be fulfilled or that has not yet been fulfilled. For the law that is to be fulfilled must not be imposed on and preached to the justified, but rather the law that has been fulfilled, because the justified already have what the law requires, in Christ. This is also Paul's answer to the argument: The law has not been made for the righteous [1 Tim. 1: 9]; again, there is no condemnation for those who are in Christ Jesus [Rom. 8: 1]; also: Christ is the end of the law [Rom. 10: 4]. Therefore, among the godly the exaction and accusation of the law ceases because what can it demand when Christ is present who says: Behold, it is I, I do for them what you demand, leave off! But this text is much more serious because it says that there will no longer be the ministry in the church. What do we say to that?

Response: Christ answers this in John when he says: They will all be taught by God [John 6: 45]. The Jews have many laws since they were taken from the traditions of all peoples, but there was not yet a collection in Shiloh, or in Jerusalem, or in Gibeon. Therefore, one person was sent here, another there, and running up and down they shouted: know the Lord, know the Lord--no different to what happened under the pope when, as you know, one taught that salvation was to be sought with this saint, another with that saint. Now Christ says: It will not be like this in the future, but all will know me from the least to the greatest. That is, I will give you a teaching that is so great, that, although the rest of the teachings have been neglected, my people will follow this one, and no

matter how many believers there may be in world, the same will also teach the same doctrine. For they all will be θεοδιδάσκαλοι, and it will happen that I will make my own pupils and give the Holy Spirit, but only through the word. Thus he wants to be, and to be designated, doctor, and indeed the only teacher in his church. Through the Holy Spirit in the word we will all have the one and the same Christ, whom each of us in turn will teach the other. And there will be no more: Know the Lord, know the Lord, because all will know him from the least to the greatest. However, when Christ is missing, one says that the Lord is to be known in this way while another teaches differently, one is sent to St. James, another to Rome, and still another to St. Anne, each has his own way.

The main theme of Luther's *responsio* has already been touched on earlier but no where else in the antinomian disputations does he thus elaborate the relation between the law and the new covenant. In the new covenant there is no analogous role for the law to play as in the old. But first we need to consider the antinomian argument. On the basis of the prophecy of the *novum foedus* in Jeremiah 31: 31-34, it asserts that the law has been abolished. The assumption is that if God promises a new covenant than the old must be all but finished (cf. Heb. 8: 13) and with it the law. Furthermore, unlike the Mosaic covenant, which was closely associated with the law (we leave this deliberately ambiguous for the moment) the new covenant makes no provision for the teaching of the law. In fact just the reverse, God says that there will be no need for everyone to teach their neighbors about the Lord saying, know the Lord, for everyone in the land will know the Lord from the highest to the lowest. Indeed, Luther, in rehearsing the argument, admits that the text seems to exclude the law [*videtur omnino prohibere*] just as Matthew 20: 25-26 [*reges gentium dominantur, vos autem non sic*] indicates that there is no place among Christ's people (the church) for the rule of law

[*dominari*] analogous to that found outside the church.⁴³⁹ More persuasive is the argument that the distinguishing feature of the new testamental covenant will be, not the law, but the forgiveness of sins, which is also its basis.

Luther commends the argument and notes that the text of Jeremiah is certainly difficult especially when it adds: *Omnes cognoscent me a minimo usque ad maximum*, for it seems as if such words even make the preaching of the gospel superfluous [*videtur etiam prohibere praedicationem aut doctrinam Evangelii*]. Nonetheless, for all its virtues as a serious argument, it is fatally flawed because it identifies the Decalogue with the law of Moses. We will return to that problem later. Luther argues that if one understands the text *proprie* to be referring to the ceremonial and judicial law of Moses [*de lege Mosi caeremoniali et iudiciali, item de circumcissione*] it agrees perfectly with his own thesis, namely, that the law, which has been abolished along with the old covenant, is not the Decalogue but the law of Moses. He believes his exegesis is confirmed by the context (Jer. 31: 32), that is, the remark that the new covenant will not be like the one God made with the fathers when he led them out of Egypt, the covenant which they broke.⁴⁴⁰ However, we must frankly admit our difficulty in following the logic of Luther's exegesis. While we have no difficulty with the theology, namely, that the Decalogue is prior to

⁴³⁹Here we are reminded of Luther's distinction between the two kingdoms. However, not enough is said here in this brief rehearsal of the argument for us to draw any conclusions, although it seems most likely that Matt. 20: 25-26 was a text used in the discussion by the antinomians in support of their claim that the law was to be abolished from the church.

⁴⁴⁰According to his interpretation, the content of the law that will no longer need to be taught under the new covenant concerns sacrifices, whole burnt offerings, libations etcetera.

the Mosaic covenant, it seems as if his refutation of antinomianism here has led him into rather tortuous exegesis. It seems to us that the contrast made by the text is between the old covenant with the law written on tablets of stone, and the new covenant in which the law is written on the heart. In both cases the referent is the Decalogue (although strictly Jer. 31: 33 speaks of the Torah). It is not the ceremonial and judicial law (= the Mosaic law) that is in question here but the Decalogue, for it seems that the reason the new testament will not be broken is because the law will no longer be external but written on the heart and because God has promised to forgive the sins of those who break it. Luther, on the other hand, afraid perhaps that such an interpretation could strengthen the hand of the antinomians who insist on a nexus between the Decalogue and the law of Moses, stresses that the law that is no longer to be taught is the ceremonial and judicial law because that has been abolished. While this is perfectly correct theologically, we are not convinced that that is the main thrust of the text. It seems rather that it is precisely the Decalogue which will no longer have to be taught because it will be inscribed on the hearts of the *pii* by God so that all of them will know it.⁴⁴¹

⁴⁴¹It is specifically the people of God who are in view here, although, of course, we know from earlier arguments and will see again, that the natural law is written on the hearts of all people (see 2 AD, Args. 2 and 13; also 3 AD, Arg. 19), so that the inscription or writing on the heart under the new covenant is strictly a "rewriting," just as the issuing of the law (Decalogue) on Sinai was not the propagation of a new life but the reissuing of the *lex naturae*, which is as old as the human race. What was new was not the content of the law but the form of its propagation. Not only did the people of Israel have it in palpable form to hear and read every year, but they were also commanded to keep it before them in a literal way, by binding it as a sign on their hand, wearing it as frontlets between their eyes, and writing it on the doorposts and gates of their house (Deut. 6: 7-9). Under the new covenant, on the other hand, the law will be written on the heart of *credentes*

Although we may disagree with Luther's exegesis, we do agree that, theologically, the law of Moses is not to be equated with the Decalogue but refers rather to the ceremonial, judicial and cultic laws of the Old Testament that came to an end with Christ, who fulfilled the whole law, the Mosaic law as well as the Decalogue.⁴⁴² The Decalogue antedates the law of Moses, so that it is not first given through Moses, but has been inscribed and engraved on the hearts of all people from the foundation of the world.⁴⁴³ Luther makes

by the Spirit in sanctification. In an instructive comment Francis Pieper, *Christliche Dogmatik*, vol. 3 (St. Louis: Concordia Publishing House, 1920), 20-21, says that the law assists in the work of sanctification only by continually preparing for the gospel. The gospel itself is the only source of sanctification. He also teaches that the law is inscribed by the preaching of the gospel. In an informative note (p. 18, n. 18) Pieper rejects Baier's exegesis of Gal. 5: 16, in which the latter attributes the suppression of the flesh to the law, and ascribes it instead to the Spirit. He cites Carpzov approvingly as a corrective to Baier: "The law indeed is said 'to be inscribed in the heart' (Jer. 31: 33), but it does not inscribe itself. The inscription takes place solely through the gospel. Solely that which regenerates us renews us; now, we are reborn solely by the gospel; ergo, we are also renewed solely by the gospel. This statement does not deny that the law performs some service in the work of sanctification." When the law is taken over by faith and controlled by the gospel, then it is no longer *lex accusans*, because there is no sin to accuse, and the law has been fulfilled by Christ. So too when the law assists in the mortification of the old Adam, it is doing nothing other than what faith most desires.

⁴⁴²However, as Luther has already explained on numerous occasions, the Decalogue, while fulfilled for faith in Christ, still remains valid for the flesh.

⁴⁴³This is the clearest, fullest and most precise statement on the difference between the Decalogue and the law of Moses in the disputations: *Decalogus non est Mosi lex, neque primus ipse eam dedit, sed decalogus est totius mundi, inscriptus et insculptus mentibus omnium hominum a condito mundo* (478, 16-18). Important here is the point that the Decalogue does not belong to any one people but to the whole world, whereas the law of Moses has no standing outside Israel, even though some parts of it may have been borrowed and found useful by other nations [*Scitis enim, etiamsi largis-*

this statement in response to a hypothetical question in which he anticipates the objection of his opponents: *At inquires: Ipse* [scil. the law that will no longer be taught] *complectitur totam legem Mosi una cum decalogo* (478, 15). We find it curious that here he concedes (albeit indirectly) that the Decalogue was given through Moses (his point is that Moses was not the first to give it), yet he was not prepared to consider that in his exegesis above. Now however he does consider it, for the sake of the argument, and concludes that even if the prohibition to teach the law were applied to the new covenant, that would still not invalidate his argument for indeed the law is not to be preached to the justified, that is, [*legem*] *implendam vel nondum impletam* (478, 20). Luther here uses a very important pair of terms in clarifying the relation of the *iustificati* to the *lex*. The *lex implenda* is not to be preached or imposed on the justified, but only the *lex impleta*, for the justified already have what the law demands since they have Christ's perfect fulfillment, by imputation, *per fidem*. According to Luther, this is exactly what Paul means in 1 Timothy 1: 9 when he says: *Lex non est iustis posita* [δικαίῳ νόμος οὐ κέῖται] (but for the lawless and disobedient etc.—here Paul continues with a catalog of sinners).⁴⁴⁴ Therefore, *apud pios* the *exactio legis et accusatio* cease because the *sime accipiatur lex, tamen tantum consistit in illo populo, et huius populi tantum est lex Mosi*] (478, 11-13).

⁴⁴⁴1 Tim. 1: 9 is another key text in the arsenal of the antinomians. It will reappear on several occasions in the Third Disputation; see 39 I, 502, 19-21 (3 AD, Arg. 2 (cited in a different form)); 504, 5 (3 AD, Arg. Arg. 3); 575, 7 (3 AD, Arg. 37/10); in the following passages the text is not used by Luther but is cited as part of the antinomian argument: 528, 12 (3 AD, Arg. Arg. 15); 552, 6 (3 AD, Arg. 26). When Luther himself uses the passages he distinguishes between law and gospel, that is, he understands the Christian as *simul iustus et peccator*, whereas the antinomians use it only to prove that the law has not been given to Christians, pure and simple. See ch. 2 for more on this text.

law is stopped when it comes face to face with Christ who says: *Ecce me, qui facio pro illis, quod exigitis, desine* (479, 4-6).

In the final part of the *responsio* Luther continues to work with the assumption (for the sake of the argument) that the *lex Mosi=decalogus* and now poses the question, would the end of the law also mean the end of the preaching ministry in the church? [. . . *amplius non futurum ministerium in Ecclesia*]. In other words, does the new covenant with the law written on the mind of people spell the end to the preaching of the law in the church?⁴⁴⁵ In other words, what implications does the new covenant, with the law inscribed on people's hearts, have for the ministry of the law? Luther contrasts the situation under the new covenant with that of the early days of Israel when the law codes had not yet been compiled and the knowledge of God in the land was dependent on people (he does not say priests) disseminating it to each other.⁴⁴⁶ But when God makes the new covenant he will write his הויהוה here probably best translated by "word" rather than by "law") on their hearts so that the knowledge of the Lord will not be dependent on human beings for its transmission, but will be known to all his people without intermediary. This *doctrina* will be so great that, irrespective of how many *credentes* there are, all will teach the same doctrine, because all will be $\text{\u0398\u03b5\u0398\u0398\u0398\u0398\u0398\u0398\u0398\u0398}$.⁴⁴⁷ God will first teach his people himself and give

⁴⁴⁵Cf. 39 I, 403, 2-3 (1 AD, Arg. 25). The preaching of the law in the church through the *ministerium publicum* stands in continuity with the preaching of the law through the *ministerium publicum* instituted at Sinai.

⁴⁴⁶According to Jer. 5: 5 even the leaders of Israel did not know the way of the Lord; cf. also Hosea 4: 4-6.

them the Spirit, but only through the word [*das sol angehen, ich will selben schuler machen et Spiritum sanctum dare, sed tamen per verbum*]. And yet, strictly speaking, the Holy Spirit will be the sole teacher in his church [*Ita ipse vult esse et constitui doctor, et quidem solus in sua Ecclesia*] for the teaching is his. Luther concludes: *Per Spiritum sanctum in verbo omnes habebimus unum et eundem Christum, quem invicem alter alterum docebimus* (480, 4-5).

Therefore, we have seen again that Luther can assume the antinomian premise that Jeremiah 31 teaches the abolition of the law for Christians, and yet by drawing on John 6: 45 he can still beat them at their own game, so to speak, by proving that even though there will no longer be need for each to teach the other the knowledge of the Lord, that will not be the end of the preaching of the law (the public ministry) in the church, because God himself will be the teacher of his people, and thus they will become θεοδιδάσκαλοι and teachers of others.⁴⁴⁸ The only reason things go wrong and people go their own way, as happened under the pope with the cult of the saints, is because Christ is missing or his place is usurped [*Absente autem Christo alius sic, alius aliter cognoscendum dominum dicit . . .*] (480, 7-9). Indeed, all the θεοδιδάσκαλοι, which are all *credentes*, are not simply teachers of the law ,

⁴⁴⁷This is not a NT word but is the Vulgate equivalent of John 6: 45: *kai; e[sontai pavnte" didaktoi; qeou`*. This is Luther's key text in this section (479, 8-9).

⁴⁴⁸Luther makes no attempt to explain the apparent non sequitur here: under the new covenant there will no longer be any need for neighbor to teach neighbor for they will all be taught by God, but then they will teach each other about Christ. Perhaps the answer to the problem lies in the fact that Luther is going from Torah to Christ.

but preeminently teachers of Christ, but yet under him who is *solus doctor* in his church.

It has been instructive to see how Luther, in the second and third parts of the *Responsio* assumes the antinomian argument that *lex Mosi=decalogus* (after first stating very emphatically *lex Mosi≠decalogus*) to see where it will lead. As we have seen, he can still properly interpret it within the context of the New Testament without falling into the antinomian error of dismissing the law absolutely, by applying the *lex impleta* (that is, the end of the *exactio legis et accusatio*) to the *iustificati*. Then, as we have just seen, he asks the hypothetical question, if the law were abolished, would that imply the end of the *ministerium in Ecclesia*, to which he answers no, because God himself will be the teacher of his people, and we will all be θεοδιδάσκαλοι. Through the Spirit and the word we will have the one and same Christ whom each in turn will teach the other. Even though Luther is battling antinomianism he does not simply talk about the law, but in his characteristic way talks about Christ. His answer here is indicative of that. He is not afraid to give ground to his opponents. He admits that the law is abolished for faith, but that does not mean the end of teaching in the church, for there is the ministry of the baptized as they speak the gospel to each other in their daily vocation. One puzzle that Luther has left unsolved is how all this relates to the *ministerium publicum in Ecclesia* of the New Testament. It seems clear enough that what Luther has been describing is not the *Amt* of the holy ministry but the priesthood of the baptized.⁴⁴⁹ However, that is a problem for itself and cannot

⁴⁴⁹It seems that in order to get around this problem Luther appeals to John 6: 45 and applies it to Christ. He holds that his teaching will be so

be taken up here. It simply reminds us that Luther was not a systematic theologian, as we use the term nowadays since Schleiermacher, and that on top of that, we may see problems where Luther saw none, not only because of the 450 years of church history between us, but also because he will allow no doctrine to be unrelated to Christ.

The second part of Luther's *responsio* together with the one from the previous *argumentum*, form one of the most powerful refutations of the antinomian contention that the law in the sense of Decalogue has been abolished with the new covenant. The two principal arguments are these: first, *lex Mosi* is not to be equated with *decalogus* because the Decalogue, which in content is the same as the *lex naturae*, antedates the law of Moses; secondly, the law is always present, is *schon da*, for it was inscribed on the hearts of all people from the beginning of the world. Therefore, the fulfillment and abolition of the law of Moses in Christ does not automatically mean the abolition of the Decalogue.

Luther's use of Jeremiah 31: 33-34, which the antinomians adduce in support of their position, is instructive. He never uses it as a proof-text him-

great that all Christ's people will follow it. He is talking here surely of the gospel--the gospel which each of the baptized teaches his neighbor. Two things may be observed here. First, it is different to pre-Mosaic OT times in that no longer are special teachers of the law needed. Secondly, Luther applies the knowledge of God, which will be given to all under the new covenant, to the knowledge of Christ, and hence to the gospel. And the reason why all people will know Christ is because the *doctrina evangelica* is so great that all Christians will tell it to their neighbors. In all of this Luther is still being faithful to the sense of Jeremiah. 31 because he says that in the final analysis it is not the individual Christian who is doing the teaching, it is Christ. He is the sole teacher in his church, but he always teaches through his word and through instruments. It is only when Christ is forgotten that each person becomes his own teacher and goes his own way.

self. At first sight it might appear to further reinforce the fact that since the law is inscribed in the hearts of the *credentes* (under the new covenant) it is not limited to the sphere of the old testament. However, Luther never uses this text to undergird the doctrine of the *lex naturae* or the *lex insculpta*.⁴⁵⁰

Argument 26⁴⁵¹

Contra 2

All who teach the law tempt God. You teach the law. Therefore, you tempt God.

Proof of major premise: Acts 15 [: 10].

Response: It is a good argument and one to be noted. For it proves that the papists, the Turks, and all who teach the law with the belief that it makes righteous are tempters of God. All of them put burdens around the necks of the disciples with this sort of opinion and superstition that through it they might be justified before God. But it is not true. For the law has not been given for that purpose. Moreover, in this they imitate those very magicians and sorcerers who hang the gospel of John and other characters or words around their neck in order thereby to protect themselves from dangers, missiles, and cannon balls and be saved from harm. Thus monks and minorities seek and identify some place and cult

⁴⁵⁰The reason is not hard to see. The word *lex* is not the equivalent of *הַדְבָר* because the words do not share all the components of meaning. While *הַדְבָר* may include all that *lex* denotes, it is much wider, for it contains not only instruction in the law, in the sense of God's will, but also the gospel. Therefore, it is often preferable to translate it as "word of God" rather than as "law." It follows then that because the Decalogue cannot be equated with the Torah, and because Jeremiah 31: 33 promises that God will put the *הַדְבָר* in his people and write it on their hearts, this text cannot serve to prove the Decalogue will be inscribed in the hearts of God's new testament people. On the other hand, this fact in itself does not weaken the doctrine of the *lex inscripta*, for that is not limited to the old covenant. That is the significance of the fact that the *lex naturae* is not equivalent to the *lex Mosi*, it does not cease with the end of the Mosaic covenant, but continues a reality also for Christians, as we have often said, insofar as they remain sinners and have to daily battle the flesh. See 39 I, 374, 2-5 (1 AD, Arg. 7): the Decalogue adheres in the conscience and would still be known even without the law of Moses.

⁴⁵¹39 I, 480, 12-481, 19.

beyond and outside the word of God in which they think that they will find God. And indeed, it must be that he will have regard for them in this or that work. No doubt about that! In this way, that is, since you lay hold of him. The opinion of the Jews was the same: no-one could be saved except through the law. Peter's reply to them was: what are you doing? Do you really want to put God to the test? Do you think that you will find God in your testing and superstition? It will not happen. He himself wants to be worshipped, laid hold of, and found in that righteousness and in that way which he himself has established, and by way of him he would be sought, him whom he has put there, none other than his Christ, our Lord. Therefore, it is necessary to remain and stand [firm] in this righteousness which is given to us in Christ, and you ought not depart from this way so much as a hand's breadth, either forward or backwards, otherwise you will perish, and in this alone will you be saved. Indeed he himself has said: He who believes in the Son has eternal life [John 3: 36], and: Outside of him there is no salvation [Acts 4: 12].

Luther considers the argument worthy of note [*bonum argumentum et notandum*] but does not agree with it. For the antinomians the teaching of the law per se is bad because it tempts God [*tentare Deum*] by imposing on Christians a yoke which he himself has removed. They base this idea on Peter's speech at the council at Jerusalem: νῦν οὐκ εἶναι τί πειράζετε τὸν θεὸν ἐπιθεῖναι ζυγὸν ἐπὶ τὸν τράχηλον τῶν μαθητῶν ὃν οὔτε οἱ πατέρες ἡμῶν οὔτε ἡμεῖς ἰσχύσαμεν βαστάσαι... (Acts 15: 10). However, Luther locates the *tentare Deum*, not in the teaching of the law (=Decalogue) per se, but in teaching it as an *opinio iustitiae*, that is, as a means by which one can become righteous *coram Deo*. In other words, he rejects any attempt to use the law as a basis of works-righteousness. To do that is to put God to the test. He lumps this *opinio* together with *superstitio* and holds that the *papistae* and *Turcae* are guilty of it, as well as the *magi* and *venefici*, who wear the Gospel of John or other *characteres aut vocabula* as amulets around their neck to ward off *pericula, tela, and bombardae* and to protect them from harm (481, 1-6). He finds

the same basic error in monasticism when *monachi et minoritae* attempt to find God in their piety and *cultus supra et extra verbum Dei*. On the other hand, God only wants *coli, apprehendi et quaeri* in that place where he has revealed himself and allowed himself to be found; he wants to be sought only by way of him whom he has appointed [*ab eo peti, den ehr gestellt hat*], his Christ, our Lord. The only *iustitia* that avails *coram Deo* is the *iustitia Christi*, which is only there where Christ is located. Therefore, we must remain firm [*manendum et standum est*] in Christ and his righteousness for *extra hunc non est salus* (cf. Acts 4: 12).

In Luther's first encounter this *argumentum* his *responsio* was somewhat different.⁴⁵² There he recognized that the fundamental problem with the antinomian *argumentum* was its failure to distinguish between the ceremonial, judicial, and cultic law, on the one hand, and the Decalogue on the other. As Luther has argued before, the former constitutes the Mosaic law and belongs only to Israel and passes away with the passing of the Mosaic covenant, whereas the latter belongs to the whole world because it has been inscribed in the hearts of all from its foundation. With this distinction Luther can say that what Peter and the first council of the church in Jerusalem reject as binding on Christians (including Jewish Christians) is not the law as Decalogue, but the law of Moses, which was strictly circumscribed and limited only to the people Israel. We know from preceding arguments that Luther also makes another important distinction: that between the *lex impleta* and the *lex implenda*, the former having been given to us by imputation through

⁴⁵²See 39 I, 380, 11-381, 10 (1 AD, Arg. 13). This argument based on Acts 15 comes up once again later, see 499, 5-503, 3 (3 AD, Arg. 2).

faith, the latter applying still to the flesh. Therefore, when he is speaking about the law he consistently makes these two distinctions.

Argument 27⁴⁵³

Contra the Refutation

Faith alone fulfills the law. Faith differs from the rest of the virtues or it is not alone. Therefore, the law and the rest of the virtues are nothing.

Response: The argument is this: If faith alone fulfills the law, then the rest of the virtues in what remains, that is, the commandments, are nothing, and so faith is brought in like some beast that devours itself, like a Julian. As if there might be faith in the first commandment. Therefore, faith, by fulfilling the law, does not fulfill it.

M. Georgius: I do not understand how he comes to this conclusion. In my opinion it should be this: To fulfill the law is to complete all the virtues, for there is no virtue not contained in the Decalogue. The rest of the virtues are nothing and [yet] to neglect them, to differ from them, to be alone, is not to fulfill the law. Therefore, if faith fulfills the law, and again, if the rest of the virtues are nothing and faith differs from them and is alone, as the argument proposes, it follows that faith fulfills the law and does not fulfill it, or it does not fulfill it by fulfilling it.

Objection: But I have proposed this argument on account of the word "alone."

Response: Faith alone fulfills [the law] and so all sins are forgiven us, and this whole Decalogue is fulfilled through faith because only faith (for Christ can be grasped by this alone) gives me Christ who is the fulfillment and end of the law [Rom. 10: 4], and under the shelter of this Christ we seek refuge and are protected like chicks under the wings of a hen. What else does faith give? With faith there comes the Holy Spirit, from whom then flow all kinds of good works. Therefore, the first part belongs to redemption which we have through faith alone, and through this sacrament the Ten Commandments are fulfilled and redemption is given to us freely. Next is the example by which we follow Christ and do good works. Thus, everything depends on faith, whatever happens. Therefore, it is a good dictum: faith alone does everything.

The *argumentum* is subtle. It wants to exclude the law on the basis of the *sola fide* criterion. If faith alone fulfills the law, nothing else is necessary

⁴⁵³39 I, 481, 22-483, 6.

and the law and the rest of the virtues are nothing. At bottom it assumes that if salvation is *sola fide*, without works, then works are not necessary and are nothing.⁴⁵⁴ It is clear from the *responsio*⁴⁵⁵ that Luther locates the problem in a failure to distinguish between justification and sanctification. In the article of justification, there can be nothing but the grace of God's redemption and the faith that receives; here the *sola fide* is critical. However, in sanctification, we follow the example of Christ and do good works; here the *fides* is not *sola*. He stresses that faith gives me Christ, who is the *impletio et finis legis*, and who graciously shelters and protects us like chicks under the wings of a hen [*sub cuius Christi umbraculis delitescimus et tuti sumus veluti pulli sub alis gallinae*] (482, 15-17). At the same time to have faith also means to have the Holy Spirit who then becomes the source of the *bona opera*. Thus even our good works are not really ours, but the works that the Holy Spirit produces within us, and even then they are only good on account of faith, or more precisely, because they have been forgiven.⁴⁵⁶ Thus, ultimately every-

⁴⁵⁴Luther remarks at the beginning of the *responsio* that the way the antinomians picture faith in this argument is such that they make it like some beast who devours a Julian. Hermelink (39 I, 482, n. 1) notes here that Luther is probably thinking of the uncle of emperor Julian the Apostate, who is said to have polluted the sacred vessels of the church of Antioch. For that he died the death of a heretic in a form that makes the above comparison possible (cf. Sozomenos V, 5; Philostorgios VII, 10; Theodoret III, 12, 13; see Drews, 412).

⁴⁵⁵We will not concern ourselves with the *responsio* of the student M. Georgius, who does not properly distinguish law and gospel with his dialectical conclusion, *quod fides impleat legem et non impleat sive quod implendo non impleat* (482, 10-11). His *responsio* is more subtle than than *argumentum*!

thing depends on faith, or as the closing dictum has it: *Sola fides facit omnia*, which is really only an application of Paul's assertion that whatever does not proceed from faith is sin (Rom. 14: 23).⁴⁵⁷ With so much faith-talk one might think that Luther finally is really agreeing with the antinomian proposition. However, that is clearly not the case, for although the *sola fides* is central for justification, in sanctification faith does not exclude works but gives rise to them by its very nature, and on top of that, God also commands that we do good works. Therefore, faith should never be played off against good works except in the article of justification where *fides* is *sola*, and secondly, as long as Christians are still *peccatores* the law will never be nothing.

Argument 28⁴⁵⁸
Contra the Refutation

The law is common to all people. Not all people are convicted and terrified. Therefore, terrors are not caused by the law, but by some other teaching, that is, the gospel.

Proof of minor premise: Few are completely terrified, and Paul himself, though he lived in the law, did not feel it for a long time [Rom. 7: 9; Phil. 3: 6].

Response: I make a distinction in the law. From the standpoint of grammar and civil life the law is indeed common to all people, but that is not the case if understood theologically and spiritually, because it terrifies only very few. For the law cannot be experienced except with trembling and death. Indeed, it is as we say in our third thesis of the First

⁴⁵⁶Luther pulls in the old *sacramentum-exemplum* terminology as a means of further elaborating the contrast between what Christ does for us, alone and outside us (*sacramentum, redemptio*), and what he then does in us through the Holy Spirit (*exemplum, bona opera*). For a discussion of these terms, see our analysis of 2 AD, Arg. 15.

⁴⁵⁷Note that Rom. 14: 23 is used by the antinomians to disqualify the law because, according to their "equivocal" argument, the law is not *ex fide*; see 39 I, 376, 20-377, 6 (1 AD, Arg. 9).

⁴⁵⁸39 I, 483, 9-19.

Disputation: Many indeed hear the law, but do not feel its sensation or power in their hearts.

The antinomian *argumentum* is familiar from earlier arguments. It claims that the law, although it is common to all people (as the *lex inscripta* or *lex naturae*) is not always capable of producing contrition or the *terrores conscientiae*. Therefore, the gospel must be used for this purpose instead of the law. This is consistent with the antinomian thesis that repentance arises not *ex lege* but *ex violatione filii*.⁴⁵⁹ Luther, of course, agrees that the law is common to all, but not all repent because not all feel the power or effect of the law.⁴⁶⁰ The antinomians cite the example of Paul who, looking back on his pre-conversion days says that although he lived in the law (*vivens in lege* in the sense of being thoroughly immersed in it) he did not feel it for a long time (*diu non sensit legem*) (cf. Rom. 7: 9: ἐγὼ δὲ ἔζων χωρὶς νόμου ποτέ, ἐλθούσης δὲ τῆς ἐντολῆς ἡ ἁμαρτία ἀνέζησεν). While Luther does not respond to that here he has touched on it earlier, but then really only to acknowledge that this simply confirms his own position and that it was only later in Paul's life, when he was confronted with the risen Lord on the Damascus Road, that the law became *effectus* for him.⁴⁶¹ In the *argumentum* before us Luther distin-

⁴⁵⁹See 39 I, 342, 9-10 (Pos., Th. 1); 384, 4-386, 16 (1 AD, Arg. 15).

⁴⁶⁰See 39 I, 368, 14 (1 AD, Arg. 3); 404, 16-17 (1 AD, Arg. 27); 406, 1 (1 AD, Arg. 28). (The same argument, *mutatis mutandis*, applies to the gospel.) Luther makes a similar statement in his first *Thesenreihe: Multi enim audiunt quidem legem, sed quia sensum seu vim legis non sentiunt, nihil dolent neque poenitent* (345, 20-21; Th. 3).

⁴⁶¹See 39 I, 405, 6-11 (1 AD, Arg. 27); 406, 17-407, 15 (1 AD, Arg. 28). Luther will say in a later *responsio* that Paul was secure in the law in his days as a Pharisee until it suddenly struck him and revealed to him his sin; see 529, 3-530, 3 (3 AD, Arg. 16); 530, 5-17 (3 AD, Arg. 17).

guishes two sides of the law: the first corresponds to the *usus politicus*; the law here is common to all [*Grammaticae et civiliter est quidem omnium*]; the other side corresponds to the *usus theologicus*; here the law, or better, the *experientia* or *effectus* of the law, is not common to all for the law only strikes a very few [*sed theologice et spiritualiter accepta non est omnium, quia paucissimos terret*] (483, 14-16).⁴⁶² This latter constitutes the proper use of the law, for *lex non potest experiri, nisi cum tremore et morte*; whether it produces this effect in the hearer or not is beyond our control. We can only preach it and pray that God would apply it to the heart.⁴⁶³

Argument 29⁴⁶⁴

Surely therefore the Holy Spirit causes both terror and comfort in the human heart since Paul calls the gospel alone the ministry of the Spirit [2 Cor. 3: 6]?

Response: We have also said above that the naked God cannot be grasped without some specific means, and whoever searches out God in his majesty and divinity will be overwhelmed by his glory. But only after he has emptied himself [Phil. 2: 7] and has been made a delight and a marvel, a child placed in the lap of a virgin and in a stable, are we able to

⁴⁶²This distinction between two aspects of the one law [*duplex usus legis*] stands in marked contrast to Luther's thinking about the law in the early stages of his career, when under Augustinian influence, he spoke of two laws, the *lex spiritualis* (= *lex nova*) and the *lex litterae* (*lex vetus*). Attention then centered on the question of how to use the law legitimately so that the *pii* did not fall into the sin of *superbia* or hypocrisy. It was only after Luther understood the gospel as the complete antithesis of the law that he came to realize that it could never be understood with concepts such as *nova lex*, *lex Christi* or *lex spiritualis*, all of which predicate the gospel under the Oberbe-griff "lex." See ch. 2 for further discussion; also Schloemann, 26-30.

⁴⁶³Cf. 39 I, 369, 1-3 (1 AD, Arg. 3): *Sed Deus vult, ut legem doceamus. Hoc ubi fecerimus, videbit ipse, qui per eam convertantur, certe convertit per eam ad poenitentiam, quos et quando vult.*

⁴⁶⁴39 I, 484, 1-22.

bear him; only then can we handle him. Otherwise, no one will see him and live [Exod. 33: 20]. Truly clothed and dressed in human flesh, born of the virgin and incarnate in our flesh, made a brother and our flesh, I cannot then dread him. So too the Holy Spirit in his majesty is incomprehensible, and when in his majesty as God he reveals the law he cannot but kill and terribly frighten. Therefore, in order to be a comforter and sanctifier, he was also finally made a gift. However, when it is the case with us that we are in sins, we are guilty of eternal death and wrath, we cannot at once perceive him, nor recognize his comfort. Therefore, it is necessary at some point in time for God to appear, to search the heart and pierce the marrow of the bones through the sensation or power of the law [Heb. 4: 12], to cut us down and shake us so violently that we realize we are bereft of help and learn to take refuge in Christ. Therefore, the Holy Spirit as God terrifies through the law, but as gift, in the form of a dove and with a burning tongue, he comforts, sanctifies and gives life.

Luther's *responsio* provides us with a magnificent statement of the theology of the *Deus incarnatus* within the framework of law and gospel. What he says here is not new. Most of it has already been said in the First Disputation.⁴⁶⁵ The *argumentum* runs law and gospel together by asserting that the gospel alone, as the *ministerium Spiritus* (2 Cor. 3: 8: ἡ διακονία τοῦ πνεύματος), causes both *terrores et consolationes in cordibus hominum*. In his refutation Luther makes a distinction between God in his unveiled glory, [*Deus nudus*] whom no human can see and live, and God in his incarnation where he veils his glory in human flesh so that we can bear him. After his self-emptying [*exinanivit se ipsum*] he becomes a delight and a marvel rather than causing fear: a child put in the lap of the virgin and in a stable [*puer positus in gremio virginis et praesepti*] (484, 7-9). God in his majesty is our enemy, but when he takes on our flesh and becomes our brother he no longer frightens us. Luther now applies the same arguments to the Holy Spirit. The

⁴⁶⁵See 39 I, 370, 12-371, 3 (1 AD, Arg. 4); 389, 2-18 (1 AD, Arg. 17).

Spirit in his majesty is *incomprehensibilis*, and when he works through the law he works as God in his majesty, killing and destroying us. As the author of the law the Holy Spirit is one with the *Deus nudus*, who cannot be grasped without some specific means [*sine certis quibusdam signis non potest comprehendendi*] (484, 5-6). But when he does work through specific external means [*certis signis*] such as the gospel, he comes as gift. However, in order that we might receive this gift it is necessary for him from time to time to shake us violently [*concutere*] so that we realize our helplessness before him and learn to take refuge in Christ. So, in his majesty the Spirit as author of the law only kills and destroys, but in the form of a dove and the tongue of fire,⁴⁶⁶ he comforts, sanctifies and gives life. Significantly, these are the *certa quaedam signa* in which God revealed himself at Pentecost.

Argument 30⁴⁶⁷

Contra 10

The dividing wall has been destroyed through Christ [Eph. 2: 14]. Therefore, the law has been abolished.

Response: Here also Paul is speaking about the law of Moses in the proper sense, not about the Decalogue since it was for all people. For the nations do not hate the Jews on account of the Decalogue, but because they used to separate themselves from the other nations through their unique cultus and ceremonies, and said that they alone are the people of God, all the rest being *ajqeou*" and ungodly. There was controversy over the temple and the ceremonies. But in the end Christ came and abolished that dividing wall and the Jews and Gentiles were made one. But if he is speaking about the Decalogue, that is good, [for] this has been abolished and destroyed and thereby damnation, through Jesus Christ our Lord. Amen.

⁴⁶⁶Re *in specie columbae, in lingua ignea*, see our note on the parallel words in 1 AD, Arg. 4.

⁴⁶⁷39 I, 484, 25-485, 7.

The antinomian *argumentum* for the abolition of the law is based on an idiosyncratic exegesis of Ephesians 2: 14, where the "*maceries*" [τὸ μεσότοιχον τοῦ φραγμοῦ] which has been broken down is interpreted as the Decalogue. Luther rightly rejects this on the grounds that the *decalogus* never belonged exclusively to Israel in the first place but was for all peoples. Rather, Paul is speaking here about the the *lex Mosi* in the strict sense. In an incisive remark about the history of Israel he observes that it was not the Decalogue that caused her to be hated and despised among the *gentes*, but the *singularis cultus et caeremoniae* (484, 26-485, 3), which she used to separate herself from the nations, whom she looked on as ἀθεοῦς and *impii*. This narrow particularism and exclusivity, symbolized above all by the cultic and ceremonial law, is what Christ broke down when he destroyed τὸ μεσότοιχον τοῦ φραγμοῦ by abolishing τὸν νόμον τῶν ἐντολῶν ἐν δόγμασιν, thus creating in himself ἐν καινὸν ἄνθρωπον (the church) in the place of two (v. 15). And now Luther's irenical spirit once again comes to the fore. After having shown that the exegesis of his opponents is in error, he turns around and concedes that even if one does take Ephesians 2: 14 as referring to the Decalogue, it is not wrong theologically, for in Christ the *decalogus* too has been abolished and destroyed [*sublatus et destructus*], and so *damnatio* also [*quoad damnationem*] for where there is no law there can be no judgment.⁴⁶⁸

⁴⁶⁸Luther fails here to make his customary qualifications, for as we know well, he does not accept the antinomian argument that the Decalogue as *lex condemnatrix* has been abolished absolutely, but only for faith. The *impii* remain subject to the *lex accusans et condemnans*, and indeed Christians too, *quoad peccatores*, are still subject to the *lex accusans*, but at the same time we can rejoice with Paul that there is now no *katavkrima* for those who are in Christ Jesus (Rom. 8: 1). Cf. 39 I, 367, 11-13 (1 AD, Arg. 2).

[Concluion]

D. Martin Luther

We thank you etc. Repentance is to be taught from the law because this is what Christ, Paul, and Peter did and all who taught Christ, as we see in Matthew 5, Romans 1 and 2, and this is also what the rest of the apostles did as we see in Acts and in their own writings. Secondly, if there had been another and better way Christ would have seen it. But you say that it is written: In my name [Luke 24: 47]. My response is, true; unless repentance is preached in the name of Christ it becomes the repentance of Cain and Judas.

That is how the pope taught repentance, but not in the name of Jesus. Therefore, it was inevitable that many people despaired, as we know from experience. Why is the law is to be taught? The law is to be taught for the sake of discipline according to that saying of Paul's in 1 Timothy 1 [: 9]: The law has been laid down for the unrighteous, and in order that through this teaching people might come to Christ, as Paul says in Galatians 3 [: 24]: The law is a pedagogue toward Christ. Secondly, the law is to be taught in order that it might expose sin, accuse, terrify and damn consciences, as it says in Romans 3 [: 20]: Through the law we have the knowledge of sin; also in chapter 4 [: 15]: The law works wrath. Thirdly, the law is to be retained in order that the saints may know what works God requires, in which they can practice obedience toward him.

Τέλος

The conclusion touches on a few chief points concerning the relation between the law and repentance, which has been the topic of this disputation. He reiterates that repentance arises *ex lege*, in accordance with dominical and apostolic doctrine. When Christ commissions the apostles to preach repentance "*in nomine meo*," that should not be understood to mean that repentance arises *ex evangelio*, but as an indicator that the law is incapable of producing repentance if not in Christ's name. For without the gospel, the penitent may well be driven to despair like Cain and Judas, or like those who have suffered under the legalism of the papacy (485, 14-15).⁴⁶⁹

⁴⁶⁹See our discussion of 1 AD, Args. 19, 35, 36.

However, the conclusion is important especially because it contains a summary of the uses of the law, purportedly given by Luther, which has created some discussion among Luther scholars. This is the only passage in the antinomian disputations (and, to the best of our knowledge, any where in the Luther corpus) where three uses of the law are expressly listed, although the nomenclature *usus legis* is not employed. Werner Elert, after a careful study of this passage in the light of similar Reformation statements on the law by Melancthon and Calvin, declared it to be a forgery and this judgment has been generally accepted by the majority of scholars.⁴⁷⁰ However, before we consider Elert's criticism we need to analyze the text ourselves to see if there is anything that appears inconsistent with what Luther has been saying thus far.

In answer to the rhetorical question: *Quare lex est docenda?* he gives three reasons. Whether these reasons should be equated with the three *usus legis* of Melancthon and later Lutheran theology is a question that will need to be answered. The first reason given is that it is to be taught for the sake of discipline [*Lex docenda est propter disciplinam*]. The scriptural warrant cited

⁴⁷⁰Werner Elert, "Eine Theologische Fälschung zur Lehre vom Tertius Usus Legis," in *Zeitschrift für Religions- und Geistesgeschichte* 1 (1948): 168-170; this is largely reproduced in his essay, "Gesetz und Evangelium," in *Zwischen Gnade und Ungnade: Abwandlungen des Themas Gesetz und Evangelium* (Munich: Evangelischer Presserverband für Bayern, 1948), 161-163. Before Elert's work, ever since the publication of the later disputations by Drews (1895), almost all scholars had agreed, on the basis of this conclusion to the Second Antinomian Disputation, that Luther taught a *triplex usus legis*. Elert also argues that the passage in Luther's *Kirchenpostille* of 1522 (10 I, 1, 456, 9ff), which ever since Frank (*Theologie der Konkordienformel* II, 389) has always been used to prove that Luther taught a threefold use of the law, does not hold up under close scrutiny and hence cannot be understood in the way in which Melancthon and the *Konkordienformel* understand it.

for this is 1 Timothy 1: 9: *Lex est iniustus posita*, as well as Galatians 3: 24: *Lex est paedagogia [sic] in Christum*. Here clearly *disciplina* is equated with *paedagogia*. Secondly, the law is to be taught in order to expose sin, and accuse and terrify the conscience [*Lex docenda est, ut ostendat peccatum, accuset, perterrefaciat et damnet conscientias*]. The scriptural basis given for this is Romans 3: 20: *Per legem cognitio peccati*, and Romans 4: 15: *Lex iram operatur*. Thirdly, the law is to be retained that the saints may know what works God requires, which they can then use to exercise obedience toward him [*Lex est retinenda, ut sciant sancti, quoniam opera requirat Deus, in quibus obedientiam exercere erga Deum possint*] (485, 22-24). No scriptural proof is adduced for this third point. Now there are several things that are striking about this list. First and most obviously, it is certainly a radical departure from Luther's customary way of speaking about the *duplex usus legis*.⁴⁷¹ Secondly, the way in which *disciplina* is connected with *paedagogia ad Christum* is strange and uncharacteristic. Here it is linked with the *usus civilis* (represented by *disciplina*) whereas usually it is coordinated with the *usus theologicus*.⁴⁷² Finally, the

⁴⁷¹The term *duplex usus legis* as such only occurs twice in the anti-nomian disputations (39 I, 441, 2-3; 2 AD, Arg. 6) although Luther also says once that the *lex* is *duplex* (460, 21; 2 AD, Arg. 14) which amounts to the same thing. Yet the idea of a twofold use of the law is common, e. g. 483, 14-16; 2 AD, Arg. 28; 209, 11-15; 210, 21-23 (PT, Arg. 4). For a full discussion of this matter, see Gerhard Ebeling, "Die Lehre vom triplex usus legis in der reformatorischen Theologie," in *Wort und Glaube*, vol. 1, 3d ed. (Tübingen: J. C. B. Mohr (Paul Siebeck), 1960), 50-68 (note: Ebeling corrects some errors in Elert's work); Lauri Haikola, *Usus legis*, No. A 20 in *Schriften der Luther-Agricola-Gesellschaft* (Uppsala: n. p., 1958; reprinted Helsinki, 1981), 85-152; Martin Schloemann, 22-31; Albrecht Peters, *Gesetz und Evangelium* (HST 2), ed. Carl Heinz Ratschow (Gütersloh: Gütersloher Verlagshaus Mohn, 1981), 38-41.

formulation of the third reason for the law is without parallel. That in itself of course does not disqualify it from being authentic, but it does at least raise a question. Luther certainly knows that the *vita christiana* is not just about combating sin, but also doing good works as commanded by the God. The law not only curbs and disciplines the Christian and exposes his sin, but the commandments also serve to show him the God-pleasing works in which he can exercise his faith. In a passage in one of the *Promotionsdisputations* Luther remarks that although the law must no longer accuse, coerce or condemn the *pii*, yet it must be retained in order to give them a pattern for doing good works [*Ideo autem retinenda est piis, ut habeant formam exercendi bona opera*].⁴⁷³ Thus the law instructs them in the good works that they are to do. Furthermore, Luther says that Christ's mission was to restore joyful obedience to the law (375, 4-6); he also says that to speak of Christ as our *exemplum* is nothing else than to say that he shows us how life is to be lived in obedience to God, parents, and superiors (464, 19-21). On the other hand, all of this needs to be offset by a statement in the Third Disputation where Luther is decidedly cautious of talking about the law as a guide or admonition to good works. In fact he chides Melanchthon for conceding too much to the antinomians by saying that the law exercises some kind of external discipline, by which the godly may be admonished to lead a godly life.⁴⁷⁴ Therefore, when all of these considerations are taken together, it is difficult to conclude

⁴⁷²See the following *responsiones* and our analysis 39 I, 441, 2-443, 4 (2 AD, Arg. 6), 445, 5-448, 7 (2 AD, Arg. 8).

⁴⁷³39 II, 274, 20-22; FR, Arg. 16). In the opinion of Paul Althaus, *The Theology of Martin Luther*, trans. Robert C. Schultz (Philadelphia: Fortress Press, 1966), 271, n. 123, this passage guarantee the authenticity of 485, 22-24.

with any certainty that the passage under discussion is not authentic. For our part, the most problematic thing about it is the fact that the *paedagogia* is connected with the *disciplina* or *usus civilis* rather than with the *usus theologicus*. In view of our foregoing analysis, the least problematic part of the passage is 485, 22-24 which has been sometimes seen as evidence that Luther taught a *tertius usus legis*.

We now turn to Elert's arguments for calling 485, 16-24 a forgery. He begins by showing from Luther's *Galaterbriefvorlesung* (1531) that the *usus proprius* (= *usus theologicus seu spiritualis*) can quite rightly be designated the *usus paedagogus* for in revealing our sins it fulfills the function of a *paedagogus in Christum* [*Erzieher für Christus*], which Paul attributes to the law (Gal. 3: 24). Melancthon changes Luther's ranking of the *usus* and shifts the *usus politicus* to first place, however that is only of secondary importance because he still keeps the *usus theologicus* as the *usus praecipuus*. More important is the fact that he now ascribes the pedagogical function of the law to the *usus politicus* and no longer sees it as a revelation of sin. Consequently, he interprets *paedagogia* (preparation for Christ) in terms of *disciplina* (his favorite term).⁴⁷⁵ Calvin takes over the *triplex usus legis* and relates the

⁴⁷⁵39 I, 578, 5-8 (3 AD, Arg. 40/13). This significance of this passage will be discussed when we deal with the *argumentum*. It is more characteristic of the way in which Luther thinks about the law in the *vita christiana* when he says that the law does not bind the saints in anything insofar as they are and remain in Christ, because they have through imputation what the law requires from them, and secondly, that they do spontaneously by themselves the things of the law. But if they should fail to do them, they still have the fulfillment by faith, by virtue of which God imputes righteousness to them or the fulfillment of the law freely through Christ (249, 20-250, 10; PT, Arg. 28).

pedagogical function of the law to both to the *usus theologicus*, as in Luther, and to the *usus politicus*, as in Melanchthon.⁴⁷⁶ But more importantly, the decisive change that comes with Calvin is that he designates the *usus tertius* as the proper goal of the law, and hence views it as the *praecipuus usus legis*. Elert sees in this a direct polemic against Luther. Whereas Luther sees the function of the law as being chiefly to expose sin and thus prepare sinners for the gospel, Calvin sees its chief function as that of providing the believer with a rule and norm for the Christian life.

The reasons for retaining the law (485, 16-24) are suspect in Elert's eyes not only theologically, but also because they are very poorly attested in the manuscripts. While the disputation itself has been preserved in nine manuscripts,⁴⁷⁷ only two of them (Cod. lat. 722 Helmst. and Cod. lat. 67, 2, Aug, both in Wolfenbüttel) contain the sentences in question.⁴⁷⁸ The author of one of the manuscripts is unknown. Hermelink says only: "*im 16. Jahrhundert von einer Hand hergestellt . . . jedoch in einer sehr fehlerhaften und flüchtigen*

⁴⁷⁵*Loci*, CR, 21, 405ff.; 716ff. Hollaz (*Examen*, 1021), one of the later classical Lutheran dogmaticians, expands the *triplex usus* taught by the Formula of Concord into a *quadruplex* and splits off the *usus elencticus*--the revelation of sin--from the *usus paedagogicus* as understood by Luther. As Elert points out, this distinction may be possible in theory but in actual fact it is erroneous because the preparation for Christ (*usus paedagogicus*) is bound up precisely with the revelation of sin (*usus elencticus*).

⁴⁷⁶Inst. II, 7, 11.

⁴⁷⁷See the introduction by Hermelink (39 I, 418).

⁴⁷⁸Noted by the editor in the textual apparatus, 39 I, 485, 16/25.

Nachschrift."⁴⁷⁹ Drews⁴⁸⁰ has shown that the other author is one Israel Alec-triander (Hahnmann), who matriculated in Wittenberg in 1550 (!), and so could not possibly have been present to hear the disputations. In Elert's opinion this man or his source is nothing but an insolent forger. His conclusion is that the real source for the *locus classicus* of Luther's alleged doctrine of the *triplex usus legis* is Melanchthon's intermediate *Loci* (CR 21, 406), which it reproduces almost word for word.⁴⁸¹

As we have already indicated, we think that the way the passage in question understands the *usus politicus* (*propter disciplinam*) as the *usus paedagogicus* raises serious questions as to its authenticity because such an equation is certainly "un-Lutheran." However, there is more riding on this for Elert than a Melanchthonian understanding of the *usus paedagogicus*, although he does not reveal his whole hand in this article. Later he comes out strongly against the *tertius usus legis* and with this passage gone, gone too is the only occurrence of the term *triplex usus legis* in the Luther corpus. In our opinion, the fact that the final reason for the law [*ut sciant sancti, quae-nam opera requirat Deus, in quibus obedientiam exercere erga Deum possint*] may resemble a Melanchthonian *tertius usus legis* does not constitute a in-surmoundable problem. Luther as we have seen is not incapable of speaking

⁴⁷⁹39 II, XXVIII.

⁴⁸⁰*Disputationes* [Martin Luthers], XXXVI.

⁴⁸¹Elert notes that the differences between Melanchthon's intermediate *Loci* of 1535 and his final edition of 1559 at this point are insignificant, as can easily be seen from a comparison (cf. CR 21, 405ff. with 716ff.).

now and then in such terms, although it remains the exception and not the rule. The fact that Luther never saw fit to adopt Melanchthon's *triplex usus legis* but continued to hold on to his characteristic *duplex usus legis* is surely not without significance. More on that later.

PART 3
The Third Disputation Against the Antinomians
(Doctoral Disputation of Cyriacus Gerichius)
6 September 1538

Introduction

The theses that Luther had originally prepared for the Third Disputation were not used because the disputation lapsed due to the reconciliation between himself and Agricola on 12 January 1538.⁴⁸² Likewise, the fourth disputation also lapsed and so its theses were not used either.⁴⁸³ The Reconciliation between Luther and Agricola was short lived. This is not surprising because although Luther was content with the explanation that Agricola gave at the Second Disputation, the later still hedged and failed to state publicly his explicit agreement with Luther's doctrine of the law. After it became clear Agricola had fallen back into his old ways and once again began publicly teaching antinomian doctrine, Luther was determined to convene yet another disputation to settle the matter once and for all.

⁴⁸²See Hermelink's Introduction, 39 I, 486-7. For fuller discussion, see ch. 2 on the historical background. For the theses originally prepared for this disputation, the *Disputatio tertia D. Martini Luthei* (=Third *Thesenreihe*), see 39 I, 350, 8-352, 6 (40 theses).

⁴⁸³For the theses originally prepared for the Fourth Disputation, *Disputatio quarta D. Martini Lutheri* (=Fourth *Thesenreihe*), see 39 I, 352, 8-354, 14 (41 Theses).

The actual date on which the disputation was held has been a bone of contention among the experts, as we have pointed out in chapter 2. Since the matter of dating is not of prime concern to us we will accept the opinion of the editor without further discussion. He can see no other date possible than 6 September 1538, which is also the day of the licentiate disputation (*Promotionsdisputation*) of Cyriacus Gericke. The theses he was to defend are those which Luther had originally drafted for the Fifth Disputation,⁴⁸⁴ and which go right to the heart of antinomian doctrine.

This disputation has two parts to it: the morning disputation (*argumenta* 1-27) and the afternoon disputation (*argumenta* 28/1-45/18). While it is perfectly conceivable that the morning session doubled as a doctoral disputation, the afternoon session, in the opinion of the editor, right from the outset bears a different stamp and goes well beyond the demands of a *Promotionsdisputation*.⁴⁸⁵ This also seems to be confirmed by the conclusion, which merely states that this is the end of the disputation against the blasphemous antinomians and says nothing at all about the doctoral candidate. Again, as we have already seen in the case of the previous academic disputations, Luther seems almost every where to be the sole respondent.⁴⁸⁶

⁴⁸⁴This is clear already from the Luther's publication of the announcement of the disputation in which it was customary to list the theses that were to be debated, or in the case of a *Doktordisputation*, the theses to which the *Doktorand* had to respond. For the *Fünfte Reihe der Disputationsthesen gegen die Antinomer*, see 39 I, 338.

⁴⁸⁵Intro., 39 I, 487.

⁴⁸⁶However, as Hermelink points out (*Ibid.*), the passing remark in *Argumentum* 3 (39 I, 503, 12-17), which is preserved in only two MSS, would tend

Since this disputation is the last, our analysis has the benefit of the earlier two and therefore we will, where appropriate, allude to previous discussions and be on the look out for any new developments in Luther's approach to arguments that he has already dealt with earlier.

Theses ⁴⁸⁷

Translation

1. The law rules people for as long as they live.
2. But they are free from the law so long as they are dead.
3. It is necessary therefore for people to die if they want to be free from the law [cf. Rom. 6: 7].
4. And if the law rules the living, sin also rules them.
5. Therefore, it is necessary for people to die if they wish to be free from sin.
6. For the law is the power of sin, but the sting of death is sin (1 Cor. 15: 56).
7. These three: law, sin, and death are inseparable.
8. Therefore, insofar as death is still in people, sin and the law are also in them.
9. We receive the law outside of Christ, that is, the as-yet-unfulfilled letter, which is necessarily to be fulfilled by us.

to suggest that there was another respondent besides the chief respondent (*Dominus Respondens*); cf. also *argumentum* 4 (509, 1-10).

⁴⁸⁷39 I, 354, 17-357, 38: *Quinta disputatio D. Martini Lutheri, contra Antinomias*. These theses were originally prepared for the Fifth Disputation but used for the Third.

10. In Christ the law has indeed been fulfilled, sin has been blotted out, and death has been destroyed.

11. That is, if we have been crucified and died in Christ through faith, such things are true in us also.

12. But if we live, we are not yet in Christ, but outside Christ under the law, and contend with sin and death.

13. However, as reality itself and experience testify, the righteous are themselves also still being given up daily to death (cf. 2 Cor. 4: 11).

14. Therefore, it is necessary that these people, to the extent that they are under death, are also still under the law and sin.

15. Those who wish to remove the law from the church are thoroughly ignorant and deceived.

16. For this is not only foolish and ungodly but thoroughly impossible.

17. For if you want to remove the law, you must also remove sin and death at the same time.

18. For death and sin are through the law, as Paul says: The law kills (2 Cor. 3: 6), and: The power of sin is the law (1 Cor. 15: 56).

19. Since you see that the righteous die daily, how foolish it is to think that they are without the law.

20. For if there were no law, there would be neither sin nor death.

21. Therefore, they must first prove that the righteous are completely without any sin and death.

22. Or that they no longer live in the flesh, but have been removed from the world.

23. Then it could be rightly taught that the law also has been completely removed from them and that it is in no way to be taught.

24. However, since they could not prove this, but experience itself shows the exact opposite to be the case,

25. The impudence of these teachers in wanting to remove the law from the church is extraordinary.

26. But greater still is their impudence or more correctly their insanity in saying that the law also ought to be removed from and not taught to the ungodly.

27. If the saints and righteous are not to have their sin and death, that is, the law, held up to them, for whom however it was not laid down;

28. Much more rather ought it be held up to the ungodly and wicked, for whom it has been properly and especially laid down (1 Tim. 1: 9).

29. And if they imagine that their church or hearers are simply all godly and Christians without the law,

30. It shows that they are completely insane and do not know what they are saying or affirming.

31. For this is nothing else than believing that all their hearers have been removed from this life.

32. But to believe this is to make up your own games and watch them in an empty theater.

33. For in this world first the righteous are always living in the flesh, and secondly an even greater number of evil people are mixed in with them.

34. Therefore, the law has been laid down, and must certainly be taught and not removed, in order that by it sin and death or God's wrath may be known.

35. Thus, the same has been laid down for the godly insofar as they are not yet dead and still live in the flesh.

36. In the risen Christ certainly there is no sin, no death, no law to which he had been subject while living.

37. But the same Christ is not yet perfectly risen in his faithful ones, but indeed has begun to be raised from the dead in them, as the first fruits.

38. On the other hand, for the ungodly, the greater number of whom are mixed in with the church, he is still totally dead, in fact nothing at all.

39. And they are plainly under the law, and should be under the law, even though it is possible for them to be terrified by a thunderbolt.

40. Insofar as Christ is risen in us, we are without the law, sin and death.

41. On the other hand, insofar as he is not yet risen in us, we are under the law, sin, and death.

42. Therefore, the law is to be taught without distinction (just like the gospel) to the godly as well as to ungodly.

43. To the ungodly, that they might be terrified and acknowledge their sin, death and the inevitable wrath of God, through which they are humbled.

44. To the godly, that they may be admonished to crucify their flesh with its passions and vices, lest they become secure.

45. For security removes faith and the fear of God, and makes the last things worse than the first.

46. Clearly enough it seems that the antinomians think that sin has been removed formally and philosophically or juridically through Christ.

47. And they do not fully realize that it has been removed from the troubled solely through the imputation and forgiveness of God.

48. For sin has been removed, the law abolished, and death destroyed, relatively, not formally or substantially.

49. And this wholly on account of Christ in this life, until we attain to perfect manhood, to the fullness of Christ (Eph. 4: 13).

50. For we know, and they have learned from us, that Christ has been made a sacrament and an example for us.

51. This most splendid thought is not ours, much less theirs, but Augustine's.

52. In which he says that Christ with his single agrees with our double and makes a perfect number.

53. But neither Augustine the author, nor we his disciples, have added this conclusion that the law therefore must be removed.

54. They also added this, by means of their master the devil, to his chapter, that they might be the new authors and be famous on account of the rest.

55. Scripture gives us four ways for preaching and teaching for the salvation of all people, gathered from the four works of God.

56. For God terrifies with threats, consoles with promises, warns with afflictions, and entices with gifts.

57. But so long as these four are taught they do not remove the law but confirm it [Rom. 3: 31].

58. The kindness of God leads to repentance [Rom. 2: 4], that is, that you may know that the law is the power of sin.

59. And the terrifying and killing law does that in order to drive you to itself or to a knowledge of itself.

60. However, these fanatics do this to remove Christ himself through the sacrament and example of Christ.

61. For if the law is removed, we do not know who Christ is or what he has done, while in fact he has fulfilled the law for us.

62. For if I want to know the fullness of the law, that is, Christ, it is necessary to know what the law and its fullness is.

63. That cannot be taught unless it is taught that the law has not been fulfilled in us, and that therefore we are subjected to sin and death.

64. If this is taught, we learn that we are all debtors to the law and children of wrath [Eph. 1: 3],

65. The ungodly plainly in the flesh and spirit or totally, the godly, on the other hand, insofar as they are and live in the flesh.

66. Therefore, the doctrine of the law is necessary in the churches and is to be altogether retained, without which Christ cannot be retained.

67. For what can you retain about Christ so long as the law has been removed, other than [to know] that he fulfilled; [but] you do not know what he has fulfilled?

68. Finally, the law has been fulfilled in Christ in such a way that you cannot teach it that way unless you also teach that the law has not been fulfilled in us.

69. In summary, to remove the law and to leave sin and death is to hide the disease of sin and death to bring about the destruction of people.

70. When sin and death have been removed (as happened in Christ), it is happily removed. Then indeed the law is confirmed [Rom. 3: 31].

Structure

Theme: The Law and Christ's Work

A. Law, Sin and Death (1-24)

- I. Law, sin and death are inseparable (1-8)
 1. only the dead are free from the law (1-3)
 2. only the dead are free from sin (4-6)
 3. insofar as people are still alive they have sin and the law (7-8)
- II. In Christ the law is fulfilled but not outside of him (9-14)
 1. those still alive are not yet in Christ but under the law (9-12)
 2. as much as they are under death they are under law and sin (13-14)
- III. Impossible to remove the law alone (15-25)
 1. law cannot be removed without removing sin and death (15-18)
 2. the righteous are not without the law for they are not without sin and death (19-25)

B. Antinomian Errors (25-70)

- I. The doctrine of the Law (25-45)
 1. the law was given especially for the ungodly (26-28)
 2. but Christians also need the law (29-33)

because:

 - a) the righteous are always living in the flesh (33)
 - b) they are surrounded by many evil people (33)
 3. law is needed to reveal sin, death, and wrath to *impii* and *pri* (34)

- a) *pii* need law insofar as they still live in the flesh and Christ is not yet perfectly risen in them (35-37)
 - b) *impii* are plainly under the law and are totally dead to Christ (38-39)
 - 4. Christians are without the law and under the law:
 - a) without the law, insofar as Christ is risen in them (40)
 - b) under the law, insofar as Christ is not yet risen in them (41)
 - 5. the law is to be taught equally to the godly and the ungodly (42)
 - a) to the ungodly, to terrify them and drive them to repent (43)
 - b) to the godly, to admonish them to mortify the flesh lest they become secure and fall into unbelief (44-45)
- II. The doctrine of sin (46-49)
- 1. antinomians teach sin has been removed *formaliter* (46)
 - 2. Luther holds sin is removed per imputation & forgiveness (47)
Hence: sin has been removed *relative* not *formaliter* (48-49)
- III. Christ and the law (50-70)
- 1. Christ as *sacramentum et exemplum* (50-52)
 - a) antinomians add false conclusion to win fame by means of Augustine (53-54)
 - b) scripture teaches God works salvation using four means:
 - aa) threats, promises, afflictions, gifts (55-56)
 - bb) these means do not remove the law but confirm it (57-60)
 - cc) the law teaches us:
 - aaa) who Christ is and what he has done (61-62)
 - bbb) we have not fulfilled the law and are its debtors, the ungodly totally, the godly *quatenus in carne* (63-65)
 - 2. Christ cannot be retained without the law for the law shows Christ's fulfillment and our nonfulfillment of it (66-68)
 - 3. Summary
 - a) law, sin, and death are inseparable (69)
 - b) through Christ the law is removed and confirmed (70)

Summary

The Fifth *Thesenreihen* (used for the Third Disputation) has as its theme the law and Christ's work. The theses fall into two main parts: the first shows the inseparability of the law, sin and death, the second deals with the cardinal errors of antinomianism especially those touching on the relation between the Christ and

the law and the doctrine of sin. In the first parts, because of the inseparability of sin, death, and the law (1-24), Luther argues that it is impossible for the antinomians to claim to have removed the law if they have not also removed sin and death (15-25), for only in Christ has the law, sin and death been abolished (9-14). In the second part, he stresses three points in particular: first, that contrary to antinomian teaching, Christians also need the law insofar as they still live in the flesh and are troubled by sin; on the other hand, insofar as Christ is risen in them they are already free from the law (25-45). Secondly, Luther briefly points out that the antinomians are in error in teaching that sin has been removed *formaliter* whereas in fact it has only been removed relative (in other words, by imputation) (46-49). In the final section (50-70) he shows that the antinomians reject the idea of Augustine's that Christ has been given to us as *sacramentum* and *exemplum* (for the *exemplum* implies that the law is still applicable to Christians), and argues that, irrespective of whether God works through threats, promises, afflictions or gifts, the law is not abolished but in fact confirmed (50-60) for without the law we would not know who Christ is or what he has done (61-62). All we would know is **that** he fulfilled, we would not know **what** he fulfilled. Luther says that the law has been fulfilled in Christ in such a way that we cannot teach this without at the same time teaching that it has not been fulfilled in us (67-68). His conclusion is that the teaching of the law must be retained in the church for without it Christ cannot be retained (66).

Luther's Preface⁴⁸⁸

Luther states clearly at the beginning of this lengthy preface that the locus of justification is incontrovertibly the head and sum of Christian doctrine. Just because it is central it is also the special object of Satan's attack. In Luther's judgment the antinomians must be counted among the opponents of this doctrine whom Satan is now using to overthrow it. He claims that their teaching, which lulls people into a false sense of security by encouraging them to be licentious and libertine, and makes them an easy prey for Satan, is actually presented to people under the pretext of the gospel.

According to Luther, the antinomians have two basic *principia*. The first is that Christ has formally [*formaliter*] removed all sin. To them sin is a foreign word and should not be part of a Christian's vocabulary. The second *principium* or *παράδοξον* (which is consequence of the first) is this: the church is as pure and untainted as Adam was before the fall [*ecclesiam sic puram et integram esse sine omni macula et labe, ut fuit Adam iamiam creatus in paradiso et perfectus ac integer*]. Hence, they regard their followers, even the *impii*, as *formaliter iustos* (490, 6-13). When Christ inveighs against the hypocrites, it is not to remove sin but to admonish them against future sin. Thus they teach a form of perfectionism: there is no longer any sin, the church is pure and without sin, and is already risen with Christ. Luther, on the other hand, teaches that the church is a *corpus permixtum*, with saints and evil people mixed together. He, of course, also teaches that the church is holy, pure and without sin, but only by synecdoche, by virtue of the holy part which is there first of all by imputation, and so we say we are pure and holy because sin is not imputed to us (491, 23-494, 1).

⁴⁸⁸39 I, 489, 1-496, 19: *Praefatio D. M. Lutheri*.

Whereas the antinomians hold that sin has been removed *formaliter*, Luther teaches that sin has been removed by mercy and grace, and that we are righteous *reputative seu imputative*. Since the antinomians deny sin still exists, they know nothing of the lifelong struggle between the flesh and the spirit that goes on in Christians; they deny that a remnant of sin still adheres to the flesh. But through faith not only is sin not condemned, it is pardoned. However, the purpose of forgiveness is not to free us to become secure and follow the ways of the old Adam like the antinomians do, but to join the battle against sin, the world, the devil, and the flesh. This is the truth of the Christian life: we are holy in Christ through faith but sinful in ourselves on account of the flesh. Luther states the two ways in which we are pure and holy (a *modus loquendi* well-known to us by now): first, through imputation, because sin is not imputed to us; secondly, we are also formally righteous because, through these first fruits [*istas primitias*] and the Holy Spirit, who has been given to us through faith, we begin to struggle and fight against sin (493, 24-494, 3). It is significant that Luther claims that the antinomians were leading people away from the *divina reputatio* and from Christ, on account of which they are righteous and blameless before God, and taking them across into the kingdom of darkness that they might follow that which belongs to the *homo carnalis* and the old Adam. Luther certainly agrees with his opponents that the church is pure and that sin has been removed, but he tells his listeners to see that they properly distinguish: *Quoad Christum*, we are that, but *quoad nos*, we struggle continually with the devil and the flesh (493, 15-20).

Luther dwells on what it means that Christians are soldiers, engaged in mortal combat with the devil. This calls for great vigilance on our part so that we are not caught offguard by the evil one who prowls round like a hungry lion (1

Peter 5: 8; cf. Matt. 24: 43 on the householder and the thief). The teaching of the antinomians, on the other hand, has a soporific effect on its hearers; it induces laziness, indifference, and a false sense of security. They open the door to the devil and let him in (494, 3-495, 10).

The purpose of the disputations, Luther tells his audience, is to arm them for lifelong battle against sin and Satan. Luther lays down his own two *principia* to keep people from becoming upset by the opinions of the antinomians: The church is wholly pure, but it is mixed with hypocrites and evil people, in fact it also carries around its own flesh and is often wavers and errs, the saints too (496, 4). Therefore, it is necessary for them to be admonished, roused, and called to the battlefield, so to speak, in order that they do not forget that they are surrounded by the enemy. Luther reminds his hearers that, unlike the antinomians, we must speak of sin in the same way for we are embroiled in a lifelong struggle against the sin that inheres in the flesh (cf. Heb. 12: 1). In an eloquent passage he warns them not to expect peace for they are soldiers in the Lord's army: *Neque est, quod speremus pacem, quia sumus sub domino exercituum, sub Sebaoth, neque dormientium neque stertentium, sed militantium sub domino, qui est Christus Iesus* (496, 13-15). Therefore, the church in this life is the *ecclesia militans* and will only become the *ecclesia triumphans* when our last enemy, death, has been finally overcome and destroyed.

Disputation
Translation and Analysis of Arguments
Morning Session

Argument 1⁴⁸⁹
Contra 15
A^I (left col.)

The consciences of the godly are to be made certain. The law does not do this. Therefore, the law is not to be taught.

Response: The argument is incomplete, and, as it were, equivocal and confused about this making certain. Therefore, its conclusion is nothing. Something must be added about grace. For the law in general gives certainty and even too much, namely, with regard to our sins, and not only does it do this in the evil and ungodly, because it screeches at us of our sins and offers invincible testimony that we have not satisfied it, that we are under death and God's wrath, for we have not ever kept the law of God. And our heart is witness to this its own condemnation and certitude because it is compelled to confess such things, whether it wishes to be or not. The law also gives the righteous certainty in the sense that they know that they still have a remnant of sin in the flesh and are not so pure. Therefore, the argument could be formulated in this way: The law does not give certainty in regard to grace or the forgiveness of sins. Therefore, the law is not to be taught. However, the conclusion is denied because the law was not given to make you certain about the forgiveness of sins, but only to terrify and convict you in order that you learn to seek and await the grace promised in the gospel on account of Christ, not on account of yourself or any work, which can spring from our own powers or human reason, as Paul argues with regard to the law in Galatians 3 and 4. But this use of the law the Antinomians reject, since they condemn as virtual sacrilege the assertion that the godly are terrified by the law. They do not listen to what we have so often taught and written about the law, namely, that when it comes to justification, let the whole law, the fulfillment of the law, and the doctrine of works, however great, be silent. And let it think that its teacher, Moses, was a stammerer and not a very capable speaker. Therefore, he should neither make me certain nor do anything else, but he is against me and is more vociferous

⁴⁸⁹39 I, 496, 18-499, 2. For MSS used here and elsewhere, see the WA. The majority are given as Rel. A with the inferior Rel. B printed at the bottom. However, in several cases two independent versions of A are given, A^I (left col.) and A^{II} (right col.), the second being a brief summary of Luther's *responsio* (sometimes omitting the *argumentum* but most times repeating it). In the interests of economy we will omit A^{II}.

than a stentor himself, constantly shouting at me in thunderous tones: Here! Do this, my good fellow, be godly, be holy, see to it that you are the best soldier in battle, nevertheless, you have still not satisfied me, you still do not believe, you are a great sinner, full of perverse passions and the most evil desires, which you will have to overcome otherwise you are finished. He tells such voices and loud thunderclaps to sit in judgment on my heart when it is without Christ and his free imputation, in order to crush me and with his hammer destroy any trace of perverse desires, and even to kill us, in so far as such is found in us. Therefore, the law must remain and be carefully sharpened in relation to the fighting side, that is, insofar as we live and move here in the flesh and among people. For while we live in this life we will never be so pure that the law does not find a certain number, indeed very many, blemishes in us. For from adolescence we are prone to evil. The law belongs to the fighting side, not to the triumphing side, that is, it has no place when the issue is justification and the peace of conscience, because here we are in the Lord, who is our bridegroom, and he does not allow anybody else to sleep with him in this narrow bed. Here he alone wants to rule and be king, and finds it altogether intolerable that the flesh and outer self of his consort can be admonished, exhorted, brought out, and led into the battle, but he himself wants to comfort the conscience, and the Holy Spirit, who equips his people sufficiently, has been given for this purpose.

In summary, the law gives us certainty about sin, because it still inheres in our flesh, and it admonishes us not to despair, not to hate God, and not to rebel against his commandments and many other things. But our antinomians do not pay any attention to these faults and diseases that still inhere in our flesh, neither do they want to be convicted of these things; they are truly sweet and worthy theologians for they are warmly received into the highest heaven!

Luther calls the *argumentum semiplenum* because the syllogism is incomplete and as such makes no sense.⁴⁹⁰ Additionally, he says that it is *quasi aequivocum et confusum de certificatione*. The equivocation comes out in the failure to distinguish between law and gospel. The law does give the conscience certainty, but it is the certainty of sin and guilt, that we are under wrath and have not kept God's law. Likewise, it also gives the righteous certainty [*iustos certificare*] in the

⁴⁹⁰For an almost identical *argumentum*, see 39 I, 513, 17-19 (3 AD, Arg. 6) where at least the syllogism makes sense.

sense that they know that they have *peccatum reliquum* in the flesh and are not *puri*. Luther sports with the antinomians when he helps them improve their argument. If they had proposed the argumentum: *Lex non certificatur de gratia seu remissione peccatorum*, at least it would not have suffered from any equivocation, but he would still reject the conclusion: *Igitur lex non est docenda*, on theological grounds (497, 17-19). The hypothetical argument indicates the limits of the *certificatio* produced by the law. The law can never give us the certainty of the forgiveness of sins, but only that we are sinners, and it does this by terrifying and convicting the conscience. This is the proper work of the law, and yet it is just this *usus legis* that the antinomians condemn in principle as *sacrilegium*, because it asserts that *lege terreri pios*, and thus contravenes what we have heard already from the *Praefatio* is one of the chief antinomian *principia*, namely, that Christ has removed all sin *formaliter* and that therefore Christians are pure and without any sin. The only exception to Luther's counter-rule (not stated here but implied), *lex semper accusat* is the article of justification. When it comes to that [*quoad iustificationem*], the law is silent and Moses a stammerer. Otherwise, wherever Christ and his free imputation is missing, Moses thunders at me with a stentorian voice and the law crushes me with its hammer. Indeed, the law must be carefully sharpened for its two "polemical" functions (*duplex usus*): fighting sin in the flesh (*usus theologicus*), and restraining evil and governing life in the world (*usus civilis*).⁴⁹¹ When Luther says that the law must be sharpened in relation to the

⁴⁹¹This is our interpretation of the somewhat difficult sentence: *Quare lex debet manere et diligenter acui in parte militante, hoc est, quatenus hic in carne et hic inter homines vivimus et agimus* (498, 10-12). The first problem is to determine the referent of "*in parte militante*." The phrase is the counterpart of *in parte triumphante*, which is here understood. A few sentences later both phrases recur in a different syntactical construction: *Lex pertinet ad partem militantem, non autem ad*

fighting side but not the triumphing side [*Ita lex pertinet ad partem militantem, non autem ad triumphantem*], he means that it must be applied to the Christian insofar as he is and remains a sinner and lives in the world, but that it has no role insofar as he is righteous. In other words, when it comes to justification and the certainty of the conscience, there Christ and his *consors* are alone in undisturbed bliss, for the *sponsus* does not allow the law to share the bridal bed. He wants to be *rex* and to have sole rule over his bride (and by extension in the conscience of his saints). So protective is he of her that he is even *admodum impatiens* that the *carnem et externum hominem* of his *consors* can be admonished and led into battle by the law [*admoneri, exhortari et produci in pugnam ferre potest*]. But that is not his chief concern, which is rather the comfort of the conscience through the Spirit.

In his summary, Luther makes it clear that the antinomians reject the law because they do not believe that *vitia et pestes [=peccata] haerentes in carne nostra adhuc* (498, 24).⁴⁹² His use of irony at the end reveals his growing impatience: he calls the antinomians *suaves theologi et digni* (499, 1-2), sweet no doubt because they do not preach the condemning law, and worthy because they are without

triumphantem, hoc est, quando agitur de iustificatione et pace conscientiarum . . . (498, 14-16). It seems that the referent could be either *christianus* or *ecclesia*. If the former, the contrast would be between the *peccator* and the *iustus*; and if the latter, between the church militant and the church triumphant. Both of these are inter-related so that a choice of one does not exclude the truth of the other. We think that it is best to take the referent as the Christian because the context is talking about the fight against sin; by the same token it is for just this reason that Christians belong to the *ecclesia militans* and not yet the *ecclesia triumphans*.

⁴⁹²A similar *argumentum* to the above is put to Mörlin in his *Promotionsdisputation: Christiani debent habere bonam conscientiam. Lex perturbat bonam conscientiam. Ergo non est docenda* (39 II, 137, 11-12) (Arg. 22). The *responsio* makes it clear that when law and gospel are properly distinguished such a conclusion cannot be maintained: *Nam quatenus habent Christum, eatenus habent tranquillam conscientiam* (138, 2-3).

any stain of sin and thus fit for heaven. In actual fact the only one worthy to be called *dignus* is the *agnus Dei* who takes away the sins of the world. Any claim to be worthy that does not find its basis in the forgiveness of sin through the blood of the Lamb is ultimately futile and baseless for it attempts to build on another foundation other than that which has been laid in Jesus Christ (1 Cor. 3: 11).

Argument 2⁴⁹³

A^I (left col.)

Those who burden the church with laws put God to the test, Acts 15.
You burden the church with laws. Therefore, you put God to the test.

The minor premise is true.

Response: This is a very good and complete argument and most appropriate to the matter under discussion. However, it requires an understanding and interpretation of the thesis and especially Peter's words in Acts 15, which should not be cited in truncated form, as some do against us, but in their entirety. Peter in this passage is arguing with those who would fight and say: you cannot be saved unless you are circumcised and keep the law of Moses. What else would they attempt to do with these words than bury Christ and deny that he came in the flesh, or as it says elsewhere: If we are justified on the basis of the law, Christ will be of no benefit to us and our faith will be futile [cf. Gal. 5: 2]. But to say that Moses with his law can save and liberate from death is indeed nothing else than putting God to the test, in fact blaspheming and trampling the blood of Christ, the Lord, under foot. Therefore, Peter is speaking only against those who, with this opinion of righteousness, burdened the disciples with the law, because that the law was not given for the purpose of justifying or making alive, as Paul says to the Galatians [Gal. 3: 21]. Indeed, we will not permit any law, either ceremonial or judicial, not even the Decalogue itself, to be imposed on us with this opinion. We do not concede this power, namely that of saving, to the law, not even to the divine law, much less human laws, because it was for this that the lamb of God was sent. For Moses' lamb, together with his ceremonies and sacrifices, could not do this as, the letter to the Hebrews argues, neither could it be done with the blood of bulls and calves [Heb. 10: 4]. Therefore, look for another use of the law or stop speaking about it. Let it be this, namely, that the church needs the law in order that not only might the ungodly be restrained by it as with chains, but also that the godly, who still have a remnant of sin in the flesh, can be admonished and convicted lest

⁴⁹³39 I, 499, 5-503, 3.

they become secure and begin snoring. Furthermore, the church needs the law that the godly may be aroused, as it were, to battle and warfare against the remnants of sin and temptations, which will be great and many at any age. It has been laid down also for the holy and righteous Paul, not insofar as he is holy and righteous, but insofar as he is flesh and must be convicted by the law. For example, if I am a Christian and still a robust adolescent, and I chance upon some shapely girl or woman, unless I am completely mutilated, I cannot but be affected by her, although I am baptized and justified, so that I desire to caress her, if only it were permitted and there was no disgrace or other punishment to fear. But, on the other hand, if I am a Christian, my heart and the Holy Spirit within my heart immediately cries out: Get behind me, Satan, say nothing; no, no, madam flesh, be silent, keep quiet, you must not urge or rouse me to defilement, adultery, and lust or in the hope that by means of this there are other shameful deeds against my God that I may do, but I will wait in expectation until God has given me someone whom I will love. For her also I will make an end, I will leave this woman for her husband and her children. These words and those like them are not human, but are Christ's and the Holy Spirit's who speak in the heart: "Leave the girl in peace, I will give you someone else in due time whom you will love." This Christian, although he is affected by sex, still obeys the Spirit, deprecates this evil that he feels, and prays that he may not enter into temptation [Matt. 26: 41]. This then is truly what it means to take sin captive, although it does not happen without great trouble and difficulty. For not only is there the intense flame of passion which at that age vigorously consumes the strong youthful flesh, but above all there is also the devil, who can inflame even dead coals, as we sometimes see in lovers who are advanced in years. Nevertheless, he stands firm, obeying the word and law of God which says: Do not covet, and the Holy Spirit, who admonishes him regarding this will of God, and he does not succumb. However, when the ungodly are tempted by such things, as they often are, they plunge headlong into every vice, thinking only about how they can gain possession of the things that have pleased them. Meanwhile, I do not know what they are not capable of prattling on about concerning Christ and the gospel; it is as if the Holy Spirit were living in their mouth! The same happens with all other sins. If Christians are tempted by avarice and could cheat and deceive others, given the right opportunity and occasion, still they do not, because they know the law and are aware of the sin in their flesh, which they fight against day and night. On the other hand, if the ungodly person can make ten pieces of gold out of one, he does so and sells his goods for as much as he can, caring nothing about whether it is fair or excessive. For the same reason, whenever the godly are tempted by grave temptations, such as lack of trust, despair, hatred of God, and blasphemy, or where they begin to doubt whether they are pleasing to God or whether he cares about

them, they immediately return to the word of Christ in the passage: Why are you downcast, my soul? [Ps. 42: 6]; likewise, Do not fear, little flock, for it is the Father's pleasure to give you the kingdom [Luke 12: 32]. Although Satan is very persistent, they say: Is it not true, Satan, that you are a liar? But as in the previous things, so also here, the ungodly yield to the devil, and do not even try to escape, because unlike Christians they do not fight against sin, passions and lusts. Thus, in these Satan triumphs and powerfully drives these rebellious children into all kinds of vices. However, each age has its own peculiar vice and sin which may trouble it: children and adolescents, disobedience; young people, lust and indulgence; older people, ambition and avarice; we theologians and doctors, κενοδοξία, vainglory, pride in the gifts of God, but the true saints are vexed by despair. But just as these things are peculiar to each age, so the taking of the spear and sword of the Spirit, which is the word of God [Eph. 6: 17], should be the mark of all of them, and we should fight and not snore in the midst of such great evils.

This is roughly what we wanted to say in order that the Antinomians do not deceive us. Therefore, we also say that churches and consciences must not be burdened by any law (and Peter says the same) that teaches that salvation and justification are obtained from it. In this way and for this reason the law is to be abolished, as Peter recommended, and rightly so. But because remnants of sin still remain in us Christians and since the great majority of people are evil, the law is to be diligently taught and sharpened so long as this corrupt nature remains. Thus, Paul says that the law was laid down for adulterers, fornicators, immoral people, parricides and matricides [1 Tim. 1: 9-10], but believers also often fall into these and similar things. Therefore, the law must remain and not be removed from the churches. But if in the opinion of the antinomians we are completely pure and blameless, like the angels in heaven, we readily concede to them that the law is to be removed from the world and not only from the church.

This is the third time Luther has addressed this argument and this time is the most detailed.⁴⁹⁴ Unlike the previous *argumentum*, this one is *bonum, plenum* and *aptissimum ad hanc causam*. However, the thesis as it stands is not precise enough for it fails to distinguish between the ceremonial and juridical law, on the one hand, and the Decalogue, on the other. What the apostolic council outlaws in Acts 15 is the doctrine that circumcision and the observance of the *lex Moisi* are

⁴⁹⁴See 2 AD, Arg. 26 for other references.

necessary for salvation. That is nothing else than *tentare Deum, imo blasphemare et conculcare pedibus sanguinem Christi domini*, because it destroys the gospel by negating the sufficiency of the *solus Christus*. The Decalogue, on the other, has not been abolished like the law of Moses because it expresses God's abiding will but it is not the way of salvation. Luther insists that we must not permit any law, not even the Decalogue, to be imposed on us as a requirement for justification [*hac opinione*]. That is an *abusus legis* of the same order of magnitude as that promoted by the Judaizers.

Luther maintains that there are only two ways in which the law may rightly be used in the church, and hence these are the two reasons why the law is to be retained:⁴⁹⁵ First, to restrain the ungodly, and also to admonish and convict the godly insofar as they still have a remnant of sin in the flesh. Secondly, to admonish and convict the godly, on account of the remnant of sin in the flesh, in order to rouse them to do battle against it and to fight temptation, lest they become secure and go to sleep.⁴⁹⁶ This statement is significant for the way in which it formulates the role of the law in the life of the *pii*. The first reason given for its retention, to restrain the *impii tanquam vinculis*, is straightforward and corresponds to the *usus civilis*. The second, however, as we indicated, is signifi-

⁴⁹⁵It may be argued that Luther in effect cites three reasons for retaining the law in the church; however, it is our conviction that there are really only two: one for the godly and one for the ungodly, and that the latter has two parts to it. He does not talk formally about a *duplex usus*, but this can be inferred from what he says. However, as will become apparent it is not stated in the same way as we are accustomed to hearing it.

⁴⁹⁶500, 10-13: *Ecclesia opus habet lege, non tantum, ut impii ea tanquam vinculis coercerentur, sed etiam, ut pii, qui adhuc habent peccatum reliquum in carne, possint moneri et argui, ne fiant securi et stertentes, ut excitentur, quasi in pugnam et militiam adversus reliquias peccatorum et tentationes.*

cant because it links *moneri* and *argui* as the two functions of the law in the life of the *pii* who still have *peccatum reliquum in carne*. The *moneri*, which can mean to admonish, remind, warn, advise, instruct, is really descriptive of *parenesis* and as such fits the category of the *tertius usus*, even though Luther does not use that nomenclature. However, it is instructive to observe that this *moneri* does not function apart from the *argui*. This close nexus between the two is typically "Lutheran."⁴⁹⁷ Luther can certainly say that Christians need the instruction of the law, although he normally qualifies that and says that it is Christians *qua* sinners, however, the purpose and indeed the result of this instruction and admonition is never simply to teach them God's will or the good works that he has commanded them to do, but also to lead them to repentance. Sanctification is really nothing more than daily repentance, which in turn means a return to our baptism [*progressus ad baptismum*] and the mortification of the flesh. Luther sees the *moneri* and the *argui* as being especially important lest the *pii* become *securi et stertentes* (literally, snorers) and are not armed and ready to wage battle against the old Adam and the temptations that daily beset us.

As we have already seen Luther singles out this lack of vigilance and *securitas* as one of the chief traits of antinomianism for they believed that sin could no longer harm them since it had already been removed formally. He, on the other hand, knows both from his own experience and from scripture that the temptations of Satan and the sinful flesh combine to form a formidable foe, which can only be fought off with the sword of the *gladium spiritus = verbum Dei*. By using

⁴⁹⁷It is our hypothesis (although this cannot be demonstrated here) that this close nexus was undone by the seventeenth century Lutheran dogmaticians and that, predominately under Melanchthonian influence, the *tertius usus* was isolated from the *usus theologicus* as the *usus praecipuus legis*.

an illustration to show how temptation works in the life of a young Christian man who happens to meet a beautiful woman, Luther shows exactly how Christ and the Spirit work in this situation together with the law. The urge to touch the woman is strong, and remembering that he is baptized is not enough. The thing that finally restrains him is the law, the threat of disgrace and punishment. But at the same time Christ and the Spirit empower him to renounce Satan and the urgings of the flesh so that the *homo novus* prevails and sin is kept in check, but not without a violent struggle. Here one is reminded of Joseph's words when he rebuffed the advances of Potiphar's wife. After recalling all that his master had given him so that he was lord in his master's house, Joseph says to her: How can I do this great wickedness, and sin against God? (Gen. 39: 9). Luther says that these kinds of voices (and in the case of our example, that God will supply the young man with a wife of his own in due time whom he will love with body and soul) are not *voces hominis, sed Christi et Spiritus sancti*. Although the *adolescens* is affected *sexu*, nevertheless he heeds the Spirit [*obedit Spiritui*], turns his back on this evil [*deprecans hoc malum*], and prays that he enters not into temptation. This, in a word, is what it means *peccatum captivare*: to renounce sin in the power of the Spirit (= repentance), and from this arises the will to pray for the strength to resist temptation. This is to watch and pray, to walk by the Spirit, and all of this is sanctification. Luther draws an helpful comparison between the *tentatio* of the *pii* and that of the *impii*. In the former case the Christian, in spite of *ardor libidinis maximus* and the old evil foe, stands firm, giving heed to God's word and to the law [*Sed tamen stat firmus obediens verbo et legi Dei, quae dicit: Non concupisces*], as well as to the Holy Spirit, who admonishes and reminds him about this will of God [*et (obediens) Spiritui sancto admonenti eum de hac voluntate Dei*].

Here again we note the important conjunction of God's word/law and the Holy Spirit. The law never acts alone in restraining sin but is always accompanied by the Spirit, for word and Spirit cannot be separated. The *impii*, on the other hand, may babble words about Christ and the gospel, *non aliter, ac si Spiritus sanctus habitaret in ore eius*, but the words are meaningless for they do not believe him. Instead of heeding the law and the Spirit and renouncing sin, they willingly succumb to it. Christians can be sorely tempted by all manner of sins but they do not succumb because they know God's law and are aware of the sin in their flesh [*quia novit legem et intelligit peccatum in carne*] which they fight against day and night. If the temptation is to sin against the Second Table, they will not only heed the law but also remember who they are as *baptizati et iustificati*; if the temptation is to sin against the First Table, such as despair, hatred of God, or if they doubt whether they are pleasing to God and whether he cares about them, they will immediately run, to cite Luther, *ad verbum exemplo Christi: Quid tristis es, anima mea?* (Ps. 42: 6), or again: *Non timere, pusillus grex, quia placitum est patri dare vobis regnum* (Luke 12: 32).⁴⁹⁸ Luther draws on wisdom and experience to characterize the sin and temptation that is peculiar to a given generation,⁴⁹⁹ yet in every generation the *veros sanctos vexat desperatio*. It is precisely the reality of this constant struggle of the spirit against the flesh that forms that basis of Luther's

⁴⁹⁸The *placitum est patri* (502, 1) picks up and answers the question of the doubting Christian: *utrum placeat Deo an sit ei curae* (501, 22). In a nice reversal Luther shows how the inward looking question of whether we are pleasing to God, which is always prompted by the law, is answered by the gospel which declares that God is pleased with us for Christ's sake.

⁴⁹⁹It is interesting to note in passing that, according to Luther, the special temptation facing *nos theologos et doctores* is κενοδοξία, *vana gloria, superbia in donis Dei* (502, 8-9).

call to all the saints to take up arms, especially the *gladius spiritus*, yet in the final analysis it is not our battle but the Lord's, and the weapons we use are his and not ours for they have divine power to demolish strongholds. All of which means that while part of the strategy of fighting in the Lord's army means knowing how to destroy arguments and every proud obstacle to the truth and how to take every thought captive to Christ (2 Cor. 10: 4-5), yet at the end of the day, we are not called so much to fight as to stand firm and claim the victory that is already ours through faith in Christ.

In summing up the burden of his message, Luther reiterates that while the churches and consciences are not to be burdened with the law if it is made a condition of salvation [*opinione iustitiae*], nevertheless it must be retained, taught and even sharpened [*acuenda*] because Christians themselves are still burdened with *reliquiae peccatorum (usus theologicus)*, and because *maxima pars hominum* are still *mala (usus politicus)*. He cites again 1 Tim. 1: 9 -10 to emphasize that the law was not given for the *iusti* but *adulteris, moechis, scortatoribus, parricidis et matricidis*, however, insofar as the *pii* can also often fall into such sins, it has also been given for them. It is important to note that when Luther speaks about the role of the law in the *vita christiana* he never simply makes one statement but always two, and this reflects his distinction between law and gospel. Not only must we distinguish between the *pii* and the *impii*, but also between the old and new natures within the *pii* themselves, for although they are one person, they are radically split and at war with themselves.⁵⁰⁰ Therefore, when Luther speaks about the

⁵⁰⁰Paul speaks autobiographically in Rom. 7: 20 of the dichotomy of his own existence as saint and sinner under law and gospel: εἰ δὲ ὁ οὐ θέλω [ἐγὼ] τοῦτο ποιῶ, οὐκέτι ἐγὼ κατεργάζομαι αὐτὸ ἀλλὰ ἡ οἰκοῦσα ἐν ἐμοὶ ἁμαρτία.

abiding role of the law for Christians in this life, he normally qualifies that for he does not say that the *iustus* as such needs the law, but only the *iustus, quoad peccator*.⁵⁰¹

Argument 3⁵⁰²

Contra 3

A^I (left col.)

People who are ruled by the law cannot have a good conscience. But Christians have a good conscience. Therefore, the law does not rule in Christians.

Response: The argument is good, considering that the theologians who think up such things are foolish. This argument tests our thesis.

Master. Responder, what do you wish and how do you want it expressed?

Stick with that distinction that we made earlier, the law does not rule over the Christian, that is, insofar as he is such. For laws are to be imposed, not on the victorious Christian but the one still waging war against the flesh. Thus, we concede the whole argument because every Christian certainly has a good conscience, and no good conscience is to be condemned or convicted by the law.

Why then, you will ask, do you say that the law is to be imposed on Christians and the godly, especially since Paul says that the law was not given for the righteous? [1 Tim. 1: 9].

Response: As you heard earlier, the Christian is a true Tom Thomas or a twin, namely, the fighting Christian and the victorious Christian, and insofar as he is victorious and lives in the shadow of the Lord's wings [Ps. 91: 1-4; Matt. 23: 37], as it says: Blessed are those whose sins are covered and to

The I that speaks is the new nature [πνεῦμα] which keeps sin in check, while the sin that dwells in me is the old self that must be continually put to death [σάρξ].

⁵⁰¹Luther's view as restated in the final sentence takes the argument of the antinomians *ad absurdum*: *Quod si Antinomorum sententia essemus toti puri et integri, ut angeli in coelo, facile eis concederemus, legem e mundo, et non tantum ex Ecclesia tollendam esse* (502, 21-503, 3). The *sancti* minus the sinful *caro* equals the *angeli*, which is what the antinomians are virtually claiming for themselves with their false realized eschatology. Yet Luther, granting their claim for the sake of the argument, concedes that if that were in fact the case, there would no longer be any need for the law in either its theological or political use.

⁵⁰²39 I, 503, 7-508, 9.

whom the Lord does not impute their sins [Ps. 32: 1, 2], they are not answerable to any laws. Here let us farewell Moses, let him go to the birds with his stammering tongue, here I hear nothing, neither heaven nor earth, here let him be silent, nothing else is heard apart from the fact that it is said: Be of good cheer, be of good cheer, little flock, for it has pleased your Father [to give you the kingdom] [Luke 12: 32] again: Rejoice in the Lord [Phil. 4: 4]; again: Be courageous, stand firm, be strong etc. [1 Cor. 16: 13]; again: Why are you downcast, my soul, why do you distress me? [Ps. 42: 6]. Therefore, leave the Christian, insofar as he is that, unconfused and at peace. For they cannot stand accused or convicted and at the same time be righteous or deemed righteous. But Christians through faith in Christ are righteous, however in themselves they still have sin clinging to them.

Here then I come to another sphere far different from the former, to the Christian as soldier who still lives in the flesh, and I come to myself and my own person. Alas! how great a sack of miseries I see here. This is you and I, to the extent that we commit all such shameful deeds in our power, except that ignorant people may possibly be unaware that we are in fact bound to experience daily the truth of what Paul says of himself: I see another law in my members etc. [Rom. 7: 23]. But as soon as these things happen, and also this law or that carnal nature, which has been infected by Satan's venom in paradise, reveals itself and solicits hapless Christians either to lust, avarice, despair, or hatred of God, there, I say, let Christians rouse themselves and say unperturbed: So you are still here I see, Master Sin, it is good you have come. Where were you? Where have you been amusing yourself so long? Surely you are not still alive? Of what use are you to us? Off with you to the cross! Not thus, not thus will it go (as you wish). I will serve my lady and do what is fair, however much you may be against it. And the more you would captivate me with blandishments or entice and solicit me to defilement and lust and despair, the more I will laugh at you, and, relying on the help of my Christ, with a strong and brave heart, the more I will defy you and bruise your head [Gen. 3: 15]. What am I answerable to you for? I have another Lord, in whose camp I am now a soldier: here I will stand, here I will die. He is that glorious soldier and brave St. George, who wreaked great havoc on the devil's army and defeated it gloriously, as Paul says: In all these things we are more than conquerors through Jesus Christ [Rom. 8: 37], and he does not permit the sins in his flesh to devour him. For each of us, whatever our age or lot in life, cannot but feel many sins and passions, yet with the Lord's help we do not permit them to rule us. I see that my flesh tastes the same thing that the Turk, the pope and all the world taste, but it does not assent to it, it does not let the lice make their nest in his coat. Thus, Paul has sin but it is conquered and weak, whereas the unbeliever has sin that is alive, ruling, and triumphant. The syllogism therefore is true and valid and is not against us because in relation to Christ we are

saints, lords over sin and death. Here in this conscience only Christ, the bridegroom, must sleep with the bride; here Moses is not admitted. For Christians, while they remain under the wings of their hen, are free from all laws, and here even if they are given occasion, place and time, they are still the same, they are not changed, they always have in view the Lord whom they know sees everything and kills the sin in their body. And it is of these that Paul now says: Do not grieve the Holy Spirit [Eph. 4: 30].

Thus Cyprian writes about some martyr who, because he had willingly laid down his life for the name of Christ, was not allowed to die, but was bound hand and foot and locked away in a solitary place, and all the most shapely girls you can imagine were sent in to him. Although each of them offered every single allurements in order to incite him to defilement with the promise of life, and although for that reason each was alone with him for a long time tempting him, they accomplished nothing, but rather each day he all the more laughed at them and mocked them. He spat in their faces and sent them away. Since in the end he even considered spitting at harlots nothing, he bit out part of his own tongue and spat it out at them with these words: the soldier of Christ, even if bound hand and foot, fights valiantly. Cyprian rightly calls this man a soldier of Christ, who although his flesh raged from being all alone with the most shapely girls in a solitary place, with the promise of life, could not be overcome and driven to desire, but like a strong bulwark stood firm in the faith of Christ; he would rather have perished than have displeased his Lord by being overcome by a woman. And was that not a great victory of the Christian soldier, who overcame the world by his faith [1 John 5: 4], and would not suffer himself to be overcome by harlots? Christians feel themselves moved and inflamed by wrath and hatred, consumed by passion, and burning with desire for glory, money, power etc. Therefore you will say: Can such people be Christians? This I deny. Whence do you know that those things in you are sins and displeasing to God? From the law: You shall not kill, you shall not covet. In this respect certainly you are not a Christian, but in the meantime they fight and do not suffer themselves to be conquered nor sin to rule. They are, and are called, Christians on account of faith in Christ for whose sake the evil still present is not imputed to them. I implore you to learn this well.

Believe me in this, when we are dead many will not teach these things, nor will they make this distinction, even when these things are extremely common in the whole of scripture, and is something that even Romans 7 by itself proves sufficiently. What can be said more clearly than this in the Psalm: Blessed are those whose iniquities have been forgiven and whose sins have been covered [Ps. 32: 1]. And immediately the prophet adds: Regarding this iniquity, every saint will surely pray to you [Ps. 32: 6]. So also John 3: No one born of God commits sin [1 John 3: 9]; and the same: If we say we have no sin, we deceive ourselves [1 John 1: 8]. What is this?

How do these agree? How are these two things in harmony: being a saint and praying regarding sin? It is utterly amazing. If any one can make rhyme or reason of that let him try. Two opposites in the one subject and at the same time. If you are a saint why do you cry out? Because I feel sin clinging to me, and so I pray: Let your name be hallowed and your kingdom come. O Lord, be gracious to me. But you are a saint. But are you a saint? Certainly, insofar as I am a Christian, for to that extent I am righteous, godly, and belong to Christ, but insofar as I look at myself and my sin, I am wretched and the greatest sinner. So, in Christ there is no sin, and in our flesh no peace and quiet, but continual fighting for as long as this old Adam and this corrupt nature remain, and that will not be destroyed except by the same death.

Luther commends the *argumentum* in a backhanded fashion without endorsing the conclusion. The syllogism bears a resemblance to *argumentum* 1 insofar as both have as their concern the Christian *conscientia*. There the issue was that the law does not make the conscience certain, here that it does not make for a good conscience. The syllogism is aimed against the opening theses of the fifth *Thesenreihe*,⁵⁰³ which assert that the law rules in people for as long as they live and that it is only when a person dies that he is free from sin. Furthermore, as Luther goes on to show in his theses, since the Christian has already died to sin in Baptism, insofar as a person is a Christian, he is free from the law. However, it is precisely this distinction between saint and sinner that the antinomians fail to make. Hence, their assertion: *Ergo christianis non dominatur lex*. For Luther the proper distinction between law and gospel leads to another distinction that is vi-

⁵⁰³See 39 I, 354, 17-19 (ATh V, Ths. 1-3). Although our *argumentum* specifically indicates that it is contra 3: *Necesse est igitur hominem mori, si a lege velit liberari*, this can only be taken as an approximate reference, because the theses are closely interwoven. It could just as correctly be contra 1: *Lex dominatur in homine, quanto tempore vivit*. Cf. *argumentum* 1, which is marked contra 15: *Prorsus imperiti et mentium deceptores sunt, qui legem ab Ecclesia tollere volunt* (355, 7-8). This is really only a vague reference to Luther's polemic against the antinomians in general, rather than to anything touching specifically on the *res* of the syllogism.

tal for theology, and that is the distinction between the *christianus triumphans* and the *christianus militans*. Notice that he advises his co-respondent to stay with this *distinctio*. If one observes this distinction one can agree with the syllogism, as indeed the co-respondent maintains: *Et sic concedimus totum argumentum, quia certe omnis christianus habet bonam conscientiam, et nulla bona conscientia est damnanda neque arguenda lege* (504, 1-3).

Luther, in the main *responsio*, concentrates on the distinction between the *christianus militans* and the *christianus triumphans*, and he does so in answer to the specific question of an interlocutor: Why should the law be imposed on the *pii* when Paul expressly says that it was not given for the *iusti* (1 Tim. 1: 9).⁵⁰⁴ That question can only be properly understood when one knows that Christians, while saints on account of justification and faith, also remain sinners in this life because the old nature clings to them until death. Thus, Luther can call the Christian a true Tom Thomas or twin⁵⁰⁵ [*verum Thomam Thomistam seu gemellum*], because he has two natures, the old and the new. Insofar as he is still a sinner fighting the flesh, he is a *christianus militans*, but insofar as he is already a saint, pure and sinless in God's sight, he is a *christianus triumphans*. From the standpoint of justification and imputation, Christians are saints who are already living the victorious life under the shadow their Lord's wings; to them the Lord imputes no iniquity (the non-imputation of sin as the correlate of justification); and because they are

⁵⁰⁴Luther mentioned this text at the end of the previous *responsio* (502, 19-21). There he stressed the point that while the law was indeed given for the ungodly, it also applies to Christians for they are not yet pure and holy and often lapse into sin. While the general thrust of what Luther says in the present *responsio* is not new, many of the details are.

⁵⁰⁵Obviously an allusion to Thomas the twin in John 20: 24.

above the law, or better, have already fulfilled the law in Christ, they can tell Moses to get lost! For, as Luther says, they cannot *simul stare accusari seu argui et iustum esse seu reputari iustum* (504, 16-19). On the other hand, when we talk of Christians as they are in themselves, as God sees them without the shelter of the Lord's wings, they are nothing but a bag of miseries, as Luther says of himself [*Heu quantum hic miseriarum video*]. Our own experience serves to confirm the truth of what Paul says of himself when he speaks of the battle being waged within him between the flesh and the spirit (cf. Rom. 7: 21-25). Luther interprets the ἑτέρον νόμον of Romans 7: 23 as a reference to the *carnalis natura*, which has been infected by Satan's venom in paradise, and which incites us to all kinds of sins against both tables. But Christians, unlike the *impii*, in whom Satan and the old Adam enjoy unchallenged hegemony, do not capitulate to the desires of the flesh and the enticements of Satan, but fight against them in the power of the Spirit. Luther gives examples of the biting sarcasm that Christians can hurl at *domine peccatum*, because this "master" is no longer in charge of us but we serve under a new *dominus*, he who is *Dominus et Deus*.

In keeping with his theme of seeing the Christians as *milites* belonging to the *ecclesia militans*, he sees his new *dominus* as the captain of the army who leads the saints in battle against their arch-foe. Of course, like the holy war of the Old Testament, it is an altogether unconventional war, not only because of the weapons used, but above all because the captain, the Lord of hosts, fights and conquers the foe single-handedly.⁵⁰⁶ In the final analysis, it is the Lord's battle,

⁵⁰⁶Thus Luther can say of Christ, the *dominus*, in whose army he serves: *Hic est ille gloriosus miles et fortis Georgius, qui magnam stragem fecit in exercitu diaboli et gloriose vincit* (505, 14, 16).

and we are conquerors only in him through faith. The difference then between Christians and non-Christians is that the former are victorious over sin, whereas the latter are conquered by sin; the *pii* to be sure still have *peccatum*, but it is *victum ac languidum*, whereas the *impii* have *peccatum vivum, dominans, triumphans* (506, 1-3).

As we said at the outset, Luther agrees with the syllogism, but with qualification, and the qualification is that the statement (=conclusion), *christianis non dominatur lex*, be understood *ad Christum* (or more completely, *propter Christum per fidem*). To reinforce this he falls back on two favorite images, the bridal bed and the hen. In the Christian conscience (which is always the critical point where God encounters us in his word, both as law and gospel), *solus Christus cubare debet sponsus cum sponsa solus*, and Moses is locked out. But when we are unfaithful to Christ and leave the bridal bed, then Moses is given a hearing. Otherwise, he has no right to intrude on the intimacy of our union. To change the image, so long as Christians remain *sub alis gallinae suae*, they are free from all laws. It is only when we are away from our "hen" that sin can exercise its mesmerizing power over us. But so long as we stay under her wings (or, abide in the shadow of the Almighty; Ps. 91: 1), sin ceases to be our second nature and becomes something foreign, so much so that even given a favorable *occasio, locus et tempus*, we will not change our mind because our mind has been renewed (Rom. 12: 2).

Luther gives two reasons (the above is ours) for this constancy: Christians always have the Lord in view whom they know sees everything and kills the sin in their bodies. This comment is insightful. Even though Paul can appeal to his readers, by the mercies of God, to present their bodies as a living sacrifice holy and acceptable to God (and we can add: because it has been made that in Christ),

and although he can plead with them to glorify God in their body because they have been bought with a price and their body is temple of the Holy Spirit, nevertheless, when we come face to face with actual temptation it may well be the law that fortifies us more than the gospel. One would hope that Christians resist temptation out of Christ's love for them, for indeed, as Paul says, the love of Christ controls us.⁵⁰⁷ But if the flesh remains intractable, then it needs to be restrained out of the fear.⁵⁰⁸ Christians in temptation remember the Lord, Luther says, *quem scit videre omnia*. This is the omniscient Lord of Psalm 139 who knows our every movement and whom we can never escape. We are reminded here that the statement that the Lord is always watching us can be heard either as law or as gospel. He can be watching us as judge to see if we fall, or he can be watching us as savior to keep us from falling and to pick us up when we do fall. In the Christian both are likely to be present together, although the way it is formulated here puts more emphasis on the law.⁵⁰⁹ The other reason that Luther gives for

⁵⁰⁷2 Cor. 5: 14: ἡ γὰρ ἀγάπη τοῦ Χριστοῦ συνέχει ἡμᾶς, κρίναντας τοῦτο, ὅτι εἰς ὑπὲρ πάντων ἀπέθανεν, ἄρα οἱ πάντες ἀπέθανον. We take the ἀγάπη τοῦ Χριστοῦ as a subjective genitive, that is, Christ's love for us, the love of the one for the many. That is what controls/constrains us [συνέχειν], and is the prerequisite of our love for Christ (cf. 1 John 4: 19).

⁵⁰⁸This is really the reverse of the argument in 1 AD, Arg. 24, where Luther says that if we cannot reach the *duri et impenitentes* with *minae and terrores*, we should resort to *promissa et beneficia* (401, 4-6). In other words, if the *pii* are not moved to repentance by *promissa et beneficia*, they need to hear *minae et terrores*.

⁵⁰⁹Again, we must take the context into consideration. Here Luther is speaking to antinomians who deny the validity of the law and the reality of sin in the Christian life. Naturally then, Luther, in redressing this imbalance, needs to emphasize the role of the law in fortifying the Christian against temptation. However, it would be wrong on the basis of Luther's remarks here to think that

our constancy in the face of temptation is that the Lord, whom we always keep in view, also kills the sin in our body.⁵¹⁰ This surely refers to the mortification of contrition, an indispensable element in repentance, and an effect of God's law. And yet is it only God's law that kills sin? We have heard already that God can also use the gospel (cf. Rom. 2: 4: τὸ χρηστὸν τοῦ θεοῦ εἰς μετάνοιάν σε ἄγει) to lead people to repentance.⁵¹¹ And in Baptism already we were buried with Christ in death, and our παλαιὸς ἄνθρωπος was crucified with him so that the σῶμα τῆς ἁμαρτίας might be destroyed, and we might no longer be enslaved to sin (Rom. 6: 6). Baptism is gospel because it is gift: the gift of incorporation into Christ's death, liberation from the κυριότης of sin, and the gift of new life. On the other hand, the penitent who is struggling against sin does not want to return as a slave to sin after having tasted the glorious (if paradoxical) freedom of the Χριστοῦ δοῦλος. Therefore, he is only too happy for the law to aid and abet him in killing the flesh and keeping it subdued so as not to hinder him in his freedom πνεύματι περιπατεῖτε (Gal. 5; 16; cf. v. 25: στοιχωεῖν). Finally here Luther notes

he does not also see the gospel playing a role. Law and gospel belong together and both play their part in the struggle against sin just as in repentance.

⁵¹⁰It is worth noting in passing that Luther could have equally said that since through Baptism we have died with Christ to sin, sin no longer has dominion over us. Here then the emphasis is that we are dead to sin, rather than sin being killed. In reality both are true. However, the advantage of this way of speaking is that it can become the basis for parrhesia, as we see in Rom. 6: 11: λογίσεσθε ἑαυτοὺς [εἶναι] νεκροὺς μὲν τῇ ἁμαρτία ζῶντας δὲ τῷ θεῷ ἐν Χριστῷ Ἰησοῦ. When Paul writes λογίσεσθε, this is not wishful thinking on his part, but an appeal to act on the basis on this fact, namely, that we are dead to sin and hence that sin can no longer hold sway over us.

⁵¹¹See 39 I, 400, 15-402, 7 (1 AD, Arg. 24) for a discussion of how God can use many methods to lead the heart to repentance and to experience the *vim legis*.

that it is to people who are facing temptation that Paul is speaking when he says: *Nolite Spiritum sanctum perturbare* [μὴ λυπεῖτε τὸ πνεῦμα τὸ ἅγιον τοῦ θεοῦ] (Eph. 4: 30). This will hardly be understood by the Christian as law, for it is a call to live as Christians, to return to our baptism and be led by the Spirit in whom we were sealed for the day of redemption. To refrain from sinning in order not to grieve the Spirit is of a piece with the confession of Joseph who repelled the advances of Potiphar's wife with the words: How can I do this great wickedness [הַרְעָה] and sin against God [לְאַלְהֵי לְאֵלֵי הַיְיָ]? (Gen. 39: 9). And so to one imbued by the gospel and led by the Spirit the exhortation not to grieve the Holy Spirit is the language of faith, in other words, gospel. But to the impenitent or *impius*, who has surrendered to the flesh and no longer struggles against it, such an admonition can only be heard as law.

The story of the Christian martyr, which Luther says he got from Cyprian, is certainly a classical description of the *miles Christi* who fights valiantly against the passions of the flesh (here deliberately inflamed by his tormentors) in order not to deny his Lord in a moment of weakness.⁵¹² This leads Luther into a dialogical discussion of the nature of the *vita christiana* as a lifelong conflict between the old and the new nature. The fact that Christians feel themselves *moveri et accendi ira, odio, uri libidine, ardere se amore gloriae, pecuniae, potentiae etc.* (507, 5-7), does not ipso facto disqualify them from being Christians.⁵¹³

⁵¹²Hermelink (39 I, 506, n. 1) notes that no such report is to be found in Cyprian and that Luther is probably thinking of Tertullian's; cf. *Ad martyras*, ch. IV.

⁵¹³The mark of the Christian is not the absence of fleshly desires, but the struggle against them on the part of the new spirit-led nature. For this battle of the spirit against the flesh is characteristic of the new life and without it there can be no faith, for faith does not permit sin to rule.

However, he then speaks more precisely by distinguishing between law and gospel. From the vantage point of the law, even the inner affects and impulses of the flesh mentioned above (as opposed to works, which are manifestly sin) are sin, but from the standpoint of faith in Christ (which is what makes a Christian a Christian), these sins and evils are not imputed to the Christian, but Christ's righteousness instead. This bipolarity of the Christian life, which is taught in the whole of scripture, comes out especially clearly in Romans 7: 15-25, where Paul describes the contrast between the sarkic ἕτερος νόμος and the νόμος τοῦ νοῦς (where νόμος probably means "principle" as in 3: 27) corresponding to the new nature (ἔσω ἄνθρωπος) which takes delight in the law. In Luther's estimate, this distinction within Christians themselves, where on the one hand they are sinners *quoad sese* and *coram hominibus*, while on the other, *propter Christum per fidem* and *coram Deo*, they are saints (which in the final analysis is simply the distinction between law and gospel) will no longer be taught after his death. He further illustrates the antithetical nature of this contrast by citing two sets of scripture passages, where each contains two passages which stand in opposition to each other, if not contradiction. First he cites Ps. 32: 1: *Beati, quorum remissae sunt iniquitates, et quorum tecta sunt peccata* [אֲשֶׁר־יִגְשׁוּ־פְשָׁעַ כְּסוּי־חַטָּאתָה] And then several verses later the psalm writer says: *Pro hac scilicet iniquitate orabit ad te omnis sanctus* [עַל־זֹאת יִתְפַּלֵּל כָּל־חַסִּיד אֱלֹהִים] (Ps. 32: 6). On the one hand, according to the psalmist, saints are forgiven and their sin is covered, on the other, they are to pray for forgiveness. The contradiction is in logic not in theology. This same dialectic is found in the First Letter of John: On the one hand, 3: 9 says: *Qui natus est ex Deo, non peccat* [πᾶς ὁ γεγεννημένος ἐκ τοῦ θεοῦ ἁμαρτίαν οὐ ποιεῖ], on the other 1: 8 says: *Si dixerimus, quod peccatum non*

habemus, nos ipsos fallimus [ἐὰν εἴπωμεν ὅτι ἀμαρτίαν οὐκ ἔχομεν, ἑαυτοὺς πλανῶμεν καὶ ἡ ἀλήθεια οὐκ ἔστιν ἐν ἡμῖν]. The Christian is characterized as one who does not habitually or deliberately sin (this is the force of the present ποιῆ), not as one without sin altogether. This is a vital distinction and is simply another way of saying that the Christian is one in whom sin no longer rules but is ruled. Consequently, the hallmark of the Christian is not perfectionism or sinlessness, but rather the daily confession of sins. Again, any one who prays the Lord's Prayer must be a Christian (except of course the hypocrite) because no one can say "our Father" except those who know him as Father through faith in his Son. And yet this same Christian, who already possesses forgiveness in Christ, also prays for forgiveness.⁵¹⁴ Being a saint and praying regarding sin is not mutually exclusive, as the antinomians think.⁵¹⁵ Luther can only exclaim: *Mira profecto res est. Es ist warlich ein fein ding. Reim da, wer reimen kan. Duo contraria in uno subiecto et in eodem puncto temporis* (507, 21-508, 2).⁵¹⁶ Luther nicely captures

⁵¹⁴Luther also refers to the Lord's Prayer but slopes the reference in a slightly different way. He cites the first two petitions: *Sanctificetur nomen tuum, adveniat regnum tuum* (508, 3) as a cry for mercy [*Ah domine, sis mihi propitius*] that flows out of the struggle of the sinner-saint as he fights against sin. However, we think that our application of this to the Fifth Petition makes more sense.

⁵¹⁵It is surely legitimate to conclude that Luther's hypothetical partner in dialog were the antinomians. They probably cited texts to support the one side of the argument (e.g. Ps. 32: 1 and 1 John 3: 6, 9) and now Luther is redressing the balance and pointing out that saints are still sinners by their fallen nature. The words of 1 John 1: 8: ἐὰν εἴπωμεν ὅτι ἀμαρτίαν οὐκ ἔχομεν, ἑαυτοὺς πλανῶμεν καὶ ἡ ἀλήθεια οὐκ ἔστιν ἐν ἡμῖν could not better fit the antinomians if they had been written specifically with Agricola in mind. When Luther writes: *Quid hoc? Quomodo haec consentiunt? Quomodo concordant, sanctum esse et orare pro peccato?* (507, 20-21), he is no doubt anticipating their objection.

the paradoxical position of the Christian as *simul iustus et peccator* in the question and answer that arises and must arise whether the saints look at themselves to find some evidence of their new life: *Attamen es sanctus. Attamen es sanctus?* (508). As point and counterpoint, the difference between the two statements is merely a comma, yet existentially they represent two vastly different standpoints. The one a statement of faith; the other a statement of reason based on experience. However, in this life faith must continue to live with contradictions for it will continually be called into question by experience as it seeks empirical verification for faith's claims. Faith is separated from *experientia* (in the sense of what we know to be true based on observation or feeling) by a yawning abyss, and simply reflects the Christian's own divided self. Although one person he has two natures, the *novus homo* and the *vetus homo*, saint and sinner, not in alternation but *semel et simul*. It is this unresolvable tension, which is itself a result of the equally unresolvable tension between law and gospel, that virtually "splits" Christians to the core of their being, and drives Paul to exclaim: Ταλαίπωρος ἐγὼ ἄνθρωπος· τίς με ῥύσεται ἐκ τοῦ σώματος τοῦ θανάτου τούτου; only to answer his own question with gloriously defiant "nevertheless" of faith: Χάρις δὲ τῷ θεῷ διὰ Ἰησοῦ Χριστοῦ τοῦ κυρίου ἡμῶν (Rom. 7: 24-25).⁵¹⁷ In line with all of this,

⁵¹⁶This latter remark about two opposites being in the one subject at one and the same time was first cited as an axiomatic proof of the main premise of 1 AD, Arg. 8 (39 I, 375, 18-19).

⁵¹⁷We need to be careful how we describe the inner dividedness of the saint-sinner lest we convey the impression that the person is split in two. "Split" may capture the *effectus* but it misses the *res*. Saint and sinner, like the anthropological terms πνεῦμα and σὰρξ, are not two separate parts of the person, but two aspects of the one person, the former, corresponding to the καινὸς ἄνθρωπος, sees the person *in conspectu fidei*, while the latter, corresponding to the παλαιὸς ἄνθρωπος, sees the Christian *in conspectu peccati vel legis*.

Luther gives a double answer to his question: *Attamen es sanctus?*, for from the standpoint of law and gospel the Christian is always two things at the same time. And so he uses the phrase "*in quantum . . . , eatenus . . .*," not in a quantitative but in a qualitative sense to describe the two aspects of the *vita christiana*. On the one hand, he answers affirmatively [*Ita*]. From the vantage point of Christ and the gospel, that is, *in quantum christianus*, I am righteous, godly and belong to Christ [*eatenus enim sum iustus, pius et Christi*]. On the other hand, from the perspective of the law [*sed quatenus respicio ad me et ad meum peccatum*], I am the world's worst sinner [*sum miser et peccator maximus*].⁵¹⁸ So then, as we have already observed, the antinomians are half right, the law does not rule in Christians--but only so far as they are in Christ and forgiven [*Ita in Christo non est peccatum*]. However, to be half right here is to be completely wrong for theology is not mathematics. The law must and will remain until the *vetus Adam atque haec natura corrupta* is finally destroyed in death, and the *pugna perpetua*, which marks the Christian life this side of the grave, gives way to the *pax et quies* of heaven.

⁵¹⁸The superlative "*maximus*" is significant. When the law reveals sin, faith, unlike the old nature, accepts the verdict of the law, and does not quibble, make excuses or attempt to justify itself, but gladly sees itself as the "foremost sinner" (cf. Paul's self-description in 1 Tim. 1: 15 as *πρῶτός εἰμι ἐγώ*) and simply pleads like the sinner in the parable: *ὁ θεός, ἰλάσθητί μοι τῷ ἁμαρτωλῷ* (Luke 18: 13), where the presence of the article suggests that the tax collector does not see himself in comparison with anybody, but at that moment *coram Deo* sees himself as the only sinner in the world. Comparison with others, and always in one's own favor, is characteristic of the ways of the *σάρξ*, whereas faith magnifies sin (hence the use of the superlative) in order to magnify the grace and mercy of God: The greater the sin, the greater the forgiveness (although strictly speaking these terms are not quantifiable).

Argument 4⁵¹⁹

Contra 3

A^I (left col.)

If when people die they are freed from the law, the ungodly are also then freed from the law. But yet the ungodly are not freed from the law when they die. Therefore, the godly are not freed from the law when they die.

Response: This is also a good argument and very much to the point. If I understand it, your point is this: the ungodly die without freedom from the law, in fact the law immediately increases more and more and is revealed to them more because after death they feel the law even more than in life. Therefore, your thesis, that they are freed from the law through death, is false.

Response: Our thesis is Paul's and is true because a dead person, who has been justified, is freed from the law of sin. But dying to sin and dying to nature are two quite different things. On that day unbelievers might well wish that they had never been born or that they could die completely and become nothing, but they cannot, as Christ says: Then they will say, Come, hills, and bury us, but it will not happen [Luke 23: 30]. We die to sin or mortify the sin that still inheres in our flesh, and also die to nature. The ungodly, on the other hand, at least die to nature, as those who take pleasure in sins and in whom sin rules. But since that [dying to sin] cannot happen with the ungodly without this death, the law must be taught until such time as this body of sin [Rom. 6: 6], that is, this depraved and corrupted nature, is destroyed completely. For sin is so mixed with nature that it cannot be separated. For although the old man is destroyed day after day and the new rises again [2 Cor. 4: 16], we cannot die to sin perfectly and completely unless we also die naturally and are buried. Here indeed we begin to die, but only in the grave is it completed, and sin does not cease without natural death. The ungodly however are not troubled by these things; they neither cleanse out the old leaven, nor do they die to sin, nor do they fight against sins, but they continue doing what anyone worried about sin never does. Therefore, they die only to nature, and then indeed in eternal death. There is a Pauline phrase, to die to sin or be dead to sin [Rom. 6: 2]; for that which is free from sin and death, can no longer be accused by sin and death, neither does it continue to indulge sin or perverse affections, and to yield to our passions and desires [Rom. 6: 7-11]. If therefore we are free from sin and dead to sin, we are also free from the law. For you know that in Paul the law simply and properly means that law which is not yet fulfilled but must be fulfilled. However, in the future life we will not have the law but will be

⁵¹⁹39 I, 508, 13-510, 17.

righteous and holy like the angels. But since in the present life we are not perfect and commit sin, the law must be taught and inculcated in order that we might be summoned to the battle, lest we become lazy and sluggish, and we perish.

This *argumentum* bears similarity to the previous one insofar as it is about freedom from the law, and is more obviously "contra 3." Luther is generous in calling it *bonum*, even though it is *ad rem*. The major premise ascribes freedom from the law to all people (including the ungodly) when they die, whereas the minor premise denies this in the case of the *impii*, and so ends up in a flat contradiction. On top of that, we fail to follow the logic of the conclusion. If condition A is true of the *impii*, it does not necessarily follow that it is true also for the *pii*. The sheer illogicality of the argument becomes apparent when Luther tries to rehearse it (note his polite: *Ego vero sic intelligo*). Luther's representation of the argument at least makes sense. It would seem that this is one instance at least where the need to cast one's argument in syllogistic form (or at least to have the semblance of a syllogism) imposes an unnecessary hindrance and does nothing to serve the interests of clarity or logic. The core of the antinomian *argumentum* represents a refutation of Luther's third thesis: *Necesse est igitur hominem mori, si a lege velit liberari*.⁵²⁰ They conclude: *Ergo vestra propositio falsa est, quod per mortem liberantur a lege* (509, 8-10). Nevertheless, Luther's thesis is correct as it stands, although later he makes it more precise by distinguishing between the godly and the ungodly⁵²¹ just as he will do in this argument too with his distinction between *mori peccato* and *mori naturae*. Before we begin our analysis we need to ask what is the purpose of this argument. At first sight it may appear somewhat

⁵²⁰39 I, 354, 19 (ATh, V, Th. 3).

⁵²¹See esp. Ths. 35-45 (356, 5-26).

absurd and even against the antinomians' own position, for they have argued that the law is only *temporalis* and ceases completely with the coming of Christ.⁵²² However, on closer inspection, we are convinced that it is intended as a serious argument and that the crucial word is *morientes*. In our opinion, the reason why the antinomians conclude that the godly are **not** freed from the law when they die is because they are free already. The antinomians teach that the law has already been abolished. Hence, strictly speaking, their *consequentia* is not logical, for if the *pui* are already free from the law in life they are also free from it after death. However, if we are correct in our interpretation, it seems that emphasis here is more important than logic. And the emphasis that they want to make is that the *pui* are already free from the law so that they are not strictly freed from it when they die.⁵²³ At this rate, the major premise: *Si homines morientes liberantur a lege*, would not reflect the true thinking of the antinomians, but would rather be a deliberate attempt to reduce *ad absurdum* Luther's second *propositio*: *Liberatur [scil. homo] autem a lege, dum moritur*,⁵²⁴ by concluding: *etiam impii liberantur a lege* (508, 13-14). Enough said about the *argumentum*. Luther's *responsio* will give him the chance to clarify his thesis by distinguishing the law from the gospel.

Luther does not claim the *propositio*: *Necesse est igitur hominem mori, si a lege velit liberari*, as his own but attributes it to Paul, and for that reasons insists on its veracity. He restates the gist of his thesis in different words, and this time makes

⁵²²See 39 I, 453, 7-457, 4 (2 AD, Arg. 13).

⁵²³This interpretation is supported by 3 AD, Arg. 14: *Christiani [sic] liberantur a peccato viventes, ergo non post mortem* (528, 5); cf. 3 AD, Arg. 11: *Nos sumus mortui peccato. Ergo non dominatur nobis viventibus* (522, 6).

⁵²⁴39 I, 354, 18 (ATh, V, Th. 2).

it clear that it is the justified person who is free from the law through death: *mortuus iustificatus est a lege peccati liberatus* (509, 11-13). The death to sin that occurs in baptism is of a different order than physical death (or death to nature) at the end of life: *Sed longe aliud est mori peccato et mori naturae* (509, 13-14) Those who have not died to sin in life must face the consequences of sin in death (that is, *post mortem*). The Christian dies twice: first, to sin [*Nos morimur peccato seu mortificamus peccatum haerens adhuc in carne nostra*], and then to nature: [*et morimur naturae etiam*] (509, 18-19).⁵²⁵ The unbelievers die only the physical death; and unlike the baptized who have died to sin, they are ruled by sin. And yet even Christians are still troubled by the sin that inheres in the flesh, so that the law must continue to be preached until *hoc corpus peccati*, that is, *haec vitiosa et corrupta natura*, is completely destroyed. Although we die daily to sin, as Luther says in his Small Catechism, by drowning the old self through repentance that the new may again rise,⁵²⁶ we cannot die *perfecte et omnino* to sin until we die physically. The death to sin that is begun in life is brought to completion in the grave, for there can be no cessation of sin *sine naturali morte* (510, 3-5). But this death spells life, and Christians die to live. The *impii*, on the other hand, are the living dead; they are not troubled by sin but are gladly driven by it. Their life lacks the marks of repentance: the *expurgare vetus fermentum*, the *mori peccato*, and the *pugnare cum peccatis*. Because the *impii* do not die to sin, the law remains unfilled in life and so

⁵²⁵Luther makes the same distinction in 39 I, 551, 9-10 (3 AD, Arg. 25).

⁵²⁶*Kleiner Katechismus, Das Sakrament der heiligen Taufe, Zum vierden. Was bedeut denn solch Wassertäufen? Antwort. Es bedeut, daß der alte Adam in uns durch tägliche Reu und Buße soll ersäust werden und sterben mit allen Sunden und bösen Lüsten, und wiederumb täglich erauskommen und auferstehen ein neuer Mensch, der in Gerechtigkeit und Reinigkeit für Gott ewiglich lebe* (BSLK, 516, 30-38).

demands its fulfillment in death. Hence, the death of the ungodly is not a passage from life (=the paradoxical death of the *mors peccato*) to life, but from death to death (cf. 2 Cor. 2: 15-16, where the Χριστοῦ εὐωδία [kerygma or herald] is ὀσμὴ ἐκ θανάτου εἰς θάνατον [the smell of death] to the *impii*, but ὀσμὴ ἐκ ζωῆς εἰς ζωὴν [fragrance of life] to the *pii*), for their bodily death is not merely a *mori naturae*, but also a *mori aeterna morte* (510, 7-8). Christians, however, who have died to sin ἐν Χριστῷ already in this life, have also died to the law so that the *lex condemnatrix* no longer has any hold on us, for its demands have been met by Christ, who fulfilled it ὑπὲρ ἡμῶν in his own body.

This very important nexus between freedom from sin and freedom from the law is developed by Paul in Romans 6 and 7 and is noted by Luther. In Romans 6 the preachment: ὁ γὰρ ἀποθανὼν δεδικαίωται [=released or declared free from] ἀπὸ τῆς ἁμαρτίας, is the basis of Paul's baptismal parenthesis. Hence, in answer to the antinomian question, should we go on sinning so that grace may increase (triggered by 5: 20) Paul says: μὴ γένοιτο. οἵτινες ἀπεθάνομεν τῇ ἁμαρτίᾳ, πῶς ἔτι ζήσομεν ἐν αὐτῇ; (6: 2). Through baptism we are dead to sin, which means that sin now has as much power over us as it has over a corpse. Sin of course is not dead; it still has power, but not over us because we are dead to it. This is gospel because it means that sin no longer controls our life. Furthermore, Paul goes on to connect this idea with that of the law in chapter 7, so that he can say: ὑμεῖς ἐθανατώθητε τῷ νόμῳ διὰ τοῦ σώματος τοῦ Χριστοῦ, εἰς τὸ γενέσθαι ὑμᾶς ἑτέρῳ . . . (7: 4), or again: νυνὶ δὲ κατηργήθημεν ἀπὸ τοῦ νόμου ἀποθανόντες ἐν ᾧ κατειχόμεθα, ὥστε δουλεύειν ἡμᾶς ἐν καινότητι πνεύματος καὶ οὐ παλαιότητι γράμματος (7: 6). Luther observes this connection also when he points out that the *phrasis Paulina: mori peccato, mortuum esse peccato* means *liberum*

esse a peccato et morte, non posse amplius accusari a peccato et morte . . . Si igitur liberi et mortui sumus peccato, sumus etiam liberi a lege (510, 8-12).

But freedom from the law for Paul does not mean that the law ceases to exist for the Christian, as the antinomians urge. Luther says that in Paul law *simpliciter et proprie* means that law which is not yet fulfilled but which must be fulfilled [*ea lex, quae nondum impleta est, sed implenda*] (510, 13-14). Even for the Christian the law is first and foremost *lex accusans*, the law that demands fulfillment [*lex implenda*] or has not yet been fulfilled [*lex nondum impleta*]. However, through faith in Christ the law is fulfilled for us *imputative*, so that so long as we remain united with him or under the wings of our hen (to use the image from the last *argumentum*), we are free from its demands.⁵²⁷ Luther says that in heaven there will be no law at all: *In futura autem vita non habebimus legem, sed erimns [sic] iusti et sancti, sicut angeli* (510, 14-15). However, elsewhere, as we have already seen, he holds that the law will continue to exist even in heaven, but no longer as *lex* but as *res*, in other words only as *lex impleta*.⁵²⁸ On the other hand, *in praesenti vita*, the law must still be taught because we are still sinners and not yet perfect. That is Luther's standard way of speaking about the law. But more instructive is the way he amplifies the reason for the law in the Christian life. It is to be inculcated that we might be summoned to fight, lest we become lazy and sluggish and we perish [*docenda et inculcanda est lex, ut excitemur ad pugnam, ne fiamus oscitantes*

⁵²⁷For more on the the *lex implenda* and *lex impleta*, and their relation to justification and sanctification, see our discussion of 2 AD, Arg. 3.

⁵²⁸Cf. 39 I, 413, 17-18 (1 AD, Arg. 34), where Luther says that the decalogue is eternal, *ut res scilicet, non ut lex, quia in futura vita erit id ipsum, quod hic exigebat*; see also 435, 2-8 (2 AD, Arg. 3), where the *lex vacua* = *lex impleta* is contrasted with the *lex efficax* = *lex exigens et arguens*.

et segnescentes, ne pereamus] (510, 16-17). It is clear from this that for Luther the law in the Christian life cannot be divorced from the struggle between the flesh and the spirit that characterizes the life of the saints. The law does not simply instruct the *pii* in how to live or in what good works they should be doing, as an end in itself, but in so doing it prepares them for the great *pugna* against sin, Satan and the flesh, which really means holding onto the victory that Christ has already won for us. This requires vigilance on our part, and a knowledge of the enemy's strategy, lest we be caught off guard or asleep at our post.

We may digress here and ask how is this use of the law to be classified? Luther only operates with a *duplex usus*, but the *usus* in question is not the *usus politicus*, with its idea of *disciplina*, nor is it the *usus theologicus*, with its emphasis on the *lex accusans*. We are not suggesting that these aspects cannot be present, because after all it is the one and the same law in each case. But these *usus* do not appear to be at the forefront. Although Luther does not use the category *usus tertius*, that is where they would probably fall by default. However, if that is the case, then the way it is used needs to be understood from the way in which Luther talks about the law in the Christian life, and not in the light of some later usage which is then read back into Luther.

For the moment then we will leave the question of the *usus* aside and concentrate on what Luther says. Here the law as admonition or parenesis is addressed to Christians who know themselves to be *milites*, constantly fighting against the sinful flesh, exposed to temptation, and often doing the very opposite to what they want to do. In this situation, where Christians are always struggling against sin, faith does not hear the law as a threat, because Christ has already fulfilled the law. And since the law has nothing to destroy except the flesh

(which faith takes not as a threat but as a promise), it works to consolidate Christians in the faith, to keep them vigilant against the onslaughts of the enemy, and helps and guides them by giving positive and concrete directives in how faith can express itself in loving service to the neighbor and in a life of praise to God. And all of this is to be done lest we should perish [*ne pereamus*]. The gospel has given us life in the first place, and God sent his Son for this very purpose: ἵνα πᾶς ὁ πιστεύων εἰς αὐτὸν μὴ ἀπόληται ἀλλ' ἔχη ζωὴν αἰώνιον (John 3: 16). The gospel both gives life and preserves it, and so anything that assists in the preserving of life either is the gospel or is working in the service of the gospel. The law of itself only kills and destroys, but if it is working for the gospel it works *pro vita*.

Let us consider a few passages in Paul that are evoked by what Luther says here: After urging his readers to live as children of light and not to take part in the unfruitful works of darkness, Paul addresses them with the words of a hymnic fragment: ἔγειρε, ὁ καθεύδων/καὶ ἀνάστα ἐκ τῶν νεκρῶν/ καὶ ἐπι-φάσει σοὶ ὁ Χριστός (Eph. 5: 14). Here Christians have gone to sleep, whereas they should be awake and alert (cf. Eph. 6: 18 where, after exhorting them to pray at all times he says: καὶ εἰς αὐτὸ ἀγρυπνοῦντες ἐν πάσῃ προσκαρτερήσει). If Paul can tell them to arise from the dead, it is only because they have already been raised with Christ (cf. Col. 3: 1), just as in 1 Corinthians 5: 7 the exhortation to cast out the old leaven of sin that they may be a new lump [ἐκκαθάρατε τὴν παλαιὰν ζύμην, ἵνα ᾦτε νέον φύραμα] is based on the prior action of God in baptism and absolution where he has cleansed them of their sins and made them a new lump [καθὼς ἐστε ἄζυμοι].⁵²⁹ All this indicates that the parenthesis of the

⁵²⁹Paul's admonition to the Christians in Rome to wake from sleep follows the same lines. In this case "waking up" means casting off the works of

New Testament (and here we can only generalize on the basis of our examples) seems not only to presuppose the gospel but also to point back to the gospel. Here when the law is being used by the gospel it is a servant of the gospel. It warns us of imminent danger if we go to sleep on our watch or leave our flank exposed. It warns us, not in a threatening tone but out of anxious solicitude for our well being. And when we do become sluggish and our love grows cold, the Lord uses his law to discipline and scold us, but so long as we continue in faith even this may be received with thanks because it is for our good and not for our harm (cf. 1 Cor. 11: 32). However, if one wickedly departs from the faith and rejects the gift of the gospel out of hand, the Lord condemns that person through the law without mercy. For only in Christ is the law *impleta*, outside of him it always and every where remains *implenda*, also in hell.

Finally, to return to our question. How are parenetic statements like these to be understood? First, we will avoid using the term *tertius usus legis* because it is not Luther's term. Secondly, the term itself, from a formal point of view, is unfortunate because, by categorizing its content as a use of the law, it links the

darkness and putting on the armor of light [ἀποθώμεθα οὖν τὰ ἔργα τοῦ σκο-
τους, ἐνδυσώμεθα [δὲ] τὰ ὅπλα τοῦ φωτός (14: 12)]. The language has baptismal allusions. They can put off the works of darkness because they have already been taken off in baptism and buried with Christ in the grave. And just as the call to repentance involves a putting off (mortification) and a putting on (renewal), so here too Paul exhorts his readers to put on the armor of light. This stands in parallel with the call to put on Christ [ἐνδύσασθε τὸν κύριον Ἰησοῦν Χριστὸν] and make no provision for the σάρξ to gratify its desires (13: 14). This latter verse shows that putting on Christ (=being clothed with Christ), that is, returning to one's baptism, is the way to resist the flesh and its desires. Therefore, in this case the ἐνδύσασθε τὸν κύριον Ἰησοῦν Χριστὸν interprets the ἐνδυσ-
ώμεθα [δὲ] τὰ ὅπλα τοῦ φωτός, and reminds us Χριστός is our ὅπλα (cf. Eph. 6: 11-17 where the Christian's armor is really the πανοπλίαν τοῦ θεοῦ because God finally is the warrior and the battle is his as well. He is our "brave George" and we simply stand together with him.

parenthesis and admonitions of scripture with the law, rather than with the gospel, which, as we have seen, is where they belong. On the other hand, the term "gospel imperative," while it has the advantage of making it clear that the imperative is linked to the gospel, may be misunderstood as suggesting that the gospel itself is an imperative. To be sure, there are imperatives rooted in the gospel which deliver as gifts what they say and so to that extent are gospel. Yet they are not strictly gospel per se but may be heard as gospel by faith. Thirdly, we should note that while the parenthesis of the New Testament is born of the gospel and actually serves the gospel, if rejected it quickly becomes the *lex accusans* of the second and chief use of the law. However, when this happens, it is only a "disciplinary" use of the law, where the law is acting as our *paedagogus* to bring us back to Christ so that we can find mercy in him. Fourthly, the struggle between the flesh and the spirit, or the old and the new natures, is not a sign of weak faith, but on the contrary is evidence of faith in this life. So long as the struggle continues, sin remains ruled and Christ and the Spirit are regnant *per fidem*. These are some important observations that we can make already on the basis of our study. Others will be added as we continue to reflect on the role of the law in the Christian life.

Argument 5⁵³⁰

Contra 14

The principal end of the law, and the reason that it is taught, is to call to repentance and obedience to God. But the godly have already repented and obey God. Therefore, it is not to be taught.

Response: This argument asks whether Christians, who already obey God spontaneously, are to be led to repentance, just as above it inquired about the Christian repenting and not repenting, as that soldier of Cyprian's, who although he felt the flame of passion even when he was bound and by

53039 I, 511, 3-513, 14.

yielding to it could indeed be free and be given life, nevertheless preferred to resist this flame and to curb it rather than yield. Here he repented and did not repent. For he had repented only to the extent that he curbed his passions, but to the extent that he was inflamed or affected by lust for the girl, he had not yet repented. Therefore, insofar as Christ rules in us as the risen one, and the old Adam has been mortified, to that extent we do not have need of repentance, neither ought it be taught to Christians and godly people. For a person does not repent to the extent that he is a Christian. But because he is led by sins and feelings, and is even seized and consumed by them, it is necessary for repentance to be preached to him again and again until he begins to hate and utterly detest the sin clinging in his body, and even invokes a tenfold death upon himself that he may thus finally be free from it. So also St. Paul, after going back and forth on the matter and pondering it from various angles, exclaimed: Who will deliver me from the body of this death? [Rom. 7: 24]. Actually he says this life should be defended that finally we may be freed from our sins. For before we are buried we cannot not sin, even the saints. Indeed, would that we all desired to live according to God's law and obey it in a most holy manner, but alas, how often does our flesh not get in the way? How often is our heart not drawn and dragged away in a direction it does not want to go? Paul complains about himself in the same way in Romans 7: I do not do what I want, but what I do not want, and he says many other things in the same train of thought; it is in this passage that he pictures that huge battle or struggle in the saints between the Spirit of God and the flesh [Rom. 7: 19-23]. No doubt there are many adolescents and young people who never cease earnestly to plead and pray for the same thing, asking God that they might be able to lead as holy and devout a life as they would wish. For what godly persons would not choose to be free from those troubles and difficulties which here they are compelled to contend with, and never to be seized and driven to those things which are displeasing to God the Father? But that will not happen in this life. We are flesh; to the extent that it is in us, what we undertake of ourselves is no different than those things that are of the flesh and please it. Thus, also the ungodly know nothing about this battle but take what is given and indulge their desires to the full when and where they can. Therefore, the ungodly must be battered by the light of the law in order that in their terror they finally learn to seek Christ, and the law is also to be taught to the godly in order to admonish and encourage them to stay in the fight and contest, so that they do not allow themselves to be conquered however much their flesh may afflict and scoff at them. Thus Micah 6 [: 8]: Walk attentively with your God. Therefore, the law is indeed taught to Christians, but with some privilege, because they triumph over these things, and do not yield, either to sins, if ever they are put before them, or to the law. In summary: Our antinomians are so blind that they cannot recog-

nize the doctrine of the law in Paul, even in words like these which are so clear: whatever is pure, just etc. pursue [Phil. 4: 8]. But they do everything to make us secure and to open a window for the devil that we might suddenly be taken by surprise.

In summing up the *argumentum* set out in the syllogism, Luther observes that it asks the question when Christians who already obey God *sponte* still need to be called to repentance. Implicit in the antinomian proposition is the assumption that Christians have already repented and so do not need the law, while non-Christians do need it to bring them to repentance. Again, we see that the theology driving the antinomians has no understanding of the nature of sin in the Christian life and the ongoing conflict between the saint and the sinner. Luther finds the twofoldness of the Christian's life exemplified in Cyprian's soldier: *Hic poenituit et non poenituit* (511, 10-11). Luther knows of course that, *coram Deo*, this man is saved and forgiven through the imputation of Christ's righteousness, *propter Christum per fidem*. But that is not his concern here. Rather he wants to clarify the incompleteness of his repentance, in the sense of his repenting and not repenting, the latter *coram hominibus*, or *in se*. He resorts to the *quantum . . . quantum* or rather the *quatenus . . . eatenus* way of speaking. Thus, to the extent that he curbs sin he repents, but to the extent that he is roused by passion he does not. Again, insofar as Christ rules in us and the *vetus homo Adam* has been mortified, to that extent we do not need to be called to repentance. There was no difference between Luther and the antinomians on the matter of justification by imputation, only on the application of this to Christians *realiter* where the *iustitia aliena* for them becomes the *iustitia propria*. Here as we have seen the antinomians were guilty of teaching a perfectionism. Luther, on the other hand, clung to the doctrine and exemplar of Paul. He sees his inner struggle between the flesh and the Spirit (Rom. 7: 15-25) as paradigmatic of every

Christian as he seeks to walk by the Spirit and put to death the deeds of the flesh. Paul's great exclamation, coming as it does after despairing over his own inability to do the will of God, *Ach, quis me liberabit a corpore mortis huius?* is the cry of all Christians who know themselves to be *simul iusti et peccatores*. Until we die and the body is finally buried, *non possumus non peccare, etiam sancti* (512, 9-10).

Having sin, being seized by it, and struggling against it is characteristic of the Christian life this side of the grave: *Quis enim pius non optaret, ab iis se molestiis ac difficultatibus, quas hic exsorbere cogitur, liberum esse et nunquam ad ea, quae Deum patrem offenderent, rapi et sollicitari?* Before the grave it can be said: *Caro sumus;* and that to the extent that the flesh is in us our deeds are marked by the flesh [*quantum in nobis est (scil. caro), non est, quod aliud de nobis ipsis promittimus, quam quae carnis sunt et ei placent*] (512, 18-513, 2). However, unlike the *impii*, who know nothing about the struggle with sin, and who just live for the moment to gratify their desires, Christians, while they have the flesh, do not succumb to it, but rather fight against it and identify with the Spirit (513, 10). The struggle in the saints is between the Spirit of God and the flesh.

Luther brings his *responsio* to a close by again reaffirming, *contra antinomos*, that the law is necessary both for non-Christians and Christians. In the case of the *impii* it serves a pedagogical function which belongs to its chief usage; they are to be dazzled and terrified by the light of the law (the light here reminds us of Paul's own conversion) that they learn to seek Christ [*Quare impii obtundendi sunt legis lumine, ut tandem perterrefacti discant Christum quaerere*]. In the case of the *pii*, on the other hand, the law is to serve a hortatory function with the aim of encouraging Christians to stand their ground in the battle against sin, and not to let themselves be conquered by the slings and arrows of the unruly flesh [*et piis est*

etiam docenda lex monendi et cohortandi causa, ut in pugna et concertatione permaneant, nec patiantur se vinci oblatratu et insultationibus carnis suae] (513, 4-7). The formulation is instructive. The two words that characterize the use of the law for Christians here is *monere* and *cohortari*. The two words are very closely related, the former meaning more: to remind, to admonish, to warn and hence to instruct; and the latter: to animate, to encourage, to incite, to exhort. As in the previous *Argumentum*, so also here the object of this admonition and encouragement is closely connected with the matter of Christian warfare and the struggle against the flesh.⁵³¹ Christians are not just taught by the law how to lead a God-pleasing life, even Luther, we are sure, would not deny that the law does that. However, the goal of this didactic or instructional use of the law is to prevent us from deserting the front line of the battle, perhaps through lassitude, laxity, or plain indifference, and thereby surrendering to the enemy without a fight. Luther does not explain the *modus operandi* or the connection between teaching the law and fighting the battle against sin. The key is probably to be found in the way in which we explicated Luther's understanding of parenesis in the previous argument. Scriptural exhortation addressed to the saints is based on the gospel and is first of all meant to remind them who and whose they are as the baptized people of God, and then to call them to repentance and to be the new creation they are in the Spirit. We are called to join battle against sin, but we do not conquer it by ourselves (513: 1-2). It has already been overcome by Christ, and when we acknowledge that the verdict of the law is correct, that we are sinners, and plead for mercy, then God conquers the sin in our life by forgiving it. When we are forgiven the law has nothing more to accuse us of and so it can teach us

⁵³¹See 39 I, 510, 15-17 (3 AD, Arg. 4).

the works of faith. But whenever we become proud of our achievements, put our confidence in them, think that we no longer have anything to repent of, or that good works are not "necessary" anyway, we are in danger of becoming secure, opening a window to the devil, and putting our lives in jeopardy. Then the law needs to take us aside, so to speak, and talk sweet reason to us. Luther cites Michah 6: 8 within this context: *Ambulate in sollicitudine cum Deo vestro* (where Luther translates לְהִתְיַחֵץ לַיהוָה with *ambulate in sollicitudine*), probably to illustrate how he understands the tone of the law as it speaks to the Christian. When the law is under the control of the gospel it says to us: Remember, you have died to sin; therefore, do not let sin reign in your body; you have been bought with a price, therefore glorify God in your body. It is the gentle admonition of a loving Father, whose kindness is meant to lead us to repentance.

Luther says that the law is indeed taught to Christians, but with some prerogative [*sed cum aliqua praerogativa*] because they triumph over sin and the flesh, and do not yield, either to sins, if ever they are put before them, or to the law [*quia triumphant de his, non succumbunt, neque peccatis, si quando opponuntur, neque legi*] (513, 9-10). It would seem as though the second half of the sentence interprets the first. The *praerogativa* or privilege that we have in teaching the law to Christians is that we preach it as exhortation and encouragement rather than as accusation or condemnation. The reason is clear: sin no longer has control over them for they are dead to sin and alive to God; therefore, they are not living under the law but under grace (Rom. 6: 11-14); they triumph over the desires of the flesh that war against the spirit and do yield to the sin that lies crouching at the door (cf. Gen. 4: 7). Luther says because [*quia*]--we could also add, insofar as [*quatenus*]--the *p̄ii* live *secundum spiritum* and not *secundum carnem* (if we may use

these Pauline terms to sum up the Christian life, since Luther has been citing Paul), the law is to be preached to them *cum aliqua praerogativa*.⁵³² However, the situation would change very quickly if the *pii* gave into sin and ceased to struggle against it. Then the tenor of the law would change from that of *monere et cohortari* to that of *accusare, arguere, and perterrefacere*. If Christians are living by faith and walking in the Spirit, they should need no more than the tap of the Father's hand on their shoulder and a gentle warning to wake them up or alert them to the danger of sin that is waiting to trip them up. But where the child becomes rebellious and does not listen to the warning voice of the Father, there the latter must resort to sterner measures (in other words exhortation becomes accusation, and encouragement is turned into judgment) in order to bring the child to repentance. The final thing that we want to call attention to here is the fact that Luther calls the parenesis spoken to the *pii* law, even though it does not have the character of the *lex accusans* or the *lex arguens*, but rather that of encouragement and exhortation. The parenetic example that he offers is Paul's words in Philippians 4: 8: ὅσα ἐστὶν ἀληθῆ, ὅσα σεμνά, ὅσα δίκαια, ὅσα ἀγνά, ὅσα προσφιλῆ, ὅσα εὐφρημα, εἴ τις ἀρετὴ καὶ εἴ τις ἔπαινος, ταῦτα λογίζεσθε. Luther criticizes the antinomians for refusing to recognize the doctrine of the law in words such as those [*Nostris Antinomi ita coeci sunt, ut non possint cognoscere*

⁵³²There is a close parallel here with what Luther says in 2 AD, Arg. 21: *Lex est iam valde mitigata per iustificationem, quam habemus propter Christum, nec deberet ita terrere iustificatos* (474, 8-11). The reason that the law is greatly appeased is justification. In justification we have the fulfillment of the law given to us as a gift. So long as we live in Christ's fulfillment (=under grace) we do not live under the *lex accusans*. Therefore, the law is taught to Christians more in the form of encouragement and exhortation: *Itaque lex illis mollienda est et quasi exhortationis loco docenda: Vos aliquando fuistis gentes, nunc autem aspersi et abluti sanguine Christi* (475, 1-3). More will be said on this in ch. 4.

doctrinam legis in Paulo vel in his verbis tam manifestis: Quuacunque pudica, iusta etc. sectamini] (513, 11-13). The verses cited are a clear example of the of *usus didacticus*, which has usually been associated with the *usus tertius*. As we have observed before, Luther certainly says that the law is to be taught to Christians, and in the above example he does not even qualify it as being Christians, *quoad peccatores* or *carnem*. Nevertheless, in spite of the fact that Luther brackets this use of parenthesis under the heading *lex* (which is where it belongs, formally), when the gospel takes the law into its use, then it is no longer a *legalis usus legis*, but a *evangelicus usus legis*, for the law is now being used by the gospel and its operative tone is in harmony with the gospel. That this is necessary when addressing Christians we have seen already from previous arguments. For instance, when exercising its chief office as *lex arguens*, the law acts as a *paedagogus in Christum*. However, we heard Luther say that if it was left up to the law, it would not take its charges safely to Christ but would end kidnapping and destroying them.⁵³³ And when the law does instruct Christians so as to spur them on to good works,⁵³⁴ it must always be carefully run by the gospel, lest it frighten Christians unduly at the slightest provocation (caused by the remnant of sin). But over and above that, the gospel also needs to be constantly at hand because, according to Luther, Satan is continually sharpening [*exasperare*] the law *supra modum* for the justified.⁵³⁵ On the other hand, the law also needs to prick the conscience of the justified whenever they think or do anything counter to the

⁵³³See our discussion of 2 AD, Arg. 6.

⁵³⁴Cf. 39 I, 474, 21-22 (2 AD, Arg. 21).

⁵³⁵Ibid., ll. 11-14

gospel that would bring them back under the servitude of the law. When they live by faith under Christ as *Dominus*, they are free from the law and are served by the law as the *ancilla evangelii*, but once sin gets the upper hand, the tables are turned and they forfeit their freedom and find themselves in bondage to the law. Luther sees this as the grave danger of antinomianism, not because it is ἀνομία so much in the sense of 1 John 3: 4, but particularly because it fosters an attitude of *securitas coram Deo*, and thus opens a window to the devil who could pounce on the *pīi* at any moment and take them captive.

Argument 6⁵³⁶
Contra 5

Every doctrine that is to be taught in the church ought to make consciences certain. But the doctrine of the law does not make consciences certain but rather confuses them. Therefore, the doctrine of the law should not be taught in the church.

Response: We said earlier in regard to this argument: law and gospel do make consciences certain, but each in its own way. It does not follow however that since the law does not make one certain of grace that it should therefore be removed, for it surely belongs to preaching to say that passions, wantonness, greed, and the defrauding of others is sin, which God will punish with eternal death. In fact just the sensation of sins is sin, indeed the greatest sin, and I am often driven to the worse sins, even those against my will. The saints also have complained bitterly about this. But here is your remedy: pray these words, either while standing or kneeling: Be with us and help us, O Christ. Then wait in hope until God gives you a girl of your own. The rest of the crowd that laughs at nocturnal pollutions and other such things, and dismisses them as nothing goes wrong, for sin should not be so diminished as if it were nothing. They imagine that Christians are perfectly holy who cannot do anything against God, which is not true. We, on the other hand, teach that the church is indeed holy and yet has many hypocrites mixed in with it, in fact even the saints themselves who are in the church still have sin, as we have said earlier, but this is not imputed to them, but they are regarded as righteous. How come? Because God does not recognize this sin. Why? Because their sins are covered by the mantle of Christ under whose wings we take refuge and are safe, not because we are

really such righteous people and without sin, but we are reckoned as such on account of Christ the Lord, our Savior and Priest. However, because, from our side, we are not such as we were supposed to be, it is necessary for the law to be retained in the church by which we are warned of this evil or sin that still inheres in our flesh, lest we become secure and sleepy and are seized by it beforehand, as happens also in the saints, or in those who do not take notice of it until after they have already committed a grave sin. This is how Satan stealthily and insidiously circumvents us. Therefore, the law must not cease nor be silent in the church because the church is never without the ungodly and hypocrites for sin does not cease, not to mention the fact that God, although he purifies his saints, constantly mingles things in the church in such a way that the church is holy and yet not holy, one is righteous and yet not righteous, another blessed and yet not blessed. And this should to be noted well: that although it cannot be proved by reason, which everywhere wants to be wise in the things and works of God, two opposites exist in one and the same subject. But nevertheless, that is how it is, and that is how it is spoken of in this kingdom and in scripture, as the Psalm says: Blessed are those whose sins are forgiven [Ps. 32: 1]. This person is holy and blessed, and yet the Psalm immediately goes on to say: Every one who is holy will pray to you for this [Ps. 32: 6]. Here you see the sinner. We see the same in Romans 7: Be holy and pray for your sin. See to it that you have these running together.

The substance of this antinomian syllogism has already been dealt with in our discussion of the first *argumentum*.⁵³⁷ Luther's basic thesis is stated already in the first two lines of the *responsio*: *Lex et Evangelium certificant conscientias, sed unumquodque suo modo* (514, 1-2). Not only is he making the same point here that he made in *argumentum* 1 regarding *certificatio*, but he is also picking up thoughts from *argumentum* 2 where he cited the example of the baptized and justified *robustus adolescens* who is aflame with passion for the *formosa puella aut mulier*

⁵³⁷See 39 I, 496, 18-20 (3 AD, Arg. 1). A comparison of the two "contra's" will reveal that these designations are somewhat arbitrary and not very useful. Arg. 1 is designated contra 15: *Prorsus imperiti et mentium deceptores sunt, qui legem ab Ecclesia tollere volunt* (39, I, 355, 7-8; ATh, V, Th. 15), yet our present *argumentum*, Arg. 6 is contra 5: *Quare hominem mori oportet, si a peccato liberari velit* (354, 22; ATh, V, Th. 5). It is always possible that "5" was meant to be "15"; the numbering occurs only in three MSS.

whom he mets. And again, we also have hovering in the background the story of Cyprian's martyr, who, on the one hand, spat out the tip of his tongue at the harlot who was sent to tempt him, and yet on the other, was burning with passion: the classical example of the Christian as *simul iustus et peccator*, who sins and yet does not sin. Luther does not play down sin by measuring its seriousness by degrees. Lusting after someone may "only" be a sin in thought which has not yet passed into action to become a sin in deed, but yet it is altogether sin. Luther, speaking of his own struggle with sin, says: *Et profecto talis sensus peccatorum est peccatum et quidem maximum, et saepe raptor ad pessima quaeque etiam invitus* (514, 5-7). He prescribes only one remedy for the terrible anguish of this saint-sinner conflict which Paul describes so realistically in Romans 7, and that is to avail oneself of the remedy that God himself has provided in Christ. Thus he says: *Sed hoc tibi remedii est, ut vel stans vel prolapsus in genua ores: Adsis, adiuva nos, Christe* (514, 7-9). It was only by the grace of God that the *adolescens* was able to let the woman go back to her family unharmed and to wait until God gives him another. The antinomians understand nothing of this inner struggle, nor do they accept that a Christian can sin: *Et fingunt, homines christianos perfecte esse sanctos neque posse contra Deum facere* (514, 12-13). Since, according to them, Christians are already perfect, the church too is holy and without sinners. While Luther teaches that the church is a mixture of saints and hypocrites, it is not only the hypocrites who are sinners; Christians too are sinners but *hoc non imputari eis, sed haberi pro iustis*; or alternatively, *sumus revera iusti et sine peccato, sed quia sic reputamur propter Christum . . .* (514, 16-19). Or to use a metaphor to describe justification, *christiani* have their sins covered by the mantel of Christ, under whose wings they take refuge [*sunt tecta pallio Christi, sub cuius alis delitescimus et tuti sumus*] (514, 17-18).

It is precisely because we are still sinners in ourselves [*quoad nos*] and are thus hindered from being *in se* the people we were redeemed to be, that the law must be retained in the church. As in the previous *argumenta*, the law plays an important role in warning [*admonere*] us of this *mali seu delicti haerentis adhuc in carne nostra* lest Satan sneak up on us *clam et insidiose* while we are blissfully unaware [*securi et oscitantes*] and press his advantage by taking us before we know it [*praeoccupare*]. Here again, when the law functions in the service of the gospel, it is not against us but for us. Its purpose in warning us against the danger of *securitas* is to forestall the possibility of our being captured by the enemy in a surprise attack. Here the law offers good counsel when it summons us to vigilance for the stratagem of Satan is so insidious, as Luther says, that many do not even realize that they are in his grip before they commit a grave sin [*multum deliquerunt*] (514, 20-25). He concludes by reasserting an axiom that he first put forward, *contra antinomios*, in the First Disputation: *duo contraria esse in uno eodemque subiecto* (515, 6-7).⁵³⁸ There the issue was repentance, and Luther argued that *dolor* and *fides* can coexist in the one person at the same time. Here the *simul iustus et peccator* is at stake so that when the antinomians deny the axiom it is because they deny this central doctrine of Pauline anthropology. Without that one will make no sense of the otherwise contradictory statement that one finds in scripture. He cites again verses one and six of Psalm 32, as he did at the end of *argumentum 3*, to show that there is no inconsistency, except to the unregenerate *ratio*, between being *sanctus* and praying for one's *peccatum*. The reason of course lies in that fact that the saint is not *sanctus* because he has no sin, but only because

⁵³⁸See 39 I, 375, 15-376, 17 (1 AD, Arg. 8) where Luther cites the philosophical axiom that he rejects.

his sin is forgiven. Therefore, praying for forgiveness is a mark of the saint, not a question mark over the saint.

Argument 7⁵³⁹

Contra 5

Whoever commands impossible things appears to be unjust. God commands impossible things. Therefore, God appears to be unjust and unfair.

Response: God does not command human beings to do impossible things. But human beings themselves run into impossible things because of sin. Thus fallen human beings themselves have reached that state where, whether they want to or not, they cannot fulfill the law even with much effort. They gradually became so ruined that, no matter where or in what position they were, they were blinded by the malice or poison of the serpent and of their own flesh, and could not see because they yielded to the devil. Therefore, God was constrained to give us the law to show or reveal us to ourselves, who and what sort of people we are, that, having no confidence in our own powers, we may despair of salvation and begin to hasten to him who is able to save our soul. Thus, the law came and would show us that we are not what we were in paradise, where Adam was a most splendid man, great and sound in his powers. And now what are we? Pitiful specimens, and desperately corrupted by that vice of origin. You ask then what in the world is the office of the law? I will tell you: The law shows that we are not the people either that the law requires us to be or that we were before the fall. Therefore, if there are any people silly, or rather insane, enough to think that they live in the midst of paradise or in a golden palace (as also St. Augustine argues), when in fact they are in the midst of thorns or lions' dens from which there is no escape, and if someone now warns them of this so that in the end they consider that they are not so blessed as they had falsely supposed, surely they could not accuse him of having commanded the impossible? I think not. Rather, the person to be held culpable is the one who complains that he was obligated to go beyond his powers when he did not do it, because the point is not that the law was given that you might fulfill those things that are of the law, but rather that you might recognize your wretchedness, and go forth and seek salvation and freedom from another source than through your own powers, that is, in the gift of another. It is as if a jailer should go to an adulterer in prison who has forgotten the crime which he had committed and ask him why he wished to be these chains or in prison and he should say: But it was you who threw

53939 I, 515, 14-517, 11.

me in here. No, the jailer would reply, it was not I, but your lust, your crimes, they have done this, not I. This is how God deals with us, for it is certainly a great gift that he reveals sin and disease and does not let you perish in your sins or in this evil. But once that disease has been shown he also adds the remedy by which people are to be freed, namely, that God desires and is able to heal this great evil and disease. The learned and experienced doctor does the same. For what has he is to heal where nobody accepts that he is sick? God therefore shows us our disease by means of the law, not to kill us or that we might waste away in the law, not to make the disease, but that we humbly learn to seek the word of grace after the disease has been recognized.

Luther already in the *argumentum* 1 of the First Disputation responded to the antinomian claim that God has commanded *impossibilia*. There he argued that it is not God's fault that the *legem possibilem et iucundissimam* of paradise became impossible and burdensome, but rather that sin and Satan are to blame.⁵⁴⁰ Here too, blame for the fact that *homines lapsi* have reached the state where, *volens nolens*, they are incapable of fulfilling the law, is put on the *venenum serpentis et carnis suae obsequentis diabolo* (515, 19-516, 1). Because the depth of our corruption blinded us to the truth about ourselves, God was constrained to give us the law [*coactus est Deus nobis dare legem*], which, acting like a mirror, showed us our sin that we might despair of any attempt to save ourselves and hasten to Christ who alone is able to save. By comparison to Adam, whom Luther describes as *pulcherrimus* and *magnus et integer viribus*, we are a mere shadow and utterly corrupt through original sin [*sumus homunciones et corruptissimi illo vitio originis*] (516, 6-7). The purpose of the law, which Luther now unfolds within this *post lapsum* perspective, is to remind us of what we once were in paradise: *Ostendit lex, quod non tales sumus, quales vel lex requirit vel eramus ante lapsum* (516, 9-10).

⁵⁴⁰See 39 I, 364, 7-365, 6 (1 AD, Arg. 1).

He alludes to an analogy in Augustine⁵⁴¹ to underscore the point that if the law cannot be blamed for commanding the impossible when it merely confronts us with the facts about ourselves. Significantly, Luther says that law was not given primarily for us to keep (not that we could anyway) or stay in, but to show us our wretchedness in order that we might find our salvation not in ourselves but in Christ [. . . *cum non id agatur, ut lege lata praestes ea, quae legis sunt, sed magis, ut agnoscas tuam miseriam, et aliunde, quam per tuas vires, alieno beneficio evadas et salutem et liberationem quaeras*] (516, 16-19). But like a good doctor, God does not give us the diagnosis without also supplying the remedy. His purpose in revealing disease is only to make alive, yet, on the other hand, he cannot heal "patients" where nobody is willing to acknowledge that he is sick (Matt. 9: 12).⁵⁴²

Although there is nothing really essentially new in this *responsio*, there are a few things worth highlighting. First, Luther stresses that the primary purpose of the law is to mirror to us our sins that we might hasten to him who is able to save us. Although this is clearly a case of the *usus theologicus*, it is interesting to observe that the way we come to a realization of our sin here is by being reminded of the $\pi\rho\tilde{\omega}\tau\alpha$, what we once were in paradise in Adam and what we are today. But, *mutatis mutandis*, this is the same thing that baptismal parenesis tries to do. It reminds Christians, struggling with sin, of their new personhood in Christ, the new Adam, and of what they are as children of God. The purpose of this kind of exhortation is to bring them to the point where they recognize for themselves the

⁵⁴¹The WA editor notes that these images, which sound thoroughly Augustinian, could not be found in Augustine's works.

⁵⁴²See 39 I, 424, 9-425, 5 (2 AD, Arg. 1) for a further comparison between God's work of healing through law and gospel and the procedure of the physician.

inconsistency between who they are and what they are doing in order that they might repent. For repentance is the only way back to baptism and a reappropriation of its gifts. The parallel has its limitations: there can be no return to Adam and paradise, but we are called through repentance to return to the Christ, the second Adam in whom the new paradise is already proleptically present. The significance of this parallel reminds us that, although Luther is stressing the second use of the law in his comparison between Adam and the human race,⁵⁴³ nevertheless, this usage is also present in the parenthesis of the New Testament (which always presupposes Baptism) inasmuch as its aim is not only to give positive teaching but at the same time to lead to repentance. It would seem that this use of exhortation, which we call the gospel's or faith's use of the law, corresponds to the fact that the law has been appeased for the justified, which fits with Luther's advise that they are to be taught the law with some *praerogativa*.

The second point to note is relatively minor: we have seen from other discussions that the law, though a prerequisite for repentance, does not *eo ipso* lead to repentance. The gospel alone can do that. The law can only initiate the act of repentance which is brought to completion by the gospel.

Argument 8⁵⁴⁴

Contra 13

It is necessary to be justified by grace and mercy. The law has neither grace nor mercy. Therefore, the law is not to be taught.

Response: This conclusion is nothing because the law is to be taught for the very reason that it does not justify, and because people need to be taught

⁵⁴³In answer to the question: *quodnam legis officium sit?* (516, 8-9), which if not actually posed in the disputation, was certainly on everyone's lips, Luther singles out only the *praecipuus usus legis*.

⁵⁴⁴39 I, 517, 14-19.

to acknowledge their disease and the evil breathed by the serpent in paradise in order that finally, humbled, they might seek help and the remedy.

The conclusion to the syllogism is a *non sequitur*. The proper *consequentia* would be that the law cannot justify. Luther's brief *responsio* picks up this idea when it rejects the conclusion [*Haec consequentia est nulla*] and argues instead that the law must be taught precisely because it does not justify and because people cannot seek the *auxilium et remedium* given in Christ unless they are first brought, through the diagnosis of the law, to the point where they recognize their *morbis et malum*, which stems ultimately from the poisonous breath of the serpent in paradise.

Argument 9⁵⁴⁵
Contra 13

In order for an effect to be removed the cause must be removed. But the law is the cause of sin [Rom. 6: 20]. Therefore, the law is to be removed.

Proof of minor premise: Because the law works wrath [Rom. 4: 15].

Response: This argument may be conceded because it is true that the law is a cause of sin, but not in the sense that it causes or compels sin to occur, nor is God the cause of sin because he certainly does not will iniquity. For to think that would be sacrilege. But [it is true] the law works wrath or is a cause of sin, that is, reveals the sin that it is already present in our nature; it does not directly cause sin, nor does it compel us to sin, but it shows us the sin that has already been committed and, as I said above, the law already present shows this to us who have been blinded by the devil in order that we might not know ourselves, the very thing that the law reveals. In the same way he is not the one who throws the wretched man into the bear's pit who comes along and informs that man that he is there sitting in a dangerous place, in danger of life having fallen in there. Thus, the law is a cause of sin, but in the sense that it is the means by which our ruin is recognized and understood, it is not the efficient cause of our fall, because just when we thought that we were the best Christians, and truly saints and righteous, the law came along and said: Not so, my dear fellow, you are not a saint and righteous person, but a sinner because you act and live contrary to God. And so this argument is not against us but for us.

While Luther concedes the truth of this *argumentum*, he takes great pains in the *responsio* to clarify exactly how *lex est causa peccati* in order to differentiate his position vis-à-vis the antinomians. This is not the first time he has responded to an argument like this. Already in the First Disputation he argued that he is willing to accept the proposition *lex auget peccatum* provided that the *lex auget* is understood in the sense of *ostendat peccatum*, and not *facit peccatum*.⁵⁴⁶ Here he argues along similar lines, being scrupulously careful to avoid giving any impression that *lex est causa peccati* because that would lead to the unthinkable conclusion that God himself is the author of sin. Yet, on the other hand, Paul maintains that *lex iram operatur* (Rom. 4: 15: ὁ γὰρ νόμος ὀργὴν κατεργάζεται). How is this to be understood? Luther makes it clear, as he did earlier, that *lex iram operatur* = *lex est causa peccati* only in the limited sense of *lex ostendit peccatum*, which he then qualifies further to make it crystal clear that the law itself does not create sin [*non facit, ut fiat*] but only exposes the sin that already exists [*quod iam est in natura praesens, that is, peccatum iam factus*] in order that we might know ourselves as we really are, that is, as God sees us, for we have been deprived of this self-knowledge through the blindness induced by the devil (518, 8-12). Luther defines succinctly what he means by the phrase *lex est causa peccati* by equating it with *cognoscendae et intelligendae ruinae et lapsus non efficiendi* and then illustrates this by stressing that while our pious self may think *nos optime et christianos esse et vere sanctos et iustos*, the law comes along and tells us how we stand, not in our own eyes or in the eyes of the world, but *coram Deo: Her Junckherr, vos non estis ita sanctus et iustus, sed peccator quia facis et vives contra Deum* (518, 14-18). By showing that Paul's words in Romans 4: 15 are straight second use of the law [*peccatum*

⁵⁴⁶See 39 I, 377, 9-378, 2 (1 AD, Arg. 10).

aguere et accusare], he has wrested the argument from the hand of the antinomians and demonstrated its coherence with his own position.

Argument 10⁵⁴⁷

Contra 1

Christians are free. Therefore, they are not ruled by the law. An argument from the nature of opposites is valid.

Response: To be free and to be a slave are opposites, which cannot be in the same subject at one and the same time. And it is a good argument. How then is a Christian, who is righteous and free, under the rule of the law?

Response: Christians are not under the dominion of the law, that is, insofar as they are such, but sin is lurking there in them and they suffer its dominion. The Christian is a person who has already been buried with Christ in his death, and is dead to sin [Rom. 6: 2-4, 7-11], the law [Rom. 7: 4], and death [Rom. 8: 2, 10, 11], and whatever belongs to those things. However, this itself is not perceived but is hidden from the world, it is not apparent and is not seen by our eyes, as Peter says: Our life is hidden in Christ [Col. 3: 3]. Likewise, John 3 [: 8]: You do not know whence it comes or whither it goes. For Christians are not in this present age, they do not live, they have died, and belong to a different life, a heavenly life, far above from this one [cf. Phil. 3: 20]. But alas, what great toils, difficulties and troubles will exhaust us here before we go there! For here the devil, the world and our flesh will not cease; they can and will devise such great snares for us until finally they overthrow us, and we will not be able to escape without great and serious harm, unless we keep fully awake by praying. But the remedy for this is to have our eyes and mind fixed on Christ himself and his word through faith [Heb. 12: 2; cf. Col. 3: 2], for through this one the saints have conquered kingdoms [Heb. 11: 33]. And John says: This is the victory which overcomes the world, our faith [1 John 5: 4], and Paul himself exults: In Christ we burst forth finally and thus begin to become saints, Christians, and lords of the law and of death [Rom. 7: 25-8: 2]. And where is such a person, you will say, show me one? Response: I cannot, for they are hidden and have died [Col. 3: 3; cf. 1 John 3: 2]. Here there is neither male nor female, neither free nor slave [Gal. 3: 28]. So then, here Christians live as righteous by imputation, as saints under the wings of their hen. But on the other hand, to the extent that Christians are soldiers and engaged in battle, here they are also still under the law and under sin, because they are still in this life, daily experience and expect the attack of

⁵⁴⁷39 I, 519, 3-522, 3.

their flesh, and only as thus placed can they be said to live, as Paul laments in Romans 7: In the flesh I live to the law of sin [Rom. 7: 25]; again, I see another law in my members at war with the law of my mind [Rom. 7: 23]. Thus the Christian is dead and alive, but from different viewpoints. But these two things cannot be understood by either the world or the pope, and yet that is the way things are, and scripture says, as we noted earlier, that those who believe in Christ are holy and righteous by divine imputation, and are considered to be, and already are, in heaven, surrounded by mercy. But while we are held here in the Father's lap, clothed in the best robe, our feet stick out from beneath our cloak and Satan bites them as much as he can. That makes the little child wriggle, cry out, and realize that he still has flesh and blood and that the devil is still here, who continues to trouble him until the whole person becomes holy and is snatched out of this vile and evil world. So then we are holy and free, but in the spirit, not in the flesh [Rom. 8: 9; Gal. 5: 1, 16-18; 1 Cor. 1: 2; 5: 11], but under the shadow of the wings, that is, since we live in the gracious lap of our hen. But our feet still remain in need of being washed, and whenever they are unclean, they are bitten and troubled by Satan until they are cleansed. Therefore, you must tuck your little feet up under the cloak otherwise you will have no peace.

The key question at issue in this *argumentum*, which is picked up by the first respondent (who may have been a student) and left to Luther to answer is this: *Quomodo igitur christianus, qui est iustus et liber, est sub domino legis?* (519, 7). We have heard Luther enough by now to know that the answer to this paradox will lie in making the proper distinction between law and gospel. However, he always surprises us. While we might expect him, after having reaffirmed that Christians are indeed free, to have then concentrated on developing the proposition that the antinomians denied, namely, that Christians are still under the law, he in fact does just the opposite. The bulk of his *responsio* deals with an exposition of what it means that Christians are free. And, as we will see, while he does later state in what way Christians are indeed under the law (under the law and sin, to be precise), it is not the *lex didacticus* that he speaks of, but that law that always allies itself with sin and death and will remain our opponent as long as the flesh remains. Clearly, Luther will not let himself be drawn into the trap of

emphasizing that Christians are under the law merely to redress the onesided assertions of the antinomians. That not only would be failing to distinguish properly between law and gospel, but it would even jeopardize the gospel.

Luther, as always, is very careful with his formulations. He agrees with the antinomian proposition: *Christianus non est sub dominio legis*, but only with the qualification: *in quantum talis et eiusmodi*. In fact he almost turns the statement round and puts it into the positive by saying that Christians are lords of the law, but instead of law he chooses sin, and thus at the very outset stresses one of the major themes of his counter-argument, and that is the indissoluble connection between the law and sin: *sed peccatum est sub ipso [scil. christianus] et dominatur peccato* (519, 8-9). Following Paul he characterizes the Christian as *sepulta cum Christo in morte eius, mortuus peccato, legi, morti et quicquid illorum est*. But these are hidden realities, just as Paul⁵⁴⁸ says in Col. 3: 3: *Vita nostra abscondita est in Christo* [ἀπεθάνετε γὰρ καὶ ἡ ζωὴ ὑμῶν κέκρυπται σὺν τῷ Χριστῷ ἐν τῷ θεῷ]. The origin of the new birth is as mysterious as the blowing of the wind (John 3: 8). The Christian, paradoxically, has died, not alive, is not of this world but has his πολίτευμα (Phil. 3: 20) in heaven. But we are still *in via*, and before we arrive we must endure *quantum laborum et difficultatum et molestiarum* (520, 1-2). Our principal enemies, *diabolus, mundus, and caro nostra*, are constantly trying to ensnare us and

⁵⁴⁸Luther wrongly attributes this passage to Peter. The WA editor (or his assistant), in a marginal reference, cites 1 Peter 3: 4 as the likely passage Luther has in mind, however, the only connection with Paul's words in this passage, which deals with the deportment of Christian women, is the word κρυπτός. We might mention in passing that many times we have found errors in the marginal references; sometimes they are obviously typographical, other times factual. The biblical references, which we include in the translation in parentheses, represent a significant increase in number over those suggested in the margin of the WA.

will only be repelled by prayer and vigilance. In other places, the reader will recall, Luther said that the law was given precisely for this reason, to keep us alert to danger and to keep summoning us to join the fight against the flesh. But here Luther says the *remedium* is this: *ut habeamus oculos et mentem intuentem in ipsum Christum et verbum eius per fidem*. The emphasis here is not on fighting to win the victory but on receiving it by faith (1 John 5: 4) [καὶ αὕτη ἐστὶν ἡ νίκη ἡ νικήσασα τὸν κόσμον, ἡ πίστις ἡμῶν]. The juxtaposition of this verse and the preceding statement based on Hebrews 12: 2 makes it clear that for Luther it is not faith by itself that wins the victory but him in whom faith trusts. *In Christo* we overcome sin and the flesh and become saints and Christians. This theme of "becoming" is important to Luther when he wants to emphasize the already-now but not-yet tension of the Christian life which underlies Paul's discussion of the *simul iustus et peccator* struggle in Romans 7. Our victory over sin, death, and the law is ours now by faith, but it cannot yet be empirically demonstrated, for as an eschatological reality it will remain hidden until the eschaton when Satan will be annihilated and our victory over all the powers of evil made manifest. Hence, while it is true that we are already now Christians and saints through baptism and faith it is also true that, seen eschatologically, we will only become Christians and saints after the resurrection. What we have now we have by faith and not by sight (2 Cor. 5: 7), and yet the fact that our victory is now by faith (notice that faith is both the victory and the means of receiving the victory) makes it no less real. Hence, Paul can thank God already for the victory over death (Romans 7: 25). But while we already have that victory complete *coram Deo*, it will remain incomplete *coram hominibus* until the last day. For the latter standpoint, every victory over sin and the flesh in this life is a manifestation of the fact that we are

more and more becoming the saints that we already are by faith and will be by sight after the resurrection. Thus, following Paul, Luther says: *Nos in Christo prorumpimus tandem, et ita incipimus fieri sancti, christiani et domini legis et mortis* (520, 9-11). However, when we look at ourselves it is hard to find any sign even of the beginning of this victory let alone its completion; rather we see sin, we hear the accusing voice of the law, and we feel the fear of death. The real Christians, the real saints cannot be seen but only believed, for as Luther says, they are *absconditi and mortui* (520, 12). The paradox of God's justification of the ungodly (Rom. 4: 5) and the hiddenness of the righteousness that he imputes for Christ's sake can also be a source of *Anfechtung* for the *credentes* since even the godly must believe *contra rationem* and *contra experientiam* that the sinner is justified. The righteousness and holiness of Christians is not open to verification because they are that only *imputative* (which is equivalent to saying "by faith") or because they are *sub alis gallinae suae* (520, 13-14). The *gallina*-image is appropriate, not only because it is consistent with the fact that *vita nostra abscondita est in Christo*, but also because it means that so long as we remain *sub alis gallinae* we are shielded from the accusation of the law on account of the remnant of sin in our flesh. But since our existence as Christians is twofold we are also *milites* engaged in battle and to that extent we are still under the law and its accusation [*Sed e contra christianus in quantum miles . . . hic etiam est sub lege adhuc et sub peccato . . .*]. The *christianus* is caught up in the daily *militia* of the flesh against the spirit and feels the same frustration that Paul gives vent to in Romans 7: 23 and 25.⁵⁴⁹ In line with the twofoldness of the Christian life as holy *propter Christum per fidem* and sinful *in re ipsa*, Luther

⁵⁴⁹Cf. 39 I, 507, 14-15 (3 AD, Arg. 3).

states: *Ita christianus est mortuus et vivit, diverso tamen respectu* (521, 3).⁵⁵⁰

Although he does not expressly reiterate what these two are, we know that they correspond to the twofoldness mentioned above, which is not understood either by the world or the pope but can only be recognized by faith. However, he does mention that those who believe in Christ are *iustus et sanctus* by means of divine imputation [*reputatione*] and, although still on earth, are beneficently surrounded in heaven by *misericordia*. In balancing this with a law statement, *quantum nos peccatores*, Luther comes up with a very instructive image. He says that as Christians we are held *in sinu patris vestiti veste optima* (that is our position as *baptizati*), yet our feet protrude from beneath this *pallium* of Christ making us an easy prey for the mordacious attacks of Satan. And he will keep on biting and troubling us (Luther changes the subject to *Kindelein*) until our heavenly Father finally calls us out of this vale of tears; meanwhile these attacks make us wriggle and complain, reminding us that we are vulnerable to Satan's onslaughts so long as we are in the flesh [*dar zappelt das Kindelein et clamat et sentit, se adhuc carnem et sanguinem habere et diabolum adhuc adesse, qui iam exercet, donec totus homo sanctus fiat et eripiat ex hoc saeculo nequam et malo*] (521, 9-11). When Luther says that Satan will keep harassing us until the whole person becomes holy [*donec totus homo sanctus fiat*] this should not be taken as suggesting that he sees a causal nexus between Satan's biting us and our final sanctification. Rather, it should be taken

⁵⁵⁰Luther also spoke of two viewpoints in his Preface (492, 20-23-493, 2):

Sed diverso respectu sumus enim iusti, quod ad reputationem seu misericordiam Dei in Christo promissam, hoc est propter Christum, . . . sed secundum formam aut substantiam, seu secundum nos, sumus peccatores iniusti et damnati, quia certe nihil est in tota natura hominis, quod opponi possit iudicio Dei.

with the phrase immediately following: *et eripiatu ex hoc saeculo nequam et malo*, in which case he is saying no more than that a Christian becomes *totus homo sanctus* only after death when he is in heaven. Luther sums up his position with taking us back to the twin perspectives of law and gospel, sinner and saint: *Sic itaque sumus sancti et liberi, sed in spiritu, non in carne, sub umbra alarum, id est, gallinae nostrae versantibus nobis in sinu gratiae* (521, 11-13). We are holy and free,⁵⁵¹ not in ourselves, but only in Christ by faith and under the shelter of his wings. If we look at ourselves we will see only our dirty feet, and until they are clean Satan (or alternatively the law, for these two work in tandem) will give us no peace [. . . *sed pedes restant adhuc lavandi, qui, cum immundi sunt, mordendi et exercendi sunt a sathana, donec mundentur*] (521, 13-522, 2). Again, as we said before, we will not have clean feet until we arrive home. Yet Jesus has already made us clean: ἤδη ὑμεῖς καθαροί ἐστε διὰ τὸν λόγον ὃν λελάληκα ὑμῖν (John 15: 3), and Luther knows that that happens preeminently in the washing of Holy Baptism, which, although not explicitly mentioned in the text can be inferred, even as Luther too presupposes Baptism when he says that we are dead to sin. Here again we have an expression of the bipolarity of the Christian life: clean and yet unclean, dead and alive, holy and sinful.⁵⁵² Hence, in almost parenetic style

⁵⁵¹This is the first time Luther uses the word *liber* in his response to the antinomian thesis: *christiani sunt liberi*. Not that he denies it, as we can see here, provided it is understood *in spiritu*. However, most of the *responsio* has rather pictured the *vita christiana* in terms of a battle against sin and the flesh. Perhaps because it is just this truth that the antinomians forget in their eager affirmation of Christian freedom that Luther chooses to use the term very sparingly.

⁵⁵²These terms are not descriptive of qualities which Christians have in themselves ontologically, but apply to them only "*in relatione*." Luther stresses this in Mörlin's *Promotionsdisputation* (1540):

Luther can exhort us *Kinderlein* to keep our feet tucked up under that robe: *Denn du must das fußlein mit unntter den mannttel ziehen, sonst hastu kein friedt* (522, 2-3). This, in our opinion, is a prime example of what Luther meant previously when he said that the law should be preached to Christians with some *praerogativa*.

Argument 11⁵⁵³

Contra 4

We are dead to sin. Therefore, it does not rule us who are living. The conclusion, based on the nature of correlatives, is valid because if people are living they are not dead, and if they are dead they are not living, but your thesis says that the law rules the living.

Response: Our thesis has been set forth in relation to a class: the law rules the living, that is, to the extent that they are such. For as we have often said already, Christians are both living and dead, are both saints and sinners. But the godly are dead to the law and do not serve the law, in so far as they are such in the lap of grace and by divine imputation. But in so far as they are in the flesh, these people serve the law of what? Of sin, as St. Paul says: Ah, how utterly shameful it is that a holy person should serve the law of sin. Who has ever heard of such a thing? And yet that is precisely what happens, as Paul indeed shows from his own example. With my mind, he says, I serve the law of God, but with my flesh I serve the law of sin [Rom. 7: 25], that is, Christians are free by faith, but to the extent that they are flesh, they are servants of sin. But these things, although they are opposites, yet are brought together in the Christian, because the same Christian is saint

Christianus est dupliciter considerandus, in praedicamento relationis et qualitatis. Si consideratur in relatione, tam sanctus est, quam angelus, id est imputatione per Christum, quia Deus dicit, se non videre peccatum propter filium suum unigenitum, qui est velamen Mosis, id est legis. Sed christianus consideratus in qualitate est plenus peccato (39 II, 141, 1-6).

In this passage, which employs the categories of Aristotelian logic, there is mention of two categories of predication: relation and quality. Therefore, if we take holiness as an example, the phrase *in praedicamento relationis* is equivalent to attribute of holiness understood *imputative*, so that *in relatione* the Christian is holy, whereas if we speak about it in terms of the *praedicamentum qualitatis*, the phrase *in qualitate* is equivalent to saying that righteousness is understood as an inherent quality or property of the Christian, although in actual fact considered *in qualitative* the Christian is *plenus peccato*.

and sinner, dead and alive.⁵⁵⁴ All sin and no sin, hell and heaven are correlatives. Christians remain in the flesh by synecdoche so that sin does not rule. But the ungodly are unrighteous, pure and simple; they have sin, they have hell, and they remain totally in the flesh and perish.

This *argumentum* is a variation of the previous one. There it was argued that Christians are free from the law and hence are not ruled by it. Here, the same is said about sin: we are dead to sin, therefore sin does not rule us who are living. Predictably therefore Luther's *responsio* concentrates on calling attention to the twofold character of the Christian as dead and alive, sinner and saint, much as he did in the previous argument. Therefore, he will not let himself be bound by his opponents logical definition of correlatives any more than he will allow Aristotle to be the final arbiter in theology. The antinomians claim their argument is valid *ex correlativorum natura* since the contrasting pair *vivus* and *mortuus* is mutually exclusive and both cannot be present in the same person at the same time: one is either dead or alive. Luther is again compelled to remind his antinomian friends that it is not sufficient merely to make the distinction between *vivus* and *mortuus* for, properly understood Christians are both: *christianum et vivere et mortuum esse, peccatorem et sanctum* (522, 11-12). Rather, the distinction needs to be made between Christians *quoad in Christo* and Christians *quoad in se*. From the standpoint of divine imputation, a *pious* is *mortuus legi neque servit legi*, that is, *in quantum talis in sinu gratiae est et reputatione divina* (the conjunction of God's *sinus gratiae* and *reputatio* is carried over from the previous *responsio*). In other words, *quoad in Christo* the Christian is *totus sanctus*. But from the standpoint of the old nature [*quantum est in carne*] he serves the *lex* (in the sense of

⁵⁵⁴Note variant reading: Bresl. MSS: these are opposites and yet they have been brought together in Christ because the person who believes is a sinner and righteous.

principle) *peccati*. In other words, *quoad in se*, the Christian is *totus peccator*. What a paradox: that a *homo sanctus* should serve the *lex peccati* (522, 12-523, 1). And it is precisely on account of this distinction that Luther counters the antinomian rejection of his thesis: *quod lex dominatur viventibus*, with the further qualification: *videlicet in quantum eiusmodi* (522, 8-11). That is, his *propositio* is not a general assertion applying to Christians as *viventes homines*, but only insofar as they are still *in carne* and struggle against sin. Conversely, it does not apply to the *pii* insofar as they are *mortui peccato*. This distinction was not understood or accepted by the antinomians because they subscribed to the Aristotelian axiom: *contraria non posse simul et semel esse in eodem subiecto*.⁵⁵⁵ On the other hand, Luther holds that *liberum esse (fide)* and *servus peccati (quod ad carnem)*, while they are *contraria*, are not mutually exclusive but coexist in the one Christian person, *quod idem christianus sit sanctus et peccator, mortuus et vivus* (523, 3-6). The *impius* is *simpliciter iniustus, habet peccatum, habet infernum* and remains *in carne totus* and perishes, whereas the Christian is not totally in the flesh but only *per synecdochen*. What does this mean? Luther cannot mean that the Christian is not *totus peccator* because he has been saying that all along the way. What it means surely is that the Christian is not *simpliciter in carne* (and hence *sub lege*); that is, he is *in carne* only to the extent that sin still inheres in the flesh. Surely the decisive thing here is that, unlike the *impii*, Christians do not let sin rule, but are themselves ruled by the Spirit of God. This then is what Luther means when he says: *Ita christianus manet in carne per synedochen, ne dominetur peccatum*, where the *per synedochen* means as much as *non totaliter* (523, 7-8). It means that the Christian is not half-free and half-bound, but slave and free at the same time, not *semi-sanctus*, but

⁵⁵⁵See 39 I, 375, 18-19 (1 AD, Arg. 8).

sanctus and *peccator* at the same time, not *semivivus*, but *mortuus* and *vivus* at the same time. In other words, the "simul" of the *simul peccator-simul iustus* is not partial but total, even though it defies both logic and psychology.

Argument 12⁵⁵⁶

Contra the Same

Sin has been destroyed. Therefore, it does not rule the living.

Response: It has been destroyed, that is, imputatively, not formally, otherwise saints would not be complaining about sin the way they are.

The *argumentum* is virtually a restatement of the previous one. Luther makes the same distinction as he did earlier, except that here he is more concise. Christians are free from sin *imputative*, that is, by faith, but they are not yet demonstrably (that is, *essentialiter* or *formaliter*) free, on account of the sin that still inheres in the flesh.

Argument 13⁵⁵⁷

Contra 9

Christ has fulfilled the law. Therefore, it does not have to be fulfilled by us.

Response: This argument is characteristic of the antinomians; indeed, if only this were the case and they could prove this argument of theirs. But the conclusion must be denied. It would be better to draw this conclusion: Christ has fulfilled the law. Therefore, we too will fulfill it. But they argue for a far different conclusion with the result that they abolish Christ, the law and all instruction. Christ, they say, has fulfilled the law for us, and they add: therefore, we do not have to fulfill it also, that is, to fight against death and sin, indeed, these have already been conquered by Christ so that no evil can befall us from there. There is nothing I would sooner prefer. And who would not wish to be free from all these evils and those troubles that come from those manifold desires and passions? I know what crosses desires can cause adolescents and how annoying it is when my anger and other plagues from which I would rather be free torment me as much as possible. But Christ, they say, has borne your sin, so why are you sad? Thus, they con-

55639 I, 523, 12-14.

55739 I, 524, 3-528, 2.

tinue most securely to do what they are doing, and carry the merit of Christ's passion and of the forgiveness of sins over into riotous living. If these things are not in the godly, why is it that Paul cries out: Wretched man that I am, who will deliver me etc [Rom. 7: 24]. I should gladly wish more than anything--and it is good for me to confess this before you all--to be able to believe in God just like that, even as I wish I could give thanks in all circumstances and sing: We praise you, O God etc. But I cannot. Now I am angry, now I glare at someone angrily, this person I hate, that person I ponder to, and I cannot be the same to everyone, which is what I sincerely want to be. I can indeed teach this matter quite splendidly, and before these fellows held any office, I taught these things, but not what they mistakenly think. That also is a clear sign that they have quite fallen from grace. But if nothing else can shake them, at least they should learn from experience that there is no youth or adolescent who is not moved more by the sight of some beautiful girl than an old fool, even though this is a godly man struggling day and night. However, the ungodly person follows all leaders without giving any thought to whether it is right or wrong. Christ has fulfilled the law. But it has been added: Afterwards, see to it that you live a life that is holy, godly and pure, as is becoming of Christians. The thing is this, that up to this point you have heard: You are forgiven, but, lest you complain of having been abandoned altogether, I will give you my Holy Spirit, who will make you a soldier; he also utters great and indescribable groans in your heart against sin that in the end you become what you desire. You say, I cannot? Pray, that I may hear you, and I will see to it that you can. The heathen have also written down remedies for love, which they thought would work against passion, namely, if you consider the vices of sex, its filthiness and baseness, as Ovid tells us:

Recall often the deeds of your wicked mistress,
and set all your losses before your eyes.⁵⁵⁸

But believe me, neither these nor any other godless things effect a cure from outside, but it must come from within, from the heart and by means of God's law which reveals the magnitude of his wrath against the sins and vices of nature, as when Paul--not like the antinomian, who always speaks with flattering words and showers people with compliments--says, and indeed as we read in almost all of his letters: Neither fornicators nor adulterers nor the covetous nor the effeminate⁵⁵⁹ will inherit the kingdom of God

⁵⁵⁸Ovid, *Remedia amoris*, 299-300.

[Eph. 5: 5]. If this hammer blow, this peal of thunder, has truly struck your heart, then finally you will sing with Paul: Wretched person that I am, who will deliver me etc. [Rom. 7: 25], and again: I do not do what I want etc. [Rom. 7: 19] in order that in this way you learn to pray for sanctification and not to be secure like the antinomians. You say that the law has been abolished? Yes, insofar as you are overshadowed by mercy and deemed righteous, but give me one person who does not still feel a great many afflictions and evils in his flesh. Give me an adolescent who, as soon as he was all alone with a beautiful girl, would not say: O my darling! Here, when we are alone, my advise is that we should pray, lest we fall into temptation. I am sure that they should pray and go on and on doing that even though it might have to be for more than a year. The godly feel such things as these and fight against them as much as they can, they believe in Christ, who has fulfilled the law for them, and from that they fight with sins, and should not be so lazy and secure as if they had sailed into port already. I certainly do not believe that these antinomians are such saints that I would dare entrust my wife Katie or my daughter to them. I will leave it at that. I do not fight against the antinomians out of hatred or envy, but out of great necessity, because I see what will happen some day as a result of their doctrine, namely, those last times, which Christ and St. Peter lament over [Matt. 24: 2; 2 Peter 2].

The *argumentum: Christus implevit legem. Ergo non est nobis implenda lex*, is probably the central tenet of antinomianism, and this not only elicits from Luther a sound refutation but also provides the occasion for several miniature profiles of antinomian theology as he saw it and assessed it. Right at the outset he states his strong opposition to the *consequentia* drawn by the antinomians and in turn puts forward his own *argumentum: Christ implevit legem. Ergo et nos implebimus* (524, 6-7). Significant here is Luther's formulation. His conclusion is not simply the opposite to that of the antinomians: *Ergo est nobis implenda lex*. As an absolute statement that would be just as wrong in the opposite direction. In fact Luther conspicuously avoids the gerundive construction *implenda lex* (the law must be fulfilled) altogether and instead uses the future indicative *implebimus*. Since this

⁵⁵⁹Luther, no doubt quoting from memory, adds the word "*molles*," a reference to homosexuals, which he no doubt got from 1 Cor. 6: 9.

presupposes [*ergo*] and flows out of the *lex impleta Christi*, it means that the *implebimus* takes on more the character of a promise: Christ has fulfilled the law for you already and now by faith you will fulfill it also in him.⁵⁶⁰ It is very important to note the difference in the way the law is addressed to the *pui* compared with that of the *impui*: to the latter it is straight demand: *vobis implenda lex*, whereas to the former, because Christ has already fulfilled the law for faith, it has more the tone of encouragement and promise: *vos implebimus*. This difference will be discussed further in the next chapter. The antinomian conclusion is far different from that of Luther's and so much so that, according to him, they end up abolishing Christ, the law and all instruction [*Sed ipsi longe aliud disputant ita, ut et Christum, legem et disciplinam omnem tollant*] (524, 7-8). This is the first time Luther has ventured the bold assertion that with their abolition of the law the antinomians end up abolishing Christ, but it will not be the last. Before this he has simply posed the question: Would not the abolition of the *lex accusans et condemnans* render Christ and his work superfluous?⁵⁶¹ In attempting to understand what he means when he says that if you abolish the law you abolish Christ, it is helpful to remember that Luther has elsewhere argued that even if the antinomians remove the letters LEX they cannot remove the content of the law because the law has been inscribed on our hearts.⁵⁶² Moreover, we do not have

⁵⁶⁰This is the direct opposite of the view: Christ has fulfilled the law and now you must too [*implenda*]. That would correspond to a view of the *imitatio Christi* where the imperative is cut adrift from its gospel foundation and Christ's *exemplum* is nothing more than exemplar.

⁵⁶¹See 39 I, 371, 9-10: *Nam si non est lex accusans et condemnans, quorsum opus habeo Christo, qui se pro peccatis meis tradit?* (1 AD, Arg. 4).

the power to dispose over Christ or to decide where he will or will not be; we cannot abolish him who is Lord of all.⁵⁶³ Certainly, we can reject him in his lowliness as he comes to us in the gospel, but we cannot reject him, any more than we can escape God, when he confronts us in the law as judge, even though that is not his proper work. Nevertheless, apart from its rhetorical effect, Luther's statement has profound theological meaning. We have already seen that Luther follows Paul in maintaining that where there is no law there is no sin, or better, sin is not reckoned as sin (Rom. 5: 13), so that the office of Christ as savior and mediator is rendered superfluous. However, it cannot be asserted as a universal statement that to abolish the law is to abolish Christ for that suggests that sinful human beings have the power to manipulate and dispose of God at will whereas we know from scripture that any rejection of Christ (contingent on the rejection of the law) will itself be subject to judgment on the Last Day. On the other hand, it can properly be understood in the particular concrete case of where the antinomians reject the law and yet still claim Christ as their savior. Here, Luther's remarks become a word of law to such people because Christ by his own admission came to save sinners, and saved sinners are people who willingly acknowledge the just verdict of the law in pronouncing them guilty, but who at the same time say with Paul: Thanks be to God for giving us the victory through

⁵⁶²See 39 I, 456, 19-457, 1: *Nam etiamsi tollas has literas: LEX, quae facillime deleri possunt, tamen manet chirographum inustum cordibus nostris, quod nos damnat et exercet* (2 AD, Arg, 13); cf. 415, 18-20 (1 AD, Arg. 36).

⁵⁶³We only have "power over him" in the gospel because in the freedom of his gracious condescension he puts himself at our disposal. Of course he can be resisted here, but what he really wants is for us to prevail over him and, like Jacob wrestling with the stranger at the brook Jabbok (Gen. 32: 22-30), to demand from him a blessing, because that is the very thing that Christ has promised to give, and faith can do no other than hold him to his word.

our Lord Jesus Christ. Antinomians need to hear the law because in rejecting the law they are really saying that they are beyond the law and have no further need of repentance for they are free from sin and hence free from the law.⁵⁶⁴ But Luther argues, as we have already seen, we can only say that we are free from sin and the law *propter Christum per fidem*, that is, from the standpoint of imputation, or *quoad nos in Christo*, not *quoad nos in se*.

Also instructive is Luther's remark that the antinomians not only abolish Christ, but also *lex* and *omnia disciplina*. Naturally, they abolish (or better, claim to abolish) the law, but what exactly is meant by *disciplina*? We saw that in the controversial conclusion to the Second Disputation Luther purportedly posits the equation *disciplina=paedagogia*, but we noted that this is uncharacteristic of his way of speaking. However, it is too premature to draw any conclusions yet since we have not yet considered all the material. The question that we will try to find an answer for is this: If *disciplina≠paedagogia*, does discipline refer to the *usus civilis* or to the work of the law in the Christian life which has usually been put under the head *usus tertius*? From what we know so far it would seem to be the latter. If this is the case, Luther is saying that the antinomians abolish both the *lex* in the sense of the *usus theologicus* and *disciplina* in the sense of the parenthesis and exhortation of the New Testament. This would agree with the fact that, as we saw in the law chapter on the background of the controversy, the only use of the

⁵⁶⁴To be fair, they claim that repentance comes *ex evangelio* not *ex lege*, whereas Luther argues that even if the *χρηστότης*, the *ἀνοχή*, and the *μακροθυμία* of God (all of which ultimately crystallizes in Christ) is the ground of repentance, in the final analysis this is still the *munus legis* because here God is doing his *opus aliena* in preparation for his proper work of redemption.

law that the antinomians acknowledge as being valid for Christians is the *usus politicus*.⁵⁶⁵

According to the antinomians, the fact that Christ has fulfilled the law means that we do not need to. That is true *ex fide*. However, when faith speaks that way, it is always uttered from the stance of repentance, which always prays for the daily mortification of the *homo vetus* and the renewal of the *homo novus*. But that is not the case with the antinomians. For them the implication of the *lex impleta* is that there is no longer any need to fight against sin: *hoc est, non pugnare contra mortem et peccatum, et quidem iam a Christo superata sunt, ita ut nobis inde nihil mali possit esse* (524, 10-11). But it is precisely this *securitas* of theirs, which deludes them into thinking that they have already safely docked at the heavenly port whereas the truth is that none of us has arrived yet in reality (at least apart from faith) but we are still out on the open seas battling the gales of *libidines et concupiscentia* that war against the flesh.⁵⁶⁶ It is not only the false doctrine but also its grave ethical implications for faith and the church, which Luther sees paralleling the *illa tempora extrema* spoken about by Christ and the apostles, that

⁵⁶⁵See also two *propositiones* in the *Promotionsdisputation* of Joachim Mörlin: 39 II, 133, 30-31 (B) (Arg. 13): *Lex est tantum politica doctrina. Ergo non est doctrina damnans*; again 139, 18-19 (A^I) (Arg. 27), this time put forward by Melanchthon: *Lex est tantum politica doctrina. Ergo tantum politice damnat*. In both cases an appeal is made to the veil of Moses in 2 Corinthians. 3. Luther replies that the *velamina* must be removed that the law condemning the conscience may be seen.

⁵⁶⁶The attitude of the antinomians flies in the face of Paul's warning not to use our freedom as εἰς ἀφορμὴν τῆ σαρκί (Gal. 5: 13). Their libertinistic outlook is typified in the following: *At Christus, inquit, sustulit peccatum tuum, quid tristis es? Ita securissime pergunt facere, quod faciunt, et transferunt meritum passionis Christi et remissionis peccatorum in luxuriam* (525, 2-4).

finally draws Luther into the fray and sustains him in his bitter and unrelenting battle against the antinomians.⁵⁶⁷ He cannot understand how they can deny the agonizing *pugna contra carnem* in which all Christians struggle and groan and which Paul articulates so eloquently in the latter half of Romans 7. In a candid remark, which at the same time contains more than a hint of irony, Luther confesses his own weakness and wishes he could believe without further ado like the antinomians or be able to sing the *Te Deum laudamus* in all circumstances of life; but the flesh in him is too strong for that.⁵⁶⁸ He provides us with an important historical marker when he boasts that he can teach *hac de re* splendidly (Rel. B adds: as splendidly as they can), a reference no doubt to the fact that Christ has abolished sin⁵⁶⁹ and Christians are holy, and that in fact he did teach that before the antinomians even came on the scene, but as he points out the big difference between them is that he is still aware of the sin in his life and therefore cannot do what he teaches, at least not to the same extent as the antinomians can (!) who

⁵⁶⁷He specifically says that his motives are not *ex odio aut invidia*, but *ex summa necessitate*. If the battle against the antinomians is for Luther *summa necessitas*, that can only mean that he sees nothing less than the gospel itself at stake. In other words, the way he sees it, if antinomianism is allowed to go unchecked, its results [*ex eorum dogmate aliquando*] will inevitably lead to wholesale apostasy (527, 18-528, 2).

⁵⁶⁸Thus he complains: *Iam enim irascor, iam hunc torve aspicio, hunc odio, illum amore prosequor, neque possum omnibus idem esse, quod ex animo cupio* (525, 8-10). A little later he says that if nothing else, the antinomians should at least know about this inner conflict from *experientia*, in testimony of which he cites the example of the lust of *ein alter Narr* for a *pulchra puella* (525, 13-526, 1).

⁵⁶⁹At 525, 2 he uses these words to characterize antinomian preaching; see earlier note for the text.

claim to be free from sin.⁵⁷⁰ This is not the same as Luther's acknowledgment, made elsewhere, that at the beginning of the Reformation he preached only the gospel in order to comfort consciences that had been oppressed by the law, and that only later, at the time of the Visitation of 1528, he began to see the need also for the preaching of the law.⁵⁷¹ Rather, the emphasis in this passage is on the teaching of the *simul iustus et peccator* and the lifelong struggle against the flesh as the mark of the Christian life as exemplified by Paul.⁵⁷² This is so vital to faith that since it is missing in the antinomians it is a clear sign to Luther that they have fallen from grace [. . . *eos (scil. antinomos) penitus gratia excidisse*] (525, 13).

Luther reiterates, vis-à-vis the antinomians, that it is not enough to state that Christ has fulfilled the law, for there is also [*Sed additum est*] the exhortations of the New Testament: *Hernach fac, ut sancte, pie, et integre vivas, ut decet christianum* (526, 2-3). Here no doubt he is thinking of passages such as: Μόνον ἀξίως τοῦ εὐαγγελίου τοῦ Χριστοῦ πολιτεύεσθε (Phil 1: 27; cf. 1 Thess. 2: 12). We will return to the question of the distinction here between law and gospel in a moment; for now let us consider how Luther understands the nature and role of the "*additum est*," that is, of the parenthesis. He explains it like this: First comes the message of the gospel: *Sit tibi ignotum*, but then God graciously sends his Spirit in order that we need never complain that we have been left destitute. Although

⁵⁷⁰This is our interpretation of the difficult passage which we here cite: *Docere quidem hac de re magnifice possum, et priusquam illi in aliquo munere essent, illa docui, sed praestare eadem non ita, quod tamen isti falso sentiunt* (525, 10-12).

⁵⁷¹For more on the historical background, see ch. 2.

⁵⁷²Cf. 526, 1-2: *Impius autem sequitur omnem ductum nihil putans, aequum sit an iniquum*.

the work of the Spirit is manifold, Luther focuses here on two things in particular: making us soldiers for the *militia christiana*, and causing *ingentes et inenarrabiles clamores adversus peccatum*⁵⁷³ that in the end we may become what we desire [*ut sic tandem fias, quod cupias*], which is the same as saying that we may become what we are in Christ for that is what we desire κατὰ τὸν ἔσω ἄνθρωπον (cf. Rom. 7: 21-22). Within the context of this argument, what we desire, *quoad sanctos*, is expressed in the parenthesis: *sancte, pie, et integre vivere, ut decet christianum*. If we should protest that this is beyond us, Luther does not point us inward or tell us to muster inner strength. Rather, he says: *Ora, ut audiam te, et faciam, ut possis* (526, 7-8). This is significant for it again underscores the fact that sanctification is the work of the Spirit and living as God's holy people means praying that God would keep us holy, free from sin, that he would make us good soldiers so that we can fend off the temptations of the flesh. And if we cannot, it is because we have not prayed. Now, if we take Luther's statement that it is not enough to say that Christ has fulfilled the law, for the New Testament also gives us admonition and parenthesis, and consider it from the standpoint of law and gospel, then we would have to say that this remark is intended especially for

⁵⁷³Luther no doubt has Paul's words in mind about the Spirit's intercession on our behalf στεναγμοῖς ἀλαλήτοις (Rom. 8: 26). Although Paul here simply connects the Spirit's work with intercession generally, Luther links it with the struggle against sin. It should be noted that we have translated *clamores* with "groans" even though strictly speaking the word means "cries." In particular contexts this could be a war-cry or a cry of lamentation, both of which could have application to the fight against sin. However, we have chosen "groans," even though Latin has the word "*gemitus*," because we are convinced Luther is thinking of the στεναγμοί mentioned above. Another translation problem occurs with the verb *ciere*. While it could mean that the Spirit "causes" the *clamores*, we have been guided by Rom. 8: 26 in translating it as the Spirit "utters," for which there is a precedent.

those who are not struggling with sin and who are in grave danger of succumbing to the temptations of the flesh. Such people need to be strengthened in their resolve to stand firm by being told that Christ has not only saved us from sin and delivered us from its power, but also warns us to resist it. And yet even this warning is meant to point us back to Christ, to drive us back under the shelter of his wings, for we can only resist sin so long as we remain firm in faith and in the strength of his might. On the other hand, those who are already pricked in conscience and troubled by accusations of the law need only be told: Christ has fulfilled the law for you; fear not, only believe.

Luther will permit no self-help remedies for sin, such as Ovid's *remedia amoris*. When he says that any cure, if it is going to be effective, must come, not *ab extra*, but *ab intus ex corde*, is he now pointing us to our own resources after all? Clearly, that is not the case. Here the *ab extra* does not refer to divine help *extra nos* but to human *remedia* which are bound to fail. The remedy prescribed by God, on the other hand, while it is *ab intus* does not originate *ex corde ipsa*, but from the *lex Dei* inscribed on the heart. This is what shows those who are enmeshed in sin the *magnitudo irae Dei adversus peccata et vita naturae*. To those engaging in all manner of immoral practices Paul pulls no punches. In decidedly un-antinomian fashion he says (and we need to remember that he is addressing this to Christians): *Neque scortatores neque adulteri neque avari neque molles etc. regnum Dei possidebunt* (Eph. 5: 5). Luther criticizes the antinomians for not being able to speak like this, and perhaps more to the point, for not taking such words to heart themselves. In the first *argumentum*, with tongue in cheek, he called them *suaves theologii* (499, 1-2); here he describes an antinomian as *omnia blande loquens et benigne faciens hominibus* (527, 2-3). Paul speaks the *lex condemnatrix*

(Luther calls it a *malleus feriens* and a *tonitrus*) not to condemn them, but to bring those guilty to the point where they can say with Paul: *Infelix ego, quis liberabit me etc.*, and again: *Quod nolo, facio etc.* This of course is the *usus theologicus legis* and its purpose is to bring sin under check in those who have allowed it free course so that they learn to pray for sanctification and renounce *securitas* (527, 7).

In summary, we have now observed two ways in which Luther preaches the law to Christians: The first is the milder parenetic appeal to live a life worthy of the gospel of Christ. It encourages them to be good soldiers in the fight against sin and to pray for sanctification. And here Luther reminds them that for this very purpose God has given them his Holy Spirit; he does not let them fight the battle alone but fights it for them and with them. In other arguments we have seen that Luther stresses first of all that we are free from sin and have fulfilled the law *imputative*; then he says God gives us the Spirit so that he might begin to fulfill it in us *formaliter* and *expurgative*. Although he does not use this terminology here, what Luther says in this section in connection with the Holy Spirit is consistent with the latter emphasis. In both cases he teaches that sanctification is the work of the Spirit, and here especially that prayer is one of his ways. Thus, this first way of using the law corresponds to the gospel use because its purpose is not to condemn but to encourage and comfort. On the other hand, the second way that Luther uses the law here is stringent by comparison because it is addressed to those living impenitently. While the text he chose does not tell them that God hates them, it does warn them that if they continue unrepentant on their present course they will forfeit the kingdom of God. This is definitely preaching aimed at bringing the baptized back to repentance rather than exhorting and guiding the penitent.

Luther concludes by subjecting the statement *lex est ablata* to scrutiny on the basis of law and gospel. It is true, *quoad misericordiam adumbrantem et reputantem te iustum* (527, 8-9). But Luther concentrates on the other side, namely, that the law has not been abolished on account of the sin inhering in our flesh: *sed da mihi unum, qui non sentiat adhuc in carne sua plurimas afflictiones et malas*. The weapon to be used to fight temptation is prayer. This is exactly what the *adolescens* is to remember when he is alone with a *pulchra puella*: *Hic, quando soli sumus, orandum censeo, ne in tentationem incidamus* (527, 9-13). Luther again makes it very clear that precisely because the *pii* will always feel such things, the Christian life is never only a matter of believing, but also of fighting against sin. Yet the order is important, first comes faith, which then [*postea*] lives on in the struggle against sin and security. Faith in Christ, the fulfiller of the law, leads to and undergirds the *pugna cum peccatis*, but by the same token where *securitas* is cultivated and not opposed, faith itself is threatened, for faith that does not bear fruit (and the *pugna cum peccatis* is part of the fruit) is not faith. As we saw earlier, in Luther's opinion, the antinomians had already fallen from grace and were secure in sin while under the delusion of being holy. Such is their *otium* and *securitas* that it is as if they were no longer *in via* but had already sailed in the heavenly harbor.⁵⁷⁴ This

⁵⁷⁴*Securitas* it seems is always associated with lawlessness, libertinism, and immorality. Thus, Luther says that, in spite of their claims to holiness, he would never trust them with his Katie or his daughter (527, 16-18). Schloemann, 45 n. 129, observes that Luther does not criticize what he calls *eine "praktischen Anti-nomismus"* (in the sense of libertinism), but only emphasizes the consequences of false doctrine for the *Kirchenvolk* (397-8). As we will see later in Arg. 18, Luther even acknowledges that the antinomians with their repentance (*ex evangelio*) and parenesis want to improve people morally (534-5). Schloemann is right in the sense that Luther is not interested merely in morals, but what he needs to emphasize more strongly is that the reason Luther also criticizes their libertinistic practises is precisely because he sees these as opening the door to Sa-

is a clear indication that in Luther's mind one of the chief hallmarks of the anti-nomianism that he was battling was its false realized eschatology. It would seem that the reason Luther so vigorously opposes the antinomians⁵⁷⁵ is that by putting all the emphasis on salvation as an accomplished fact (faith in Christ, *qui pro se legem implevit*), they are in danger of losing the gift of salvation precisely by presuming, in their *securitas*, that it can never be lost. Hence, his constant stress on the need to keep sanctification tied to justification [. . . *credit (scil. pius) in Christum, qui pro se legem implevit, et postea pugnat cum peccatis, neque sit ita otiosus et securus . . .*] (527, 14-16).⁵⁷⁶

A few concluding observations. From what we have seen in this argument, and indeed so far in this disputation, the charge that is sometimes made that Luther did not preach anything but the *usus elencticus* to Christians cannot be supported. Nevertheless, that does remain primary when he specifically addresses the antinomians as we have seen above. But he is also constantly encouraging, warning, and exhorting his dear Christian friends to keep their eyes wide open, not to let themselves be duped by the wiles of the devil or overcome in a

tan and hence threatening the very gospel itself by inculcating the attitude that salvation once gained can never be lost. Such is *securitas*.

⁵⁷⁵See 527, 18-528, 2: *Non pugno adversus Antinomios ex odio aut invidia, sed ex summa necessitate, quia video, quid futurum sit et secuturum ex eorum dogmate aliquando, videlicet illa tempora extrema, de quibus Christus et divus Petrus conqueruntur*. Schloemann, 45 n. 129 notes that Luther's strong polemical utterances (especially as we have them in his open letter of 1539, *Wider die Antinomier*, see discussion in ch. 2) are not to be explained psychologically as simply outbursts of rage (which he himself confesses as sin in his brief autobiographical remarks in 525, 8-10) but are of systematic relevance to his thinking.

⁵⁷⁶See our analysis of 3 AD, Arg. 18 (and in particular Luther's words in 533, 15-534, 11) for Luther's understanding of the way in which antinomian doctrine endangers christology.

moment of weakness by temptation. The exhortations are not instructions on how to live the Christian life, but rather reminding them of whose they now are, for as he is so are we in the world, that is, the exhortation is baptismal parenesis. Secondly (and these two go together), exhortations are always intended to call the saints to the battlefield where the war in them rages between the flesh and the spirit. The parenesis therefore is always uttered from the standpoint of the great battle against Satan, sin, and the flesh in which all the baptized are engaged, insofar as they are also still sinners. Here the key emphases of the parenesis will be: hold fast to Christ in faith as the victor over sin, remain in your baptismal grave where you died with him to sin, pray for strength to overcome temptation, keep alert, be a good soldier of Christ, and fight against sin in the power of the Holy Spirit.

Argument 14⁵⁷⁷

Contra 5

Christians are freed from sin while alive, therefore not after death.

Response: Christians, to the extent that they are such, do not sin and are not ruled by the law, nor do they die, and even if they die, they will live, as Christ says: I live and you will live [John 14: 19]. Likewise: He will not taste death in eternity [John 8: 52].

This *argumentum* has already been dealt with in our discussion of *Argumentum* 11, of which it provides a concise summary. As we have seen time and again, the antinomian are not so much wrong as only half right. Therefore, the solution is not to reject their thesis altogether but to correct it on the basis of law and gospel. So too, the proposition: *Christiani liberantur a peccato viventes* is correct, so long as one understands that we are talking about *Christiani* here, not *quoad in se* but *quod in Christum*. With this distinction the rest can stand.

⁵⁷⁷39 I, 528, 5-8.

Argument 15⁵⁷⁸
 Contra 26 and 27

You are freed from the law, and the law is not to be recalled. The church has been freed from the law. Therefore, the law is not to be preached.

Paul says: The law was not laid down for the righteous [1 Tim. 1: 9].

Response: To the extent that we are such.

Luther's *responsio* here is extraordinarily brief because the substance of this *argumentum* has already been dealt with in most of the arguments of this disputation. However, we will take it up in discussion a final time, also in connection with First Timothy 1: 9, in our analysis of *argumenum* 37/10.⁵⁷⁹

Argument 16⁵⁸⁰

The effect of the law is not to be taught. Therefore, neither its cause.

Response: It was said above that the law is not the efficient cause of sin but the ostensive. For it is not the law that makes you sin, neither is the law the cause and producer of despair or anger against God, nor of evil deeds against human beings, rather it is you and the sin in you even before the preaching of the law. For the law was given and came for this purpose: to show you your lack of trust, despair, anger, hatred, and malice. What then is the cause of this, who produces it? You and I. What reveals it? The law. Therefore, before the law comes we are ignorant of all this. And it is a most wretched thing that such great evil dwells in us, as Paul says: Once I was living without the law [Rom. 7: 9]. It is true that with Paul here I am a good Antinomian, but for how long? Until the law or death comes along and shows me that I myself am its cause. Here finally it will become apparent that I am brim full of deceit, malice, anger, hatred, impatience and weakness. Ah, how much better then to learn this in life when the mind and body are sound than there *in extremis*! It is not for nothing that the psalm says: I will appoint lawgivers for them so that the other nations may know that they are but human [Ps. 9: 21], otherwise they will be secure and think that they dwell in the midst of heaven and sit at God's right hand playing with the stars. But I say nothing to them about the law that reveals their

⁵⁷⁸39 I, 528, 11-13.

⁵⁷⁹See 39 I, 575, 4-576, 4.

⁵⁸⁰39 I, 529, 2-530, 3.

unbelief. They do not believe in God. Therefore, it is said that the law works wrath.

This *argumentum* is similar to a supplementary question, based on Rom. 7: 9, put to Luther in a previous disputation, but his answer there takes as its point of departure the account of Paul's conversion in Acts 9.⁵⁸¹ Here in his *responsio* he rather concentrates on the distinction between the *causa effectiva peccati* and the *causa ostensiva peccati*. Sin is the efficient cause of sin, not the law; however, the law is its ostensive cause in that the law makes sin manifest. This is the only reason for the law that Luther cites. Before the law we are ignorant of this; sin is still there but it lies dormant. Hence Paul, looking back to his pre-conversion days, can say: I was once alive apart from the law but when the law came I died: ἐγὼ δὲ ἔζων χωρὶς νόμου ποτέ, ἐλθούσης δὲ τῆς ἐντολῆς ἡ ἁμαρτία ἀνέζησεν, ἐγὼ δὲ ἀπέθανον καὶ εὐρέθη μοι ἡ ἐντολὴ ἡ εἰς ζωὴν, αὕτη εἰς θάνατον (Rom. 7: 9-10). Luther makes an interesting remark: *Esto, quod cum Paulo hic sim bonus Antinomus, sed quamdiu? usque donec veniat lex aut mors et ostendat, me ipsum causam esse* (529, 11-13).⁵⁸² Just as Paul was an antinomian before his conversion (loosely so-called, because even though he was *in medio legis* he did not know the *sensum aut effectus legis*), so too, in a different sense, Luther can call himself an antinomian, *in conspectu evangelii* (because ἐν Χριστῷ he is dead to the law), yet he knows that that is only half the story. It is true only *usque donec veniat lex aut mors et ostendat, me ipsum causam esse*. In other words even the baptized, *in quantum se peccatores*,

⁵⁸¹See 39 I, 405, 4-6 (1 AD, Arg. 27); on the other hand, in 483, 12-13 (2 AD, Arg. 28) the key text, Rom. 7: 9 appears as the proof of an *argumentum*.

⁵⁸²There is of course a paradox here: only the Christian can confess that all life lived apart from faith is death, that is, that the *impii*, though alive, are dead.

must reckon with the law for, *secundum veterem hominem*, they still have remnants of sin inhering in the flesh. However, it is only in the light of the law that I know that I am brim full of sin. Although God gave Israel the law through Moses, he also gave *legislatores* to the *aliae gentes* so that in their hybris they do not think that they are gods.⁵⁸³ But, because they are *non credentes Deo*, he did not give them a law to reveal their *impietas* (529, 16-530, 3). Luther concludes from that: *Lex iram operatur* (Rom. 4: 15).

Here then he has come full circle. The antinomian *propositio* asserted: *Effectus legis non est docendus. Ergo nec causa ipsius*. He in turn has argued that that is true only from the standpoint of faith in him who is the *impletor legis*. Therefore, insofar as Christians are also *peccatores*, the *causa effectiva legis* has not been abolished, neither has the *causa ostensiva*, for the Pauline axiom holds good: *Lex iram operatur*. Consequently, the *effectus legis* has not been abolished; *ergo: lex est docenda*.

Argument 17⁵⁸⁴

Anything that causes despair and (false) security is not to be taught. The law is such. Therefore, it is not to be taught.

Response (A¹): The law causes neither despair nor security, as Paul says: Once I used to live without the law [Rom. 7: 9], that is, I was secure in hypocrisy. And whoever is secure does not have the law. Certainly security is without and prior to the law, but when the law comes security ceases and it leads us to a knowledge of ourselves. There then we begin to argue and work out who and what sort of people we were before. There sin, which God's law finds in our flesh, begins to revive [Rom. 7: 9]. The law does not

⁵⁸³Here Luther cites Ps. 9: 21: *יְהוָה מוֹרֵה לְהֵם יִדְעוּ גוֹיִם אֲנוֹשׁ הָמָה* *שִׁיתָהּ*. However, Luther follows the Vulgate and renders *שִׁיתָהּ מוֹרֵה* with *constituam eis legislatores*. However, the end result is the same. The psalmist asks God to rule over the nations and strike fear into them.

⁵⁸⁴39 I, 530, 5-532, 7.

compel us to despair, as Paul says to the Romans: It is not the law, which is good and holy, that kills me but sin [Rom. 7: 12-13]. Certainly, the law shouts: You shall have no other gods, because I am the Lord your God who wants and is able to save all who call on me. Although the law tries to do this, we run in the opposite direction because we are by nature evil and corrupt. You see, the law works in us, as in evil matter, something other than should be the case so that, although people ought to trust God, that is, be roused by this voice of God to faith, they despair, especially when they see that they are not the sort of people the law wants them to be: You shall love the Lord your God with all your heart etc. [Matt. 22: 37-39]. It is as if indeed the law was given so that I may be such a one, and not rather that I may know that I am not such a one who then needs the help of some one else. In this way the law crushes me from the right and from the left. If the law is present, I despair, but if it is absent I become secure. However, although each is false I deny that the law is given for either, but rather in order that I might fear God and hope in him.

Therefore, that thesis, that the law causes despair and security in the church, should not be propounded because actually it does neither, nor is that its office, as its intention was what we have already said. But it is we ourselves and our inherent sin that makes this such a great and insuperable evil in us. It does that with our bodies even though the law seeks to do no such thing, but only to show you that you ought to hope in him and love God. And because you know that you do not and cannot do these things, and you begin to despair and prior to the law are secure, that certainly is not the fault of the law, which is good and holy, but it is the fault of your perverse nature and sin. For where there is no law there is no transgression [Rom. 5: 13], nor is there any death because sin and death are revealed through the law but not inflicted. Sin and death were in the world from Adam until the law but it was dead and asleep, that is, it was not known, but when the law came it revived, that is, it was revealed and heard (Rom. 5: 13; 7: 9). These present evils were made known to the sons of Adam through the law.

This *argumentum* is related to the previous one in that both attempt to lay the blame for the *effectus* of the law, whether *desperatio* or *securitas*, at the door of the law itself, whereas Luther in the *responsio* makes it clear that the law is not to blame, but that we are and the sin that clings to us. He demonstrates this from Paul. First, the law cannot be the cause of security because the apostle plainly says: *Vivebam sine lege aliquando* (Rom. 7: 9), but instead of just citing the text as he

did in his previous argument he goes one step further and interprets it: *hoc est, fui securus hypocrita* (530, 9-10), thus making it clear that even without⁵⁸⁵ the law Paul was secure, albeit in hypocrisy. Therefore, *securitas* is not caused by the law but exists *absque et ante legem*. Secondly, the law cannot be the cause of despair for Paul himself says that it is not the *lex* [ἐντολή], which is *bona et sancta*,⁵⁸⁶ that kills me, but sin (Rom. 7: 9).⁵⁸⁷

Following on from the above, Luther now makes some important remarks about the purpose of the law. The law wants us to do what it prescribes (= the will of God) but by itself cannot effect it because we run in the opposite direction on account of our corrupt nature. The way that Luther describes the law here reminds us of the language of faith: The First Commandment is not that uttered by a tyrant who wishes merely to enslave us, but by our loving God who wishes, and is indeed able, to save all who call on him. But because of our sin, instead of working faith in us, the law ends up working something quite different, namely, despair. We should note carefully what Luther says here. The law should rouse us to faith [. . . *cum fidere Deo deberent, id est hac voce Dei excitari ad fidem*] (531, 5-8). But when people see, in the light of the law, that they are not the people that God wants them to be, they end up in despair. Furthermore, the law buffets them

⁵⁸⁵For the proper understanding of this "*sine lege*" see our analysis of the previous argument.

⁵⁸⁶Strictly, Paul says that the νόμος is ἅγιος and that the ἐντολή is ἀγία καὶ δικαία καὶ ἀγαθή (Rom. 7: 12), but the difference between νόμος and ἐντολή is purely formal, the latter being a subset of the former.

⁵⁸⁷Paul takes it a step further when he says of this sin that it is ἡ ἄμαρτία ἀφορμὴν λαβοῦσα διὰ τῆς ἐντολῆς ἐξηπάτησέν με καὶ δι' αὐτῆς ἀπέκτεινεν (Rom. 7: 11).

from every side as if its task were to make them into what God desires and the law demands, instead of rather showing them that they are not like that, and therefore need the help of another, namely, Christ.⁵⁸⁸ What makes Luther's thinking here somewhat complex is that, if we have interpreted him correctly, he is saying that, on the one hand, the law should rouse us to faith, and would if we were not crippled by sin, but on the other, the law was not given to make us what we should be, but rather to make it clear to us that we are not that, and therefore need the help of another. In other words, the difference between the law's intention and its negative effect is our sin. Furthermore, it would seem to follow, though Luther does not say it, that the law, only when under the control of the gospel (and hence in the justified) can really do what it originally wanted to do, namely, rouse to faith and encourage. But, on account of sin, it only leads to despair, or alternatively, where the law is absent, to security [*Si adest lex, despero, sin abest, securus fio*] (531, 11).⁵⁸⁹ Nevertheless, Luther reiterates that the law was not

⁵⁸⁸This is our interpretation of Luther's rather complex sentence (531, 5-11):

Videtis legem in nobis, ut in materia mala, diversum quid operari, ut, cum fidere Deo deberent, id est hac voce Dei excitari ad fidem, desperent, praesertim cum viderent, se non esse tales, quales lex velit: Diliges dominum Deum tuum ex toto corde etc., et quasi vero lex ideo data esset, ut talis sim, et non potius, ut sciam, me talem non esse, ut opus haberem alieno auxilio, ita a dextris et sinistris impingitur.

We refer the reader to our translation above for a precise rendering.

⁵⁸⁹Luther is obviously following Paul in saying that *securitas* is present without and prior to the law (Rom. 7: 9), and conversely that *desperatio* is a result of the law, whereas on previous occasions he has said that the law can lead either to despair or to security. So too a little later in his *responsio* he says that despair comes when, confronted by the law, you feel your inability to do what the law demands [. . . *incipis desperare et ante legem securus esse* . . . (531, 19-532, 1).

given for the purpose of causing *desperatio*⁵⁹⁰ or *securitas*, nor is this its *officium*, but rather it was given with the intention that *ut timeas Deum et speres in eum* (531, 12-13).⁵⁹¹ To this end he rejects the antinomian *propositio: Lex parit desperationem et securitatem in Ecclesia* (531, 14). However, the good and holy law, because of *natura prava et peccatum*, is unable to achieve its *consilium*, but instead is turned into *hoc tantum malum et insuperabile nobis* (531, 15-532, 2). Nevertheless, strictly speaking, it does not cause this evil but only stirs it up and shows that it is there. Thus following Paul, Luther affirms: *Peccatum et mors fuit in mundo ab Adam usque ad legem, sed fuit mortuum et cubabat, hoc est, ignorabatur, sed veniente lege revixit, hoc est, revelabatur et audiebatur* (532, 4-6). Even without the law, sin and death are present, but where there is no law sin is not taken into account (Rom. 5: 13: ἄμαρτία δὲ οὐκ ἐλλογεῖται μὴ ὄντος νόμου), that is, it is as if they are dead and asleep. Consequently, sin and death are revealed [*ostendere*] through the law but not inflicted [*infligere*] (532, 3-7).

⁵⁹⁰Luther can of course say elsewhere that the law can only create despair: *Iam experimur omnes, eam aliud nihil posse efficere, quam desperationem* (445, 7; 2 AD, Arg. 8). However, Luther makes it clear there that in talking about the *proprius effectus legis*, we can only speak about what the law does in this corrupt nature. He also says in the same argument that if we can say that despair is good and useful (which we can in faith), this we owe not to the law but to the Holy Spirit, *qui ex lege non facit latronem nec diabolum, sed paedagogum* (445, 12-13). Therefore, in both places Luther says that despair is not caused by the law, as such, but of our sinful nature, yet the gospel can use this despair (= *desperatio sui*) to achieve that which was impossible for the law, although Satan, on the other hand, wants to exploit the law for his purposes and create total despair (= *desperatio Dei*).

⁵⁹¹He repeats this a little later. The good law does not seek any *malum*, but it wishes only to show: *te debere sperare in eum, diligere Deum* (531, 18). However, there is a slight difference in emphasis. In the former (531, 12-13) the law is seen more as the instrument by which God's will is to be effected, in the latter (531, 18) it rather stresses what God's will requires [*debere*].

Argument 18⁵⁹²

Christ preaches repentance from the gospel, for which he was especially sent. Therefore, the gospel is to be taught, not the law.

The conclusion is valid because we have been sent to preach and announce the kingdom of God and the forgiveness of sins, which is the proper voice of the gospel.

Response: Certainly that is true. But both Christ and John the Baptist preach repentance, unless you want to say that these words in Luke 13 [: 3] belong to the gospel: "Unless you repent, you will perish together and what follows." This is to preach the law, to reveal sin. Likewise, in Matthew 5 he expounds the law and sharpens it as much as possible. Not to mention what he does in Matt 23, where he shouts woe, woe, woe so often that the heart shrinks from reading it. Likewise, the question to the scribe: What do you read in the law? What is written? [Luke 10: 26]. And there are many other passages which show that Christ taught or at least interpreted the law, as did John also, in order thus to prepare for himself a people who would be receptive to this new teaching. It was to preach this that was the proper reason for Christ's being sent, namely, to preach the gospel to the poor, that is, to announce the forgiveness of sins and to heal the contrite in heart, because this is his proper office [Luke 4: 18]. But meanwhile he does not reject the other part, indeed he himself makes people contrite and poor, and again also heals the contrite in heart. For he himself teaches both: Repent, he says, and believe the gospel. But if Christ had wanted to teach [what the antinomians teach], and not teach repentance, he would not have said: Repent, [but] repent according to the gospel. Thus there would be two repentances, [one with] and [the other] without Christ. Our antinomians are so dense that they do not see what they are doing. For those who reject the law are no less the crucifiers of Christ than those who cry out violently in the psalm: Let us break their chains and cast off their yoke [Ps. 2: 3], and they hang Christ. For just as the Pharisees and scribes did not want to put up with Christ's teaching: Woe to you, woe to you, in Matthew 23 [: 13-15], likewise, in Matthew 5 [: 20]: Unless your righteousness exceeds etc., and at many other times, and on account of this teaching, carry Christ off to the cross, so also these antinomians are no better than those people who want to drive Christ out of the church with his teaching and word, and crucify and bury him again, so that we cannot see what great gifts we have received through Christ. Thus Christ's principal office is to teach grace and the forgiveness of sins and to preach good news to the poor. But yet not only this, because he also preached the law as we saw above.

Therefore, it is asked whether Christ is also a preacher of the law? Response: that he is, but not only of the law. Again, is Christ a preacher of the gospel? Response: he is. But not of the gospel only. For although it is his principal office, for which he was especially sent, to preach the gospel to the poor [Luke 4: 18] and to heal those contrite in heart, in the mean time he preaches the law, which even our antinomians do, even though they especially rail against those who teach the law. For certainly they admonish people and teach them to live chaste, pious, and holy lives, and to be gentle, kind, mild, humble, and sincere. Although these things belong to the divine law and are taught from the law, they nevertheless abhor the law itself even though, I believe, having regard for the actual voice of the law. Since however the law really is whatever performs the office of the law, whatever terrifies, whatever accuses consciences, whatever exposes ingratitude, lusts, and sins, whether it is in the gospel or in Moses, it makes no difference finally where any of these things are taken from that convict sins. Therefore, I can almost say the same about our antinomians that he did about the Athenians⁵⁹³ who said: Fools indeed they are not, but they do foolish things. Meanwhile, see that you do not make Christ some lawgiver, like Mohammed, which is not his proper office, but rather that you look at him and receive him as mediator and savior, who came to fulfill the law, but not abolish it [Matt. 5: 17] so that he is not what certain people make him out to be. He remains the preacher of the gospel to the poor and afflicted. But whence come to us the poor? The antinomians answer: grace is to be preached to them and they become better. Not true. That is not the way Christ taught, for those who are well have no need of a physician but those who are sick [Matt. 9: 12], and they cannot be sick with a knowledge of sin. But sin is revealed through the preaching of the law. From this they see that lack of trust, false security, despair, disobedience and lust is sin. And it is possible that this also could have happened through a revelation of the gifts of Christ, who suffered so much for you and your sins. It is the same: whether this happens through the preaching of the gifts of Christ or the law makes no difference; in either case it is law. Thus Paul says: The kindness of God also calls and invites us to repentance [Rom. 2: 4]. And when I hear what great benefits he has given me from my mother's womb until now, that he has supported and preserved me in so many great dangers, I am compelled to say: Since I have so great a Father in heaven, who nurtures me, a wicked sinner, as if in his own bosom, protects and defends me and is favorable to me, how will I in turn obey him and do what he commands. O wretch that I

⁵⁹³The WA editors note that Luther means Demodocus in Aristotle's *Nicomachian Ethics*, VII, 9. Yet this word is not spoken by the Athenians, but by the Milesians.

am that I have not until now recognized him as so kind a Father, and that I have not loved and heeded him as a father. Woe is me, poor wretch, where will I turn? What will I begin [to do] first? What is this, if not preaching the law from divine kindness. And I do not know whether any law could torment the mind and drive the heart into more desperate straits than this view of God's kindness. For our hearts are not so affected by the recognition of some offense against God and neighbor, the First and Second Table, as they are by that, if they see that they have despised the grace of God which is promised or given, and which is so helpful and kind. To overcome this disdain of God is by far the most difficult thing. This ingratitude, if ever it is recognized, often causes death and despair. Therefore, what place is there for a remedy? How are people to be healed who have been made poor? Not indeed from the law, but from the kindness of God, which for those people has become even more painful than the law itself. How then do we heal these people, since neither the law or the kindness of God can save them but only terrify them more and more? For the more you impress upon them the kindness of God the more they despair because it is just that great kindness that they have neglected or despised. What is to be done? Here it is time for them to follow the finger of John the Baptist, the pointer to the lamb of God, who takes away the sins of the world. For here Christ comes with his proper office as the preacher of the gospel to the poor. My brother, do not despair but hasten to this Christ who came into this world not to destroy but that the world might be saved through him [John 3: 17]. Again: He will not break a bruised and contrite⁵⁹⁴ reed nor quench a smoldering wick [Matt. 12: 20; cf. Is. 42: 3]. Here he comes to save souls and not to condemn. But now the antinomians understand nothing of these things, nor can they, if they want to be consistent, comfort consciences in grave temptations. This is what happened to the man Krause of Halle, who could not think of Christ in any other way than as his accuser before the Father in heaven. For when Christ is set before such people, [and they are told] that he came and shed his blood for them, you will hardly move them. For immediately they contradict it, then this itself is such a great sin because I do not recognize the magnitude of the gifts of Christ who suffered for me: Alas! wretched me! That is why some people do violence to themselves and take their life by means of weapons or rope, as the man from Halle did. Thus the devil, transforming himself into Christ [cf. 2 Cor. 11: 14], tricks and robs us through the image of a false Christ. For that vile adversary cannot teach or show any other Christ, if indeed he does present him, than that of lawgiver, accuser, and judge, just as the pope did. But in such struggles and when we speak about Christ, we are to look to and present him who is called the

⁵⁹⁴Luther's addition.

preacher of the gospel to the poor, who is the savior, the mediator, and the comforter of the afflicted and distressed, who came to save those who were perishing. Therefore, we must distinguish properly between Christ, insofar as he expounds and preaches the law, which does not belong to his proper office, and insofar as he is presented to us as savior and fulfiller of the law, as Paul says: He whom God made our wisdom, our righteousness, our sanctification, and our redemption [1 Cor. 1: 30]. Amen. But the world is evil and each day becomes worse, and it suffers neither to be taught nor admonished, as you will one day see for yourselves after we have died.

The antinomian proposition: *Christus praedicat poenitentiam ex Evangelio*, is really a variation on the thesis that repentance is to be preached *ex violatione filii*,⁵⁹⁵ or alternatively: *Christus praecepit apostolis, in nomine suo praedicare poenitentiam, ergo non per legem est agnitio peccati, sed per Evangelium*.⁵⁹⁶ In the *Argumentum* before us, the *Consequentia: Igitur Evangelium docendum, non lex*, is said to be based on the *proprium* of Christ' own mission and the church's commission to preach the gospel (532, 9-12).

Luther does not comment on the antinomian argument other than to say: *Ja warlich das war's* (532, 13). However, while agreeing that Christ preaches repentance *ex Evangelio*, he spends the rest of his time showing that this is not the whole truth. For if it were, it would mean that Jesus' words in Luke 13 and Matthew 5 (where he *exponit legem et acuit eam, quantum potest*), not to mention Matthew 23 with its condemnation of the Pharisees, and his reply in Luke 10: 26 *ad scribam* (actually the question was asked by a νομικός), as well as similar sayings, would all have to come under the heading *Evangelium*, which they are clearly not. Although Christ can indeed preach the law in all severity, as well as interpret it, that is not his *propriissimum officium*, but rather *evangelizare pauperibus, hoc est, an-*

⁵⁹⁵See 39 I, 399, 8-9 (1 AD, Arg. 22); 400, 2-3 (1 AD, Arg. 23).

⁵⁹⁶See 39 I, 392, 17-20 (1 AD, Arg. 19); cf. 414, 2-5 (1 AD, Arg. 35).

nunciare remissionem peccatorum et sanare contritos corde (533, 8-9). In other words, Christ preaches both law and gospel, although the preaching of the law is always done in view of the preaching of the gospel, as Luther says: . . . *ut sic pararet sibi populum capace[m] istius novae doctrinae, et ad quam praedicandam Christus proprie missus est . . .* (533, 6-8)].⁵⁹⁷ The former he calls preaching repentance in contradistinction to the gospel. When he uses the word *poenitentia* therefore he understands it as proceeding *ex lege*, whereas, on the other hand, when he refers to the antinomian understanding of repentance he normally distinguishes it as *poenitentia ex Evangelio*. Unless this distinction in terminology is carefully noted, the reader of Luther's *responsio* may in places become confused. Consequently, he sees Jesus' words in Mark 1: 15: *Agite poenitentiam et credite Evangelio* as reflecting the proper distinction between law and gospel, whereas if he had wanted to teach like the antinomians that repentance springs *ex Evangelio*, Jesus would have said: *Poenitemini, poenitemini secundum Evangelium*⁵⁹⁸ (533, 12-14). That would mean, Luther objects, that there are two repentances (although the antinomians themselves would claim there is only one): one with Christ, the other without Christ [*Ita fierent duae poenitentiae, et sine Christo*] (533, 14).⁵⁹⁹ Luther refuses to let

⁵⁹⁷The complementarity of law and gospel, that Christ does both, without in any way weakening their antithesis, can be seen in Luther statement: *Sed interim non reiicit (scil. Christus) alteram partem (scil. lex), imo ipse facit contritos et pauperes, et rursus etiam medetur contritis corde* (533, 9-11).

⁵⁹⁸Sense requires the addition of the adversative "sed." That this is a correct reading of the text is confirmed by Rel. B which has: *Poenitemini, sed poenitemini secundum Evangelium* (533, 27-28).

⁵⁹⁹Again Rel. B expands and thus interprets this terse statement: *Ita fierent duae poenitentiae altera secundum Christum, altera sine Christo* (533, 28-534, 20).

law and gospel he pulled apart as the antinomians do when they reject the law, and accuses them of being *crucifixoires Christi* no less than the kings of the heathen nations who cry out: *Disrumpamus vincula eorum et proiciamus a nobis iugum ipsorum, et suspendunt Christum* (Ps. 2: 3).⁶⁰⁰ Again, by rejecting the law, the antinomians drive Christ out of the church and thus show themselves as the true children of the Pharisees who rejected Christ's interpretation of the law and carried him off to the cross.⁶⁰¹ Luther, in underscoring the importance of the gospel, repeats an observation he made in an earlier disputation, and that is that without the law we cannot appreciate the greatness of the gifts that we have received through Christ.⁶⁰²

Luther now attempts to clarify further his position by declaring that even though Christ's *principale officium* is *docere gratiam et remissionem peccatorum et*

⁶⁰⁰In this Royal Psalm, originally composed for Israel's kings, the term *christus* has its technical meaning "anointed one" (מָשִׁיחַ), and thus refers in the first instance to the earthly king as the Lord's anointed, but at the same time also prefigures the coming of Jesus, the ultimate messianic king and messiah.

⁶⁰¹Unless one understands Jesus' interpretation of the law to be the pivotal point of comparison, the analogy makes no sense because the Pharisees were very keen teachers of the law. Luther here is a little vague and mentions only Christ's *doctrina* (534, 2-5). Nonetheless, his comparison does serve to emphasize the close nexus between the law and Christ. It seems that he wants to make the point that law and gospel cannot be separated without finally losing the gospel and hence losing Christ.

⁶⁰²He draws a parallel between the antinomians' rejection of the law and the Pharisees' expulsion of Christ from the church along with his *doctrina* and *verbum* in order to show that the result of the antinomians' doing what they have done is that: *ne possimus videre, quae et quanta beneficia per Christum acceperimus* (534, 8). This parallel also shows the close connection Luther sees existing between the rejection of the law and the rejection of Christ. Cf. also what Luther says in 1 AD, Arg. 16, that in order for us to understand what Christ has done as *impletor legis*, he needs to expound and interpret the law.

evangelizare pauperibus, nevertheless, he still preaches the law as auxiliary to the gospel. But now he pushes the discussion a step further when he claims that the antinomians themselves preach the law although they especially rail against the *doctores legis* (534, 14-18). He exemplifies this by pointing out that they too teach people to lead a chaste and godly life: *Nam certe admonent populum et docent, ut caste, pie, et sancte vivant, ut sint mites, benigni, mansueti, humiles et sinceri* (534, 18-19).⁶⁰³ But it is precisely here that Luther uncovers a contradiction. The items just listed, all of which belong to the parenetic tradition of the New Testament, *ipso facto* stem *ex lege* (although, to be fair, that would not be axiomatic for the antinomians), yet the *Antinomi* abominate the law. Luther seems to conclude from this that while, on the one hand, they hate the *lex*, on the other, they pay attention to the *vox legis*.⁶⁰⁴ However, Luther argues, the antinomian protestations notwithstanding, that whatever performs the function of the law, that is, produces the effects of the law, is itself law irrespective of whether it has its source in the law or the gospel. He formulates this as follows:

Cum tamen revera lex sit, quod legis officio fungitur, quod terret, quod accusat conscientias, quod ingratitude, libidines et peccata ostendit, sive

⁶⁰³Although judging from Luther's polemics and from the antinomian profile in ch. 2, it could be more a matter of "do what they say but not what they do" (cf. Matt. 23: 3 where Jesus tells his disciples to observe the doctrine of the Pharisees but not their practise).

⁶⁰⁴The sentence reads: *Haec* (scil. catalog of "virtues") *cum sint legis divinae et ex lege doceantur, tamen ipsam legem abominantur, intuentes credo ipsam vocem legis* (534, 19-535, 2). It seems that Luther needs this distinction between *lex* and *vox legis* (a distinction somewhat akin to the Aristotelian distinction between the formal and material principle) to account for how the antinomians can reject the law and yet teach the adhortatives of the NT, which of course Luther argues are the *vox legis* but which they no doubt would claim are the *vox Evangelii*.

sit in Evangelio, sive in Mose, nihil refert, ubicunque tandem legatur aliquid eorum, quae arguunt peccata (535, 2-5).

This insight of Luther's is of such moment that it was also taken up into the Formula of Concord some four decades later.⁶⁰⁵ However, this does not turn Christ into some *legiferus* like Mohammed. He remains first and foremost *evangelizator pauperum et miserorum* (535, 11-12). That the antinomians could tell Luther! But they come to a serious parting of the ways when it comes to the question of how Christ does do his evangelical work. The antinomians' solution is the application of the gospel *ohne weiteres: Respondent ipsi (scil. Antinomi* to the question: *At unde nobis sunt pauperes?), praedicari eis gratiam, et meliores fiunt. Luther: No sic. Nam Christus sic non docuit* (535, 12-14). He objects that people cannot be healed unless they are first brought to acknowledge that they are sick, and here he has recourse to our Lord's own words in Matthew 9: 12 where he says that those who are well (or think they are well!) have no need of a physician but those who are sick. Therefore, unless the scalpel of the law first does its probing work in exposing the sin, showing that such things as *diffidentia, securitas, desperatio, inobedientia et libidines* are sin, the "patient" will not know he is sick and consequently will not look for the healing of the gospel.

In spite of what he has just said, Luther grants the possibility that this knowledge of sin could come through the revelation of the *beneficia Christi*, for

⁶⁰⁵See FC SD V, 11-13 (BSLK, 956). The *Bekennnisschriften* editors note that the passage actually cited to substantiate this point is excerpted from a sermon of Luther's on the gospel for the Fifth Sunday after Trinity, (John 16: 8) (WA 15, 228). The last part of the quote is given double spaced for emphasis (but unfortunately not italicized in Tappert's translation). After reciting the first part of the text: *Der Heilige Geist wird die Welt strafen umb die Sünde*; he continues a little later (with emphasis): *wölchs mag nicht geschehen ohn durchs Gesetz Erklärung*. To. 2. Ien. fol. 455.

God is free to work in whichever way he chooses.⁶⁰⁶ However, be that as it may, the crucial thing is not just that whether you come to repentance by means of the law or the rhetoric of the gospel you will be one and the same, which was his earlier conclusion,⁶⁰⁷ but that it makes no difference precisely because in either case it is the law that is at work. However, Luther now proceeds to show that there may be a difference after all if one begins with the gospel as opposed to the law, not theologically but pastorally. First, he reaffirms that the proclamation of the goodness and kindness of God may indeed bring people to their knees in contrition and compel them to confess their utter wretchedness, unworthiness, and confusion in not knowing where to turn.⁶⁰⁸ Then he explains the classical dilemma of preaching the law *ex benignitate divina*. So powerful is the effect that Luther knows of no law that could ever drive the heart into more desperate straits than this *conspectus Dei benignitatis* (536, 13-15). The heart is affected far more deeply by the realization that one has despised the promised and proffered

⁶⁰⁶Already in 1 AD, Arg. 28 he not only said that repentance can arise *ex cognitione legis et ex cognitione crucis Christi seu salutis*, but that it ought to arise from the passion of Christ [*Est quidem ex cruce seu passione Christi homo ducendus ad poenitentiam*] (407, 1-4). On the other hand in 1 AD, Arg. 24 Luther says that where the *duri et impenitentias* cannot be reached with *minae* and *terrores*, we should resort to *promissa et beneficia* (401, 4-6).

⁶⁰⁷Thus 39 I, 407, 12-13 (1 AD, Arg. 28): *Sive iam lege sive Evangelii rhetorica veneris ad poenitentiam (sic), unum et idem eris*. Here the important thing is that the repentance in each case is the same and not, as here, that it is always the law that in effect leads to repentance even if the preachment [*res*] is gospel.

⁶⁰⁸Luther illustrates the kind of devastation that the gospel, acting as law, can wreak in a person so that they end up bordering on despair: *O me miserum, qui hunc tam benignum patrem hactenus non agnoverim, non ut patrem dilexerim et observaverim. Ach unnd wehe mir Armen, quo me vertam? quid primum incipiam? Num quid hoc est?* (536, 10-13).

grace of God than by the knowledge that one has transgressed some commandment of the Decalogue. As Luther perceptively observes: *Hunc despectum Dei vincere est longe gravissimum. Haec ingratitude, si quando agnoscitur, saepe parit mortem et desperationem* (537, 3-5). The dilemma of course is that the very place where troubled consciences should be directed to receive comfort is itself the source of greatest distress.⁶⁰⁹ Neither the law nor the kindness of God can save them but only terrify them more and more. Ordinarily, this would be the point at which a pastor, like John the Baptizer, would direct the penitent to the Christ the *evangelizator pauperum*. However, as Luther points out, that is impossible in the case of the antinomians because they have already played their trump card, so to speak. If they have already used the gospel to bring people to repentance, they can hardly turn around now and use that same message as a source of comfort. Hence, Luther says that the antinomians, if they want to be consistent, can never console consciences *in gravissimis tentationibus* (537, 17-19). It is here that he makes mention of the tragic suicide of the Dr. Krause of Halle, the blame for whose death he lays at the door of the antinomians.⁶¹⁰ This man became so terror stricken by the image of Christ that he ended up taking his life in despair.⁶¹¹

⁶⁰⁹537, 9-10: *Quo enim magis inculcas benignitatem Dei, eo magis iste desperat, quod tantam benignitatem neglexerit aut contempserit.*

⁶¹⁰The suicide happened on All Saints Day 1527. Cf. Enders 6, 147, n. 9; CR I, 922-3; WATR 1, 277, 329; 4, 498. On Krause, see Rudolf Hermann, *Zum Streit um die Überwindung des Gesetzes: Erörterungen zu Luthers Antinomeresen* (Weimar: Hermann Böhlhaus Nachfolger, 1958), 23ff. For a general assessment of his work work, see ch. 4.

⁶¹¹People like this get trapped in a vicious circle: they are driven to contrition in the first place through the proclamation of God's kindness, then out of a sense of shame and unworthiness they refuse to believe that Christ shed his blood for them, and then finally they become burdened with even greater guilt

He could think of Christ in no other way than that of *accusator coram patre in coelis* (537, 20-538, 1). The death of Krause is the consequence not only of a systematic separation of law and gospel, which, as we have seen from our discussion, can arise when repentance is made to depend on the preaching of the gospel, but also the general failure to distinguish between law and gospel. It is not enough to distinguish between Christ and the law but we also need to distinguish between the *opus proprium* and the *opus alienum* of Christ himself.⁶¹² In other words, we must distinguish *inter Christum, quatenus legem exponit et praedicat, quod non est proprii eius officii, et quatenus nobis proponitur salvator et impletor legis* (538, 13-16).

This was a lengthy *responsio* but an important one. Two facts emerged here that are new. First, that the law can be identified as whatever performs the function of the law, that is, accuses consciences, even if it be the gospel. Therefore, law and gospel must be distinguished not merely on the level of grammar but on the basis of effect. Secondly, although repentance can be brought about by both the law and the gospel, Luther has shown that there are *seelsorgerlich* reasons why it is hazardous to make it a practice to preach repentance on the basis of the gospel of God's kindness and love in Christ.

Argument 19⁶¹³

The law was given to a specific nation, that is, to the Jews. We are not Jews. Therefore, the law does not apply to us.

Proof of Minor Premise: Romans 2 [: 12]: Those who have sinned without the law will perish without the law.

when they recognize their culpability in not accepting the gifts of Christ who died for their sin (cf. 538, 1-5). Luther blames the devil for the despair that people feel when told about the love of Christ, for Satan can transform himself into an angel of light (2 Cor. 11: 14).

⁶¹²CF. BSLK, 955, 27-28.

⁶¹³39 I, 539, 4-541, 5.

Response: Considered from the standpoint of race, the law was not given and laid down for a specific nation but for the whole human race, for in fact most of the laws useful for this life, together with the whole Decalogue, were written and inscribed on the hearts of all people, unless they were sheer brutes, already from the birth or creation of mankind with Adam himself. But because man fell into sin, and because people gradually deserted God and more and more turned away from him, and since they fell into a worse state through having neglected him, until finally memory of him⁶¹⁴ was almost completely blotted out and obscured, God was compelled anew to set before us a boundary, lest we should forget his law altogether, in order that we might thereby at least remember who we once were and who we are now. Therefore, the law was renewed and indeed written and handed on to a specific people, to the extent that it was written, but not to the extent that it was spoken, because these ideas were common to all nations as experience itself testifies. For if this were not the case, we would set no store by it at all if the law said: you do not trust God, you do not fear him, you misuse his name, even as now I regard it as nothing if ever it says: you have not been circumcised, you do not offer a bullock, heifer, and ram. For when I hear this I do not care one iota, nor do I not begin to tremble, but even consider it a game and joke. But when it says: you are an unbeliever, you do not believe in God, you do not fear God, you are an adulterer and fornicator, disobedient and whatever else, here at once I begin to tremble and quake and recognize in my heart that I certainly owe God this, not because the Decalogue may have been written and handed on to us, but because we know that we have brought these laws into the world with us and indeed by means of this preaching the veil is immediately removed and I am shown to be a sinner. For although the Decalogue was given in a unique way, both as to place and solemnity, nevertheless all the Gentiles acknowledge that godlessness, disobedience, contempt of God, theft, adultery, and defilements are sins and iniquities, as Paul says in Romans 2 [: 15]: each in turn excusing and accusing. Therefore, they are natural laws, not political or Mosaic, otherwise we would speak of these things there just as we do of the offering of cattle, circumcision, and the Sabbath. God does not wish this to be observed by us, but when we have heard this commandment: You shall not steal, there we become dumb and may be more silent than fish.

⁶¹⁴The words "memory of him" are our interpolation. The text at this point has a lacuna. The WA editors suggest that the sentence should be completed with *mens*. Apart from "*memoria*," another possibility could be "*lex*," although that seems slightly tautologous. The syntax requires a feminine noun.

This *argumentum* has already been refuted earlier although the approach here is different.⁶¹⁵ The antinomians adduce Romans 2: 12 to support their argument for the historical particularity of the law insofar as it was given only to one specific nation, that is, the Israelites.⁶¹⁶ In his *responsio* however, Luther brings some precision to the term *lex* and distinguishes between the *lex scripta* of Moses (although he does not use the term) and the universal law of nature, which approximates the content of the Decalogue.⁶¹⁷ All the *naturales leges* are in the Decalogue, but not all the Decalogue is in the *naturales leges*. Therefore, one can say that the law, *in genere dicta*, was not given *certo populo* but *universo generi humano* (539, 7-9). This law is identical to the law written on the heart, but Luther includes here not only the Decalogue but also *pleraeque leges ad hanc vitam utiles*—all these together *scriptae sunt et insculptae mentibus omnium hominum*. This inscription of the law reaches back to the creation of humankind: *ab ipsa nativitate seu creatione hominis cum ipso Adam* (539, 8-11). However, the ever increasing apostasy which followed the fall resulted in a gradual corrosion of the human mind

⁶¹⁵See 39 I, 380, 11-381, 10 (1 AD, Arg. 13). There Luther's point of departure is the decision of the apostolic council reported in Acts 15: 10. He stresses that the *iugum legis* (= *lex condemnatrix*) has been removed in Christ so that for faith it becomes the *lex impleta*; on the other, insofar as we remain sinners, it remains the *lex implenda*, which demands that it be fulfilled by us.

⁶¹⁶The later distinction between Israelites (pre-exilic) and Jews (post-exilic) is still unknown to Luther. He simply uses the term *Iudaei*.

⁶¹⁷Luther does not use the term *lex naturae* here but it is implied by *naturales leges* (541, 1). In 1 AD, Arg. 25 he virtually equates the *lex naturae* (*insculpta cordi*) with the content of the Decalogue (402, 14-403, 3). Moreover, in 1 AD, Arg. 7 he contrasts *circumcisio et aliae ceremoniae* (limited by time and place) with that Decalogue, which still inheres in the conscience (374, 1-3).

and the erasure of virtually all memory of God and his law. This forced God⁶¹⁸ anew to set before us a boundary lest we should forget his law altogether [. . . *coactus est Deus a novo nobis, ne prorsus suam legem oblivisceremur, metam proponere*]. However, contrary to what we might have expected, in calling the Decalogue a *meta*, Luther is not thinking of it here primarily as a curb to human sinfulness in the sense of the *usus politicus*, but, as the rest of the sentence shows, he is rather viewing it from the standpoint of faith so that it becomes the instrument by which we remember (but not in any ethereal Platonic sense) what we once were in paradise and what we one day will be in the paradise of heaven [*ut sic recordaremur saltem, qui antea fuerimus et qui iam simus*] (539, 15-540, 1).⁶¹⁹ This is surely another marvelous example of how Luther understands the use of the law among the saints. Here we see an important connection between admonition and anamnesis,⁶²⁰ which coheres with our emphasis on admonition as baptismal

⁶¹⁸The same phrase "*coactus est Deus*" (539, 13-14) was used earlier in 2 AD, Arg. 2 (426, 11). There are no grounds at all in the text for interpreting this in terms of Aristotelian logic. In other words, there is no suggestion that the *coactus* points to a logical necessity which must necessarily follow from a prior conclusion and to which God would have to be subject. Luther rejected this line of thinking when he rejected scholastic theology.

⁶¹⁹Cf. 39 I, 454, 10-14 (2 AD, Arg. 13). In that *argumentum* Luther stresses that God is the real author of the law not Moses. Therefore, although Luther at times will describe Moses as a lawgiver, he is more a *interpres et illustrator legum scriptarum in mentibus omnium* hominum. Moreover, the *lex Mosaica* was not given to replace the *lex naturae* nor to supplement it but to explain and interpret it (454, 14-16).

⁶²⁰It is useful to note that in 2 AD, Arg. 13 Luther uses *admonere* (454, 13) and here he uses *recordare* (539, 15). The two words are close and their semantic fields overlap. *Admonere* can mean both "to admonish" or "to remember." The fact that these two meanings belong to the one word strengthens

parenesis or paraclesis. Luther does not use the present tense here but the past and future. The Decalogue, which refreshes our memory of God's will that was first implanted in us in the form of the *lex insculpta*, is meant to do two things: First, to keep before us the gulf that separates us from Adam so that we remain mindful of our sin and our need for Christ, in whom sins are forgiven and the gulf is bridged. Secondly, the Decalogue is meant to make us homesick for paradise, but since we cannot return to Eden, it rather points us to our home in heaven where we will be perfectly recreated in the image of Christ, the second Adam (cf. 1 John 3: 2). The Decalogue then, insofar as it is understood *spiritualiter* as parenesis in the life of the justified, stands firmly on the side of the gospel and under its control. Since for faith it is *lex impleta*, it holds no fear but is rather to be treasured with delight because it announces to us, indeed promises us, what we one day will be in the flesh, when he who has begun his good work in us in Baptism brings it to completion at the day of Jesus Christ (Phil. 1: 6).⁶²¹

Luther is at pains to emphasize that the law (Decalogue) did not come into being for the first time at Sinai, but was there written down for the first time. In that sense one can talk about a renewal of the law [*renovata*], and even its trans-

the tie between admonition and anamnesis. Admonition then, understood in this way, calls people to remember who and what they are.

⁶²¹The difference in tone between the law as parenesis used in the service of the gospel and addressed to the *pii*, and that in the form of the *usus theologicus* and *usus politicus*, directed at the *impii*, can readily be seen from a Luther quote from another work where he again says that the law had to be given to remind people of the natural law in their heart (17 II, 102; cited by Bornkamm, *Theology*, 252, n. 6):

But evil desire and love darken this light [of reason] and blind people so that they do not look at such a book in their heart and do not follow such a clear commandment of reason. One must therefore curb and drive them back with external commands, books, with the sword and by force, and remind them of their natural light and put their own heart before their eyes.

mission to a specific nation, but only to the extent that we are talking about the written law and not the law that was first spoken⁶²² or preached by God at the beginning of the world [*in quantum scripta, sed non in quantum dicta*], for the law is the common possession of all peoples, as *experientia* testifies (540, 1-3).⁶²³ Luther now makes a very important deduction from the fact of the universality of the law. He says that if he had not first known the will of God from the *lex inscripta*, he would have set no store by the accusations: *Tu es incredulus Deo, non credis Deo, non times Deum, es adulter, moechus, inobediens et quicquid tale est* (notice again that

⁶²²The terminology Luther uses in connection with the *lex renovata* needs to be carefully noted. We can speak about a renewal of the law *in quantum scripta*, where *lex scripta* refers to the law promulgated at Sinai, but not *in quantum dicta*, where *lex dicta* means the same as *lex naturae*. Schloemann, 99 n. 305, observes that all too often it has been forgotten that Luther understands the law of Moses not only as worldly legislation [*usus politicus*] but also especially as the preaching of the law [*usus theologicus*]. H. Gerdes, *Luthers Streit mit den Schwärmern*, 42ff, must be critiqued along these lines. (Nor can we agree with his view that there is a change in Luther's understanding of the Mosaic law in his later life compared with the position he adopted during the controversy with the *Schwärmer*. This can be quickly confirmed by a reading of his 1538 letter *Wider die Sabbathler*.) We agree with Schloemann's criticism that he considers the *lex Mosi* too one-sidedly as *lex civilis* and fails to understand its theological significance. For the preaching of the law of Moses functions, as it were, as a prototype of all public proclamation of the law.

⁶²³Cf. 540, 13-16: Although the Decalogue was given *singulari modo et loco et pompa*, nevertheless, *omnes gentes* recognize that *impietas, inobedientia, contemptum Dei, furta, adulteria, pollutiones* etc. are *peccata et iniquitates*, for these are all *naturales leges*. Incidentally, we note in passing that Luther understands the *lex naturae* as embracing not only the Second Table but also the First (see the first three items above). We cannot go into the question of how the natural knowledge of God with its recognition of the *deum esse colendum* coheres with the recognition that the God who demands: "Thou shalt have no other gods before me," is the same God who first revealed himself to Israel as their God by rescuing them from their slavery in Egypt. Of course this question also has enormous implications for the Lutheran law-gospel sequence as opposed to its Reformed reversal.

both Tables are represented). They would have meant no more to him than the charge: *Tu non es circumcisisus, tu non offers bovem, vitulum, pecudes*. But since in fact the words of the Decalogue do not fall on a *tabula rasa*, so to speak, but on a *mens* that has already been impregnated with the *lex Dei*, even though much has now been forgotten, they immediately ring true and cause the heart to tremble and shake. The important point that deserves emphasis here is the law's *modus operandi* in the sinner (which includes the Christian *quoad peccatorem*). According to Luther, when we stand before the bar *coram Deo* and hear the verdict of the law, we agree with its judgment finally, not in the first instance because *es steht geschrieben in decalogo*, but because we recognize that it agrees with the *lex insculpta* which we brought with us into the world. This innate knowledge of the law has been drastically diminished due to the corruptive and corrosive effects of sin and by itself it is hardly enough to restrain us from evil. However, when the law is preached on the basis of the Decalogue, the veil is immediately removed and I recognize that I am sinner [. . . *et hac quidem praedicatione statim velamen tollitur et ostenditur mihi, quod facio peccatum*] (540, 12-13). Again, the emphasis is on the priority of the *lex insculpta*, which the *lex praedicata* does not replace, supplement or correct, but simply revitalizes by removing the veil of forgetfulness and confirming what the conscience already knows.⁶²⁴ This does not now mean that

⁶²⁴The following passage from Luther's *Unterrichtung, wie sich die Christen in Mose sollen schicken* (1525), shows that what he is saying here about the inner coherence between the *lex naturae* and the *lex scripta* (Decalogue) and the priority of the former is nothing new: "Thus I now keep the commandments that Moses gave, not because Moses gave them, but because they have been implanted in me by nature; and here Moses is in agreement with nature" (24, 10, 3). Werner Elert, *Structure*, 36, remarking on this passage says that the correspondence of the written or proclaimed to the implanted law is not accidental. The former would leave us untouched if the latter did not exist. When it is pro-

Luther is speaking like a Platonist and saying that sin is ignorance of God. Sin is not lack of knowledge but a lack of faith in God. Conversely, the *notitia* that is mediated or rekindled by the revelation of the *lex scripta* of the Decalogue is not the remedy for sin, does not remove sin, but on the contrary, exacerbates sin and shows it to be sin beyond measure so that one can only cry out with the publican: ὁ θεὸς ἰλάσθητί μοι τῷ ἁμαρτωλῷ (Luke 18: 13) or with Paul: ἁμαρτωλῶν πρῶτός εἰμι ἐγώ (1 Tim. 1: 15). But that is already a confession faith born of the gospel, which can never be wrung out of us by the threats and coercion of the law.

If Luther gives priority to the *lex inscripta* or *lex insculpta* over the *lex praedicata*, it would be wrong for us, and unfair to him, to push this difference of emphasis to the point of a false antithesis, for Luther knows that the law as God's law is a unity. Nevertheless, it is important for his argument to show that the antinomian position is called into question already by the universality of the law for it is written on the hearts of all people and cannot simply be abolished arbitrarily by the antinomians' assertion that the law has ceased since the year 1 AD. The final proof, Luther says, is not scripture, the Decalogue, or even the *lex praedicata*, but *experientia* based on the reality of the *lex naturae* or *lex insculpta*. Even if you say the Decalogue has been abolished, you still have not removed the law,

claimed, our heart replies: "That's true!" (cf. also 16, 447, 10ff., Exod.-Pred., 1525). But Elert also points to another passage which shows that Luther also knows that the opposite is true, namely, that Satan's opposition blinds the heart to such an extent that the proclaimed word must first awaken that voice in our heart (16, 447, 10; *Sermons on the Second Book of Moses*, 1524-27). This no doubt is what Luther means in his *responsio* when he says that the veil is removed through this *praedicatio*.

Luther tells the antinomians, for the law is not merely external but is also internal insofar as it inheres in the conscience.⁶²⁵ As Luther said earlier: it is *schon da*.⁶²⁶

⁶²⁵This is consistent with Luther's emphasis already in the First Disputation (Arg. 7): *Nam si Deus nunquam tulisset legem per Mosen, tamen mens humana naturaliter habet hanc notitiam, Deum esse colendum, proximum diligendum* (374, 3-5). The argument seems fairly compelling, at least on the level of logic. In ch. 4 we will need to assess how it fits theologically into Luther's overall defence of the gospel.

⁶²⁶See 39 I, 477, 7 (2 AD, Arg. 24). On the relation between the *lex naturae* and *lex scripta*, see also Schloemann 102, n. 319, where he criticizes E. Wolf (*Gottesrecht und Menschenrecht*, 20) in his contention that Luther understands the *lex naturae* as a "Rezeptionshilfe für die Gebote vor allem im Alten Testament." Wolf uses other *Luthertexte* (which he misreads) to establish the priority of the Decalogue over the natural law, even though his project sets him on a collision course with the passage in this argument (540, 10-13) as well as other parallels, which clearly state the opposite. Schloemann agrees with Heckel (*Lex charitatis*, 56-57, 79-80) that Wolf, in attempting to establish the universal validity of the Decalogue, has shown himself to be more influenced by the positivistic view of revelation common to Occamism than by Luther. Schloemann (98, n. 304) also makes the perceptive observation that even though the *lex scripta* is "*vom hymel herab*" (see 2 AD, Arg. 1 for Luther's exegesis of Rom. 1: 18), this phrase should be understood as pointing to its public proclamation and not as an indication that it possesses universal authority as revelation. For the Mosaic law (including the Decalogue) is already a proclamation of the law that has passed through human hands, a revelation hidden in the "*finitum*." For Luther the mediating role of the angels (Gal. 3: 19) and the man Moses are important aspects of the revelation of the *lex Mosaica* (cf. Heckel, *Lex Charitatis*, 78ff., Siirala, *Gottes Gebot*, 32-33, 267ff.). In the light of what Luther says both in the disputations and elsewhere, Schloemann, 102, n. 319 that, contra Wolf, it would be more correct to hold that for Luther the Decalogue is a "Rezeptionshilfe" for the *lex naturae*, were this not of course always "*schon da*." We have already mentioned in connection with our analysis of 2 AD, Arg. 24 that it is Schloemann's contention that the fact that the law is already present in every human conscience (=the universal validity of the *lex naturae*) is the decisive weapon which Luther used to refute the antinomian claim of the total *abrogatio legis* in the year 1 AD. This will have to be discussed further in the next chapter.

Argument 20⁶²⁷

When there is a change of priesthood, what follows of necessity is a change of the law etc. [Heb. 7: 12].

Response: That is true in regard to ceremonial laws. Also in Hebrews: The law is weak and useless [Heb. 7: 18]. Response: It is infirm in relation to justification, for which it has not been given. Otherwise, to reveal sins is the task of the law alone, but to remove sins the task of Christ alone. Certainly sin is recognized through many means, not only through disaster and misfortune, but also through threats and promises, calamity and prosperity. But it is not removed through many means, but only through the blood of the spotless lamb Jesus Christ, as Peter [1 Peter 1: 18, 19] and Hebrews [Heb. 9: 12-14] say.

The *argumentum* is very terse. It appears to claim that the *translatio legis* is not only possible, but that it was specifically for this purpose that God ordained a *translatio sacerdotio*. The scriptural basis for this argument is Hebrews 7, which gives several reasons for the superiority of the priesthood of Melchizedek over the Levitical (or Aaronitic) priesthood. However, the proponent of the argument forces his *propositio* on the text instead of reading it out of the text. Hebrew 7: 12 argues a priori from the fact of our Lord's priesthood κατὰ τὴν τάξιν Μελχισέδεκ (that is, non Levitical) to the conclusion, on the grounds of logical necessity, that there must have also been a corresponding change to the law governing the priesthood: μετατιθεμένης γὰρ τῆς ἱερωσύνης ἐξ ἀνάγκης καὶ νόμου μετάθεσις γίνεται (7: 12). The antinomians, on the other hand, argue that the priesthood had to (*nesesse*) be changed in order to enable the change in the law (cf. the νόμος ἐντολῆς σαρκίνης of Heb. 7: 16). Luther does not even worry about this technicality, but comes straight to the point. The first respondent (whose identity we do not know) rightly points out that the *lex* in question is not the Decalogue but is *de legibus caeremonialibus*, and that the *auct. Heb.* himself says of this cultic regulation

⁶²⁷39 I, 541, 7-14.

[ἐντολή] that it is set aside [ἀθέτησις γίνεται] διὰ τὸ αὐτῆς ἀσθενὲς καὶ ἀνωφελές (Heb. 7: 18).⁶²⁸ And the reason it is set aside: οὐδὲν γὰρ ἐτελείωσεν ὁ νόμος (Heb. 7: 19). Luther then begins his *responsio* by fastening on to the fact that the law is *infirma et inutilis*. He makes it clear that the law is actually very potent, speaking now about the law in its proper sense as *lex theologicus*; the one exception being *ad iustificationem*, for which it was never given anyway. The sole task of the law is *ostendere peccata*, whereas Christ's office is *tollere peccata* (541, 9-11). God can use all manner of means to bring us to a knowledge of our sin, not only law, in the sense of the *duplex usus legis*, but also his grace and kindness, in the sense of his gracious bestowal of gifts and blessings, both spiritual temporal: *vel etiam plagis et miseriis, item minis et promissionibus, calamitatibus et beneficiis* (541, 11-12).⁶²⁹ However, we saw in Luther's last argument that whatever does the work of the law, that is, reveals sin, is law, regardless of the way it comes. On the other hand, sin is removed in one way only, *per sanguinem immaculati agni Iesu Christi* (541, 12-13).

It remains for us to clarify the point of the antinomian argument. We know that the antinomians understand the law primarily as the *lex Mosaica*. This is clear both from our analyses as well as from the discussion of antinomian the-

⁶²⁸The result of this change in the cultic law governing the priesthood is that the law requiring priests to be descendants of the tribe of Levi (Deut. 18: 1) is suspended in order to make way for Christ, who comes from the nonpriestly tribe of Judah, to be consecrated priest (in a different *ordo*). This qualification is not physical descent but the δύναμις ζωῆς ἀκαταλύτου (Heb. 7: 16).

⁶²⁹Cf. 1 AD, Arg. 24: *Deus per verbum suum omnibus modis exhortatur te, ut cesses a peccando et audias eius promissionem* (401, 14-15). Cf. also 530, 14-16 (3 AD, Arg. 42/15). Earlier in the same argument Luther says that when the *duros et impenitentes* are not moved by *minae* and *terrores*, we should try *promissa et beneficia Dei* (401, 4-6).

ology in chapter 2. Therefore, they are able to argue that the law of Moses (including the Decalogue) was set aside with the coming of Christ. The only law they recognize is the noncondemning civil law. Luther, as we have seen from the previous argument, therefore stresses the universal validity of the law by understanding it first and foremost as the Adamic (*post lapsum*) *lex naturae*, which is in continuity with, but prior to, the *lex Mosi* and which remains also for the Christian, *quoad in se*, until death. In this way Luther blocks the antinomians from arguing the abolition of the Decalogue based on the abolition of the Mosaic law.

Argument 21⁶³⁰
Contra 34

No true Christians are to be terrified by the law. All who are members of the church are truly Christians. Therefore, none of them is to be terrified by the law.

Response: The law is to be taught to the godly and to ungodly without distinction, for the godly are partly righteous, partly sinners. Insofar as they are righteous, they are not under the law, and [yet] they are to be convicted until they have mortified the remnant of their sins. That is how Paul clearly addresses the Corinthians, the Ephesians, the Philippian and the Hebrews as saints [1 Cor. 1: 2; 2 Cor. 1: 1; Eph. 1: 1; Phil. 1: 1]. And yet here there is also this great catalogue of sins and vices, and with what thunder the words are heard: God will judge fornicators and adulterers, and they will not see the kingdom of God [1 Cor. 6: 9-10]. What is this, Paul? Now is this the way you speak to saints? Surely this is not how you extol their holiness? The gospel, properly speaking, is not what we do but the proclamation of the free forgiveness of sins, on account of Christ through faith. Thus it describes the person, the gift and the place. But when it convicts vices, adulteries, killings etc, it is not in its proper office, but it uses the office of the law to go after and expose vices and to prepare for life, how the new people, saints, ought to walk in the new life. Since however, as we have said above, the Christian is a true Thomas or twin, partly saint, partly sinner, the law, sin, and death remain in the interim. Moreover, they will remain until eternal life. These people want to abolish the law, but they are forced to leave sin and death behind, although these should have been removed first, and then the dispute about the abolition of the law would become easier.

⁶³⁰39 I, 542, 3-543, 3.

The conclusion of the syllogism implies that the law should not be preached to *veri christiani*, but only to the *impii*. The antinomians define *christiani* (qualified by *veri*) with reference to the *ecclesia*: *Omnes, qui sunt membra Ecclesiae, sunt veri christiani* (542, 3-4). This is perfectly consistent with Luther's assessment of them in his *Praefatio* where he mentions two *principia* characteristic of antinomian theology: First, the belief that *Christus formaliter sustulerit omne peccatum*; secondly, that *suam ecclesiam sic puram et integram esse sine omni macula et labe, ut fuit Adam iamiam creatus in paradiso et perfectus ac integer*. From this they conclude that their followers, even the *impii*, are *formaliter iustos* (490, 6-13). Therefore, it is clear that the doctrine of the church is placed ahead of the doctrine of justification so that one is righteous and holy in the first instance, not *propter Christum per fidem*, but because one belongs to the church.⁶³¹ In doing this they fail to distinguish between law and gospel. Luther, on the other hand, understands the doctrine of the church in complete harmony with the doctrine of justification so that just as Christians are saints, *imputative*, through faith in Christ, and at the same time sinners, *quoad in se*, so too the church is a *corpus permixtum*. Contra the antinomians' perfectionistic view of the church, Luther says of it: *eam esse mixtam hypocritis et malis, imo etiam circumferre carnem suam et saepe labi et errare etiam sanctos* (496, 3-4).

Therefore, it is thoroughly in keeping with his earlier statements when Luther, in his *responsio*, begins with the anti-antinomian assertion that the law

⁶³¹It is instructive to recall the *argumenta* where *ecclesia* is a part of the minor premise: the church does not err (1 AD, Arg. 30); in the church there is no sin (1 AD, Arg. 33); the church is led by the Spirit (2 AD, Arg. 4); the church is free from the law (3 AD, Arg. 15); in 3 AD, Arg. 13a *ecclesia* appears in both the major and minor premises: the church is holy in this life (major), the faithful are members of the church. What the antinomians need to learn is that in this life the church is also a Thomas.

must be taught to both the *pīi* and the *impīi* because the *pīi partim iusti sunt, partim peccatores* (542, 5-6). How is this *partim-partim* description of the *pīi* to be understood? Before illustrating this from Paul Luther states his position based on his familiar distinction between law and gospel: *Et quatenus iusti sunt, non sunt sub lege et sunt arguendi, donec reliquias peccatorum mortificaverint* (542, 6-7). From this we know that Luther understands the *partim . . . partim* in the same way as he does the *quatenus . . . eatenus*, although in this particular case the second member is missing.⁶³² From our discussions so far we know that Luther is not using this language to describe justification.⁶³³ In other words, he knows of no progressive justification. Rather, these terms represent another way of talking about the justified, that is, not *imputative* or *coram Deo*, on account of which they have everything already in completion, but rather *quoad in se*, or *coram hominibus*, from which perspective they are not yet *iusti et sancti, substantialiter* or *realiter*, but will only be that in a demonstrable way after the destruction of the old Adam and the resurrection of the body to eternal life.⁶³⁴ Therefore, insofar as Christians are still *in via*, having the *lex impleta Christi* by faith but not yet *per speciem* (cf. 2 Cor. 5: 7),

⁶³²For a parallel to the *quatenus-eatenus* way of speaking, see 39 I, 356, 15-16 (ATh, V, Th. 40); 360, 6-7 (1 AD, Arg. 12); 392, 5-8, 14-15 (1 AD, Arg. 18); for a more detailed discussion, see 431, 8-12 (2 AD, Arg. 3). For the *partim-partim* usage, see also 561, 10-11; 562, 10-563, 1 (3 AD, Arg. 29/2).

⁶³³See especially our analysis of 2 AD, Arg. 3. This matter will be taken up in discussion once more in ch. 4.

⁶³⁴This also applies to Luther's words in 2 AD, Arg. 7: *Sed imperfecte implemus, ergo imperfecte iustificamur* (444, 3-4). The word *iustificare* here does not refer to forensic justification (the first justification), where Christ's *iustitia aliena* is imputed through faith, but to what we would call sanctification (the second justification), where Christ's *iustitia* will not be ours *realiter* and *substantialiter* until sin is finally destroyed in death.

and insofar as they are still subject to the *lex implenda* because of the the remnants of sin in the flesh, Luther can say that they are not only *simul iusti et peccatores*, but also *partim sancti, partim peccatores*,⁶³⁵ or again, partly free from the law and partly subject to the law.⁶³⁶ However, that does not mean that they do not have the full possession of Christ's holiness and righteousness already and are free from the law. It rather means that for now they have these realities only by faith in Christ for they all belong to him (they are *res alienae*), and will only be ours to see and to possess as *propria* in the eschatological kingdom, where our fulfillment of the law will no longer be *imputative* but *realiter*, like that of Adam's in paradise (and even better!)⁶³⁷ for then we will do God's will *sponste*, with a free and merry heart.⁶³⁸

We are now in a position to understand better what Luther means when he says that the *pii* are *partim iusti* and *partim peccatores*, and that, *quatenus iusti*, they are not *sub lege*, but that, on the other hand, *quatenus peccatores*, they are *sub lege* and will remain so until they have finally mortified the remnants of sin. As

⁶³⁵Cf. 39 I, 392, 5-8: *Quatenus igitur mortui sumus legi et peccato per fidem in Christum et una cum eo sepulti sumus, eatenus nobis mortua sunt peccata . . .* (1 AD, Arg. 18).

⁶³⁶Cf. 39 I, 380, 6-7: *Quatenus ergo lex impleta est, eatenus sublata. In Christo est impleta perfecte, in nobis non, quia hoc firma fide non credimus* (1 AD, Arg. 12); 374, 18-19: *Quatenus illa [scil. caro] vivit, eatenus non est abrogata lex, non tamen regnat, sed servituti spiritus subiecta esse cogitur* (1 AD, Arg. 7); 392, 14-15: *Quatenus vero carnem habent, eatenus habent dominium in eos lex et peccatum* (1 AD, Arg. 18).

⁶³⁷39 I, 354, 13-14 (ATh., IV, Th. 41): . . . *ut fiat Adam talis, qualis fuit et etiam melior.*

⁶³⁸Cf. 39 I, 374, 8-12, esp. 11-12: *Sub Christo igitur lex est in fieri esse, non in facto esse* (1 AD, Arg. 7).

he explained earlier, we are free from the law in a double way, first *imputative*, because my sins against the law are not imputed to me for Christ's sake, secondly *expurgative*, since, through the power of the Spirit, we begin to hate sin and purge out any remnant left in us until we have become wholly clean.⁶³⁹ Furthermore, we are free from the law in a double way because we are free from sin also in the same double way, imputatively and expurgatively. And Luther has also made it clear what he means by the latter. Sin is removed *formaliter* and *expurgative* because day by day I cleanse and mortify the sin in the flesh *magis ac magis* until the old sinful self is destroyed and the new, holy and righteous one emerges in the resurrection on the last day.⁶⁴⁰

Luther is saying the same thing in his *responsio* to the argument we are presently considering. The *iusti* must remain under the *lex arguens* until the *reliquiae peccatorum* have been mortified. Again, this is no more or no less than sanctification, where through the daily *ad baptismum*, the *vetus homo* is killed and the *homo novus* is renewed. Here *mortificare = expurgare = poenitentiam agere*. The "donec" should not be interpreted temporally in such a way as to suggest that we may one day reach a *terminus ad quem* where we have no more sin to mortify, for in this life we can never get beyond repentance and forgiveness. It is precisely because of this *Doppeldeutigkeit* of the Christian life that Luther says that *christianus sit vere Thomista vel gemellus, partim sanctus, partim peccator* (542, 18-19).⁶⁴¹ By

⁶³⁹39 I, 434, 6-12 (2 AD, Arg. 3).

⁶⁴⁰39 I, 432, 7-11 (2 AD, Arg. 3).

⁶⁴¹Cf. 39 I, 504, 6-7 (3 AD, Arg. 3) where the *christianum esse verum Thomam Thomistan seu gemellum* corresponds to *christianus militans et triumphans*; cf. also 433, 1 (2 AD, Arg. 3): *sancti sunt sub lege et sine lege*.

ignoring the present reality of sin in the life of the Christian the antinomians in the end reject Christ and diminish his glory because our Lord will not be received by us on any other terms than those that he himself gives us in the gospel, namely, that we are sinners and that he is savior. To deny that we are sinners is to deny that Christ is our savior. It is on account of this christological distortion that Luther fights the antinomian heresy so tenaciously for to him it represents nothing less than a frontal attack on the gospel itself.

We conclude this argument by considering how Luther illustrates and explicates the *partim-partim* nature of the *vita christiana* by reference to the letters of Paul. He points out that Paul clearly addresses the Corinthians, the Ephesians, the Philippians and the Hebrews as saints⁶⁴² and yet at the same times lists catalogs of sins and vices which he says ought not be named among them, as is fitting among saints [καθὼς πρέπει ἁγίοις] (cf. Eph. 5: 3-13). Luther's terse Latin style points up the seeming incongruity of the apostle who one minute calls his readers saints and the next is reproving them for acting in ways that are out of character with what they are: *Et hic quantus ibi catalogus peccatorum et vitiorum, quantum tonitru ibi auditur, fornicatores et adulteros iudicabit Deus et regnum Dei non videbunt* (542, 9-11). No doubt the rhetorical questions: *Quid hoc, Paule? Nunc sic sanctis loquendum est? Num quid ita sanctitatem eorum collaudas?* take up the objections of the antinomians whose logical minds could not tolerate the contradictoriness of such bold juxtapositions. The real paradox, or indeed contradiction, is not in the theology but in the Christian, and Luther, following Paul, has long parted ways

⁶⁴²We have included the pertinent passages in the translation, except from the Letter to the Hebrews. The closest we can come to it is with a text like Heb. 2: 11.

with Aristotelian epistemology with its attempt to demonstrate what must necessarily be true (and for Aristotle this means logically true) on the basis of syllogistic reasoning. The doctrine that a Christian is *simul iustus et peccator* could never be deduced from an Aristotelian syllogism any more than could the doctrine of the two natures of Christ because both are inherently illogical and can only be confessed by faith.⁶⁴³ However, although Christians are still sinners, they are forgiven sinners, and it is precisely this proclamation of the free remission of sins *propter Christum per fidem* that is the *Evangelium proprie* (542, 12-13). Thus, Luther says, the gospel describes the *persona*, *donum*, and *locus*. This terse phrase gloriously expresses the specificity and locatedness of the gospel: the person is the *sanctus*, the gift is the *remissio peccatorum gratuita propter Christum per fidem*, and the place is the *praedicatio* (542, 12-14). Using the word "*Evangelium*" in the wider sense of God's word of law and gospel,⁶⁴⁴ Luther says that when it⁶⁴⁵ convicts sins and teaches about life, how the new saints should

⁶⁴³We have already seen in 1 AD, Arg. 8 that Luther rejects a fundamental principle of Aristotelian logic: *contraria non posse simul et semel in eodem subiecto* (375, 18-19).

⁶⁴⁴Luther knows, besides the *definitio specialis*, also the general term "gospel" for the preaching of both law and gospel (cf. Th. Harnack, *Luthers Theologie*, I, 450-1). See 39 I, 347, 17-18 (ATh, I, #36); 351, 29-40 (ATh, III, #31-36); 386, 19-388, 20 (1 AD, Arg. 16); 424-5 (2 AD, Arg. 1); 533, 4-9 (3 AD, Arg. 18); 543-4 (3 AD, Arg. 22) et al. But he always stresses that the *definitio specialis* represents the real *opus proprium* of the gospel: *Evangelium est proprie non quod nos facimus, sed praedicatio remissionis peccatorum gratuita propter Christum per fidem* (542, 12-14).

⁶⁴⁵Rel. B recasts the sentence to show that it is *Paulus* and not *Evangelium* that is the subject of *arguere*. While this brings it into line with the more common *modus loquendi*, it loses the force of Luther's point that when the gospel has to do the work of the law, then it employs the law for that purpose (543, 12-14).

live the new life, it uses the law [*Verum quando arguit vitia, adulteria, caedes etc., non est in suo proprio officio, sed utitur officio legis, insectari et arguere vita et instituere vitam, quomodo iam novi homines sancti novam vitam ingredi debeant*] (542, 15-16).

This statement is informative for two reasons: First, although Luther starts out using the term gospel in the broader sense of God's word, including the law, he ends up saying, as he made clear in argument 18, that whatever does the work of the law is law. Secondly, his formulation leaves no doubt that the teaching of the *vita christiana*, which includes parenesis and apostolic instruction, falls to the office of the law (the area that has traditionally been assigned to the *tertius usus legis*), even though we have argued earlier that, according to our reading of Luther, he seems to tie parenesis closely to the gospel for it is both rooted in the gospel and points back to the gospel.⁶⁴⁶ Be that as it may, such instruction is not gospel but law, because the gospel is first and foremost that which correlates with the forgiveness of sins but, on the other hand, it can be used by the gospel and consequently received as God's gift in which case even his discipline is acknowledged as evidence of his loving kindness. And just because the parenesis and adhortatives of scripture are *stricte dicta* law,⁶⁴⁷ that should be a

⁶⁴⁶See especially our discussion of 3 AD, Arg. 13 (524, 4-528, 2).

⁶⁴⁷Paul Althaus, *Gebot und Gesetz: Zum Thema "Gesetz und Evangelium,"* in *Beiträge zur Förderung christlicher Theologie*, vol. 46, ed. Paul Althaus and Joachim Jeremias (Gütersloh: C. Bertelsmann Verlag, 1952), wishes to distinguish between "command" [*Gebot*] and "law" [*Gesetz*], that is, between God's will for us, and the special form of that will as law. In other words, he retains *Gesetz* for *lex accusans*, but uses *Gebot* for parenesis. While this distinction may have some merit from a formal point of view, it seems inherently problematic to replace the Lutheran law-gospel schema with an idiosyncratic command-law-gospel formula. However, we cannot do justice to Althaus' thesis here. Suffice it to say that while he understands that the notion of law in the Lutheran tradition is so overwhelmingly that of *lex accusans, arguens, and condemnatrix*, and that for that

reminder that, however much positive teaching may be their goal, the ultimate task of the law is always to lead us to repentance and thus back to Christ, for it is only when we are ἐν Χριστῷ that the *Christus in nobis* can do his work in us by leading us in the good works that God has prepared for us to do (cf. Eph. 2: 10).

Argument 22⁶⁴⁸

If repentance is to be taught from the law, as was said earlier, and contrition is to be produced in people through the law, therefore faith also is taught through the law.

Proof of Conclusion: Repentance includes these two parts.

Response: The law causes and produces repentance in people's hearts, and indeed goes as far as the knowledge of sin. This cannot be called Christ's principal office, and yet it is necessary, if he does not want all people to die, that the gospel helps them and hastens to those who are burdened; the gospel comforts them in this distress lest they despair. Thus Christ also teaches the law but not only the law, otherwise his teaching would result in despair. But when we say that repentance arises from the law, we are speaking by synecdoche, [and we mean that] the first part of repentance is from the law. Thus the church is holy by synecdoche, because many in it are evil and ungodly. And this figure is the most common of all in the holy scriptures. Thus one psalm regards people as thoroughly godless, while the other regards them as altogether holy and godly, because both psalms in general speak only about a part by synecdoche. Hence Augustine in his *Regulae interpretandae scripturae* diligently warns that it should be noted that scripture frequently speaks συνεκδοχικῶς.⁶⁴⁹ Just as the church

reason thinks it best to avoid the term *tertius usus legis* to describe the positive function of the law in the Christian life, yet it seems that his distinction is more illusionary than real, because--apart from the fact that only the Spirit can determine how it will be heard--even though the parenthesis can work with and under the gospel, it is still law (at least according to Luther) and as such does not only have the positive goal of teaching life, but also (and here we are interpreting, but hopefully in the *sensus Lutheri*) the negative one of leading the *pii* back again to repentance.

⁶⁴⁸39 I, 543, 5-544, 18.

⁶⁴⁹The reference to Augustine's *Regulae interpretandae scripturae* is probably to his second and third book on Christian doctrine. That is where he briefly treats the trope synecdoche, III, 50 ch. 35 (MPL, 34, 83). He goes into more

is said to be holy on account of the holy part, so it is hypocritical and ungodly on account of the ungodly part.

In summary, there is no language which does not make a great deal of use of this figure, as we Germans also do, as is common in our language when we say: a man has been wounded or struck when in fact it is his head or shin or body that has been wounded, not the person himself. So also, when we say that a man has been killed we nevertheless understand it to mean only the body, for the soul cannot be killed, as Christ says [Matt. 10: 28]. In the same way scripture also says that repentance arises from the law, meaning, that part of repentance by which a person is terrified and frightened. But unless the other part is added it becomes despair.

There can be no doubt that this *argumentum* has been put forward, not to defend a position, but to attempt to demonstrate that Luther's logic is faulty. Already twice in the First Disputation the antinomians have made it clear that they repudiate the teaching that repentance comes *ex lege* and instead hold either that it is worked in us by God's grace alone⁶⁵⁰ or that it arises *ex violatione filii*.⁶⁵¹ Their *probatio* goes back to Luther's first *Thesenreihe* where he says that the two parts of repentance are *dolor de peccato* and *proposito melioris vitae*, which presupposes faith, the first being only *ex lege*, the other by implication being *ex evangelio*.⁶⁵² Even if we grant that the antinomians are only arguing hypothetically, the fallacy of their argument lies in the fact that repentance, according to Luther's definition, arises not simply from the law but from both the law and the gospel.

detail about the different examples of synecdoche in "Quaest." in *Heptateuchum* I, 117 (MPL, 34, 578).

⁶⁵⁰See 39 I, 368, 5-6: *Sola gratia Dei operatur in nobis poenitentiam. Ergo nulla pars poenitentiae adscribenda est legi* (1 AD, Arg. 3).

⁶⁵¹See 39 I, 384, 4-6: *Petrus docuit poenitentiam ex violatione filii. Petrus fuit concionator. Ergo praedicatores debent docere poenitentiam ex violatione filii, non ex lege Mosis* (1 AD, Arg. 15).

⁶⁵²See 39 I, 345, 16-17 (ATh, I, #1) and 345, 22-23 (ATh, I, #4).

Luther's *responsio* really contains nothing new and so there is no reason for us to delay over it other than to make a few observations and to point out where we have discussed similar matters before. The law is instrumental in bringing about contrition but only the gospel can give rise to faith, without which contrition can never become repentance but may very well end in despair. Luther here says the same thing in different words. He says that the law causes [*afferre et parere*] repentance but that it can only go as far as producing the *cognitio peccati*. In recognition of the fact that Christ too can preach the law he says that this is something other than Christ's principal office [*Christi officium minus principale est*], but on the other hand, unless Christ wants all to die at the hands of the law, he must intervene with the gospel to help and console those burdened by the law lest they fall into despair (543, 8-544, 1). Now precisely because there can be no repentance without Christ even though it is also true to say that repentance arises from the law, Luther makes it clear that the assertion: *poenitentiam esse ex lege* is really a trope where the *modus loquendi* is *per synecdochen*. In other words, not the whole of repentance but *prior pars poenitentiae ex lege est*.⁶⁵³ This explains why we can still confess that the *ecclesia* is *sancta* even though, as a *corpus mixtum*, it has within it many *mali et impii*: it is holy *per synecdochen*. Luther observes that synecdoche is the most common figure of speech used in the Bible.⁶⁵⁴ He illustrates

⁶⁵³Formally speaking, it is correct to say that *dolor* or *contritio* is the first part of repentance because it comes first. However, axiologically, or perhaps better, theologically, Christ is first part because he is the main part; cf. 39 I, 471, 16-472, 2: *Christus autem est prima et principalis pars. Dolor potest esse prima, sed non principalis, efficiens causa est omnium optima et prima* (2 AD, Arg. 18).

⁶⁵⁴Luther here concurs with Augustine's observation in his *Regulae interpretandae scripturae* where he warns that scripture often speaks *συνεκδοχικῶς*. In addition Luther notes that it is extensively used in all languages and proceeds

this from the Psalter, where one psalm can say that the *populus* (the referent is surely the קְהָל יְהוָה as the church of the Old Testament) is *omnino impius*, while another can say of the same *populus* that it is *prorsus sanctus et pius*. In both cases he says, the key to the proper understanding of this seeming paradox is the recognition that the writer is speaking *per synecdochen* (544, 5-8). The argument can also be reversed: just as the church is called *sancta propter partem sanctam*, so too it is called *hypocritica et impia propter partem impiam*. In the first case, the *pars sancta* are the *sancti*, or more precisely, Christ, on account of whom the saints are holy, and in the second case, the *pars impia* are the sinners who refuse forgiveness, the false saints.⁶⁵⁵

In summary, even though Christ and faith are the chief part of repentance and not the contrition worked by the law (necessary as it is), nevertheless Luther continues to stress that repentance is *ex lege vis-à-vis* the antinomian insistence that it is *ex gratia* or *ex violatione filii*. The first time we encountered this *modus loquendi* it sounded somewhat confusing because Luther had made it plain in his First *Thesenreihe* that the law is only instrumental in bringing about the *pars prima* and that the *pars altera* (and indeed the more important) cannot be produced by the law but only by the gospel.⁶⁵⁶ Nevertheless, here he makes it clear that when he speaks like that he is using synecdoche. Hence, the antinomian trap has been sprung. Although they tried to catch Luther on a point of logic they have been

to illustrate how it is used in his beloved German tongue (which is no different to how it is used in English). On a limitation to the argument by synecdoche, see the comment of the unknown respondent in 39 I, 471, 4-12 (2 AD, Arg. 18).

⁶⁵⁵Luther says elsewhere that Christians remain in the flesh *per synecdochen*, which means that sin does not dominate. In other words, they are in the flesh but not of the flesh (39 I, 523, 7-9; 3 AD, Arg. 11).

⁶⁵⁶See 39 I, 368, 5-369, 16 (1 AD, Arg. 3).

caught in their own trap. For when Luther maintains that *poenitentia est docenda ex lege*, he is speaking *per synecdochen* only of the first part of repentance and not of repentance as a whole, which he has often said consists of two parts and can only arise from law and gospel, and not from the gospel only.

Argument 23⁶⁵⁷

Contra 67

Christ cannot be retained without the law. Christ is salvation and redemption. Therefore, salvation is not retained without the law.

Response: We concede that.

Rejoinder: Do you wholly concede?

Response: Certainly.

Rejoinder: Therefore, this militates against the doctrine of justification.

Response [A^I (left col.)]: This we deny because the law is not necessary for justification, neither is it useful nor possible, as we have stated in our theses above, because in this matter the law must be rejected and truly, as they say, consigned to the gallows,⁶⁵⁸ because it cannot abolish sins or free from death, nor was it given for this purpose, but this belongs to the lamb of God. John 1 [: 29] and Isaiah 53 [: 7]. And yet the whole world is of that opinion, that is, it has been fully persuaded to believe that if only it had the law it could certainly keep it extremely well, and it does many things also with this opinion, hoping in this way to be saved. But it is a far different thing to say that Christ cannot be retained without the law. For unless you become a poor and helpless sinner, Christ will not bring you good news. For what need do the healthy have of a doctor? [Mark 2: 17]. If they are not sick, what is the use of doctors? So also in this case. If there were no law to make sin sin, or no law that has revealed sin to be sin, what need would there be of Christ? If I am not a sinner, Christ will be of no benefit to me, because I am not a sinner, that is, I do not know that I am a sinner and alive without the law. Moreover, Christ says: I have not come to call the righteous but sinners to repentance [Mark 2: 17]. But if the law is abolished sin also is abolished, and if sin is abolished Christ is abolished, for he is of no use to anyone. For if sin is abolished, death would be no more. Therefore, if Christ is to remain savior it is necessary for me to remain a sinner, subject to

⁶⁵⁷39 I, 545, 3-548, 23.

⁶⁵⁸For the formula of execration ἐς κόρακας, ad corvos, see A. Otto, *Die Sprichwörter der Römer* (1890), 95, no. 448, and Wander III, 1449, nr. 95. Cf. 39 I, 345, 1-2.

death and the devil, and these must remain and stand firm at the same time. If one is abolished the other will perish.

Thus our antinomians, by teaching the gospel and Christ, seek to overthrow the gospel and Christ, as is the case with Satan, who is a thousand times the deceiver and enemy of Christ. For believe me, the devil is a dialectician, rhetorician, and philosopher, and best knows how to entice people, even the saints. When he does his teaching of the Lord his purpose is to remove Christ. By teaching in this way he in fact lies, as when he says [of those who are his]: They glory in the gospel and preach its doctrine and gifts with high-sounding words, and who can say anything against that. But meanwhile we know very well what they are up to. And I for my part, so long as I have life and breath, will oppose them as much as I can. For I see what they want and what in the end they are aiming at: they want to induce security and lull people to sleep, as if sin were completely dead and nothing, just as it really is nothing for the saints since the law has been abolished, but it opposes sinners, that is, in order that they may acknowledge their sins and miseries, in which they lie sick or dead, for then they can be healed. But when the hypocritically secure people see the law, they ridicule and mock it, like the antinomians, and care nothing about whatever it may say. They mouth all the best words of our religion: Christ was born and suffered for them, they have the forgiveness of sins and eternal life. But meanwhile the devil lies hidden under their tongue and gives these words passage, waiting for the right opportunity, and when it comes he will overturn these also by force, just as he once answered some exorcist who asked where on earth he had received and eaten the sacrament by saying: What, can't a rogue of a servant lie under a bridge and let his master pass over it?⁶⁵⁹ Believe me, it seems that these people, who speak so lightly of Moses and apparently abolish Christ, have no yet seen through the tricks and snares of the devil, since the one can scarcely really be known in its totality without the other. But either he makes secure and worthless hypocrites or he causes despair, yet these must be separated in the case of antinomians. For I have not seen a more proud, insolent, malicious, treacherous and worse kind of people than these. What is the reason for that? Because everything that they do must be forgiven, for Christ has made satisfaction, and the law has been removed. That is true. The same can be seen in our peasants, our nobility, and in our citizens, who abuse their liberty, even though we wear ourselves out inculcating the law. Therefore, you should not doubt that such will be the future state of this world. In the not too distant future you will already see an image of it in these new doctors and reformers of ours, if God should

⁶⁵⁹For this aphorism, the WA editors refer us to Wander 4, 82, no. 66 und U.A. *Tischreden* 6, 212, no. 6820.

permit such a thing. For after the world has received this dogma of theirs, which it may well do, for there is a lust for new things, and this kind of doctrine does sound plausible, and in two or three years at the most it will throw out the gospel and Christ altogether [cf. 2 Tim. 4: 3-4]. What use will there be for Christ if the material in which he must work has been abolished? For a worker is nothing without his material. Christ will be of no benefit to people who are secure in themselves and live without a sense of sin, but in the opposite way than is the case with the Jews. With them it is through the law, with these it is without the law. Therefore, I admonish and adjure you to hold on to Christ as the worker on our sins. For it was for this purpose that he was sent, to take away the sins of the world, and on account of sin to condemn sin [cf. Rom. 8: 3] and to swallow it up in himself. Therefore, he came to preach the gospel to the poor and contrite in heart, as if to say: My materials in which I work and am effective are sinners and the tormented who are fearful, for these I am there, for these I am a physician etc. But without the law no sin remains in the world and thus the material of Christ is taken away in advance of him. In this way he becomes for us redundant.

As in the previous *argumentum*, here too the antinomians do not advance a serious thesis but are rather attempting to demonstrate how Luther's position, if pressed, becomes heretical. Luther readily concedes their argument which is in essence: *Sine lege Christus* (and hence: *salus*) *retineri non potest*. What he rejects however is the deduction the antinomians draw from that: *Ergo hoc pugnat cum doctrina de iustificatione*. There is a big difference between saying that the salvation cannot be retained without the law and that the law is necessary for salvation. Luther has already shown several times that there is no causality between the law and justification.⁶⁶⁰ Although, as Luther will argue here, the law remains for Christians, insofar as they are still sinners, when it comes to the article of

⁶⁶⁰See 2 AD, Arg. 17: The law is not the efficient cause but the material cause of justification; this is consonant with 2 AD, Arg. 8: Many things are needed for justification but they are not its cause. Again, 2 AD, Arg. 20: The law and justification belong to opposite and contradictory *genera*. Indeed, the law is impossible and useless when it comes to justification (1 AD, Arg. 14).

justification, the law must be consigned to the gallows [he uses an idiomatic expression of the day: *ad coros relegari*] (545, 14).⁶⁶¹ On the other hand, it is the received opinion of the world, which is finally always the *opinio legis*, that if only it had laws it could fulfill them. That also corresponds to the thinking of the anti-nomians, who as we saw in our background study, held that the Mosaic law had actually been given by God as the first way of salvation. Luther denies that the law was ever given as a *Heilsweg* despite a few passages which could be taken as pointing in that direction.⁶⁶² Rather, the purpose for God's giving the law in the first place, and the reason it is to be retained, is so that he can give us the gospel, for since the gospel is for sinners the law must first persuade us that we are sinners, indeed convict us of sin. Here Luther falls back on a key saying of Jesus: οὐ χρειαν ἔχουσιν οἱ ἰσχύοντες ἰατροῦ ἀλλ' οἱ κακῶς ἔχοντες· οὐκ ἤλθον καλέσαι δικαίους ἀλλὰ ἁμαρτωλούς (Mark 2: 17). Furthermore, he follows Paul in saying that the task of the law is to *peccatum facere peccatum* (Rom. 7: 7-12). Now drawing out the implications of this Luther can say: *Si non sum peccator, Christus nihil mihi proderit, quia peccator non sum* (546, 11-12). And given the interconnection between the law, sin and death, which he has already established,⁶⁶³ Luther goes on to conclude: *Itaque si Christus debet manere salvator, necesse est, me manere peccatorem, morti ac diabolo obnoxium, oportet, ut haec simul maneant ac stent. Uno*

⁶⁶¹While Luther says this of the law only *quoad iustificationem*, for the anti-nomians it became a virtual watchword; cf. their *Positiones, Item alii, #2: Alle die mit Mose umgehen, müssen zum Teufel faren, an galgen mit Mose* (39 I, 345, 1-2).

⁶⁶²See our discussion of 1AD, Arg. 1 and # AD, Arg. 7.

⁶⁶³See 39 I, 348, 25-43 (ATh , II, #18-25).

ablato utrumque peribit (546, 17-19). This ineradicable relationship between Christ and the law is the main thrust of the *responsio*.

But how exactly is this to be explained? Does it mean then that Christ (and the gospel) are dependent on the law? Only in the sense that the law needs to do its scarifying work in exposing sin before the gospel can do its *proprium*, which is to announce the promise of the forgiveness of sins to all those who confess that they are sinners. However, it does not mean that the gospel is in any sense derived from the law or that the law is not a necessary presupposition or precondition of the gospel. Nevertheless, it does recognize that the gospel message will only reach its goal if one first acknowledges the situation into which it is spoken (a world in which sin, death, devil, wrath, and the law hold sway) and understands the *materia* in which it works. Yet by the same token, it would be just as wrong to argue that the law is "necessary" for the gospel as it is to say that the law is necessary for justification. Besides, Luther warns against the use of this Aristotelian scholastic terminology, which he has long since abandoned and instead simply asserts, on the basis of scripture, that it is a contingent fact that according to the *ordo rei* sin, death, and the law precede the gospel.⁶⁶⁴ Now if the law were already abolished, as the antinomians claim, there would be no sin, and if there were no sin, there would be no death, and if all of the above were true Christ would no longer serve any purpose. But that is obviously not the case.⁶⁶⁵

Hence, when Luther says that if one is abolished the other perishes, he does not mean that we can dispose of the law, sin, and death, and hence even

⁶⁶⁴Cf. 39 I, 347, 1-6 (ATh, I, #27-30).

⁶⁶⁵Luther has already argued this in 1 AD, Arg. 4. See our discussion there for more on the nexus between law, sin, death and Christ.

Christ, by a mere fiat! And for that reason Luther's statement is more a *dictum heroicum* than a serious doctrinal assertion. It is not meant to be pressed too far but to emphasize the fact that what makes the law indispensable, theologically, is that it serves to prepare people for Christ, and so that its removal would not but seriously imperil the gospel.

Furthermore, as Luther has shown before, even if the antinomians were to abolish the law from the church, the law still remains inscribed on the mind, also of Christians, and thus will remain until the last day. Rather, he uses this causal thinking in the service of soteriology *propter Christum* (just as Paul does) and does not intend it to be pressed beyond that. In other words, he uses it to show that the more we downplay the law and sin as the determinative coordinates of the matrix of our infralapsarian life, the more we diminish Christ and deprive ourselves of his gifts. Faith, on the other hand, speaks like John the Baptizer: ἐκεῖνον δεῖ ἀξάνειν, ἐμὲ δὲ ἐλαττοῦσθαι (John 3: 30), for it wants to do nothing else than receive for it knows that in this very act Christ himself is glorified. Therefore, Luther admonishes his hearers to hold on to Christ as the one who works on our sins [*operarius in peccatis nostris*] (548, 16-17). Christ's person cannot be separated from his office. If he came *evangelizare pauperibus et contristis corde*, then unless we are numbered among the *pauperes et contristes* we cannot hear his message as *evangel*. For it is as if Christ were to say: *Mea materialia, in quibus operor et efficax sum, sunt peccatores et miseri timidi, his adsum, his medeor etc.* (548, 19-21). And without the law there would be no sinners needing to be forgiven, no sick people waiting to be healed, and thus Christ's *materia* would be taken away from him in advance [*et sic materia Christi praecipitur*] through a preemptive strike of the evil one, so that Christ himself ends up becoming redundant or indifferent to us

[*Igitur otiosus nobis fiet*] (548, 21-23).⁶⁶⁶ For an *operarius* is nothing without his *materia* and Christ will be of no benefit [*nihil proderit Christus*] to the *securi* and those *sine sensu peccatorum agentibus* (548, 13-15).

Luther knows full well that the battle against the antinomians is at bottom a battle against Satan, the father of lies, who can even trick the saints by disguising himself as an angel of light, or as Christ himself. Without realizing it, they have allowed themselves to become his dupes. Consequently, even their preaching of the gospel will be used by Satan to further his own cause. Although the gospel itself, as the antithesis to the law, is truly "antinomian," yet what the antinomians have failed to understand is that without the preparatory work of the law the message of the gospel goes unheard, or worse, is misused by satan to make people *stertentes* and to foster *securitas*. This he sees as the final result of the antinomians because he knows that behind them stands the power of the evil one. They do not understand that preaching the gospel to the *securi* only reinforces their thinking that sin is completely removed and dead and so is nothing.⁶⁶⁷ Of course, that is precisely what the gospel says to the saints, but these are people who confess that they are sinners, who struggle daily with sin and mortify the flesh, who worry about sin and pray constantly for deliverance from

⁶⁶⁶That this in the end spells our own destruction is made clear in the penultimate thesis of the fifth Thesenreihe: 39 I, 357, 35-36 (ATh, V, #69): *Summa, legem tollere et peccatum mortemque relinquere, est morbum peccati et mortis ad perniciem hominibus occultare.*

⁶⁶⁷Cf. 39 I, 357, 37-38 (ATh, V, #70): *Sublatis morte et peccato (ut Christus fecit) feliciter tolleretur [scil. lex], imo lex stabiliretur, Rom. 3.* Here, the *Doppeldeutigkeit* of the proposition becomes clear. On the one hand, sin, death, and the law are removed for the saints, *propter Christum per fidem*; on the other hand, because the *pui* remain sinful *in se propter carnem*, the law is not removed but confirmed.

its power. To people like that the message of the gospel comes as a liberating gift. But the antinomians, whom Luther calls *securi hypocritae et nequam*, presume on God's forgiveness and claim it as their right, thus become ever more proud, insolent and hybritic.⁶⁶⁸ Luther does not deny that they proclaim the gospel. He admits that they can articulate the gospel very well and that they have the right vocabulary [*Habent in ore optima quaeque verba nostrae religionis*], and then he gives some examples--*Christum pro se natum, passum, se habere remissionem peccatorum, vitam aeternam* (547, 11-13). But what they did not understand was that Satan was also there, ready to put his own spin on these words, because when the gospel is separated from the law it becomes especially vulnerable to demonic perversion. For Satan is an excellent dialectician, rhetorician and philosopher skilled in deceit. Even though the antinomians preach Christ the devil is out to remove him and outmaneuver him and because they are not apprised of his stratagemms they have unwittingly fallen victim to his guile. That is what Luther means when he says: *Ita nostri Antinomi docendo Evangelium et Christum conantur Evangelium et Christum evertere* (546, 19-20). Using a very telling image he likens the devil, who conceals himself *sub lingua*, to a *Schalck* lying under the bridge waiting for the right moment to pounce on the *Herren* and rob him of his goods. So too, Luther suggests, the devil bides his time, waiting for the *occasio*; while in the interim he gives the words of the gospel spoken by the antinomians free passage.⁶⁶⁹ The devil will hardly oppose the preaching of the gospel if it is separated from the

⁶⁶⁸For a complete antinomian profile, based on Luther's description of them in the disputations, see our analysis in ch. 2.

⁶⁶⁹Satan's guile is brought out even further in the full text of the anecdote that Luther relates, involving a brief exchange between the devil and an exorcist (547, 15-18).

law; but if it is kept separate from the law its effects are diminished until finally Christ is pushed out of the picture because he can no longer do his proper work. For the one thing that destroys the devil and his kingdom is the one thing that Christ alone can give, and that is the forgiveness of sins. And, conversely, the way that Satan can best defend himself is, not by attacking Christ directly, but by first overthrowing the law. Luther, who has a keen eye for the wily tricks of the devil, can therefore conclude: *Crede mihi, nondum mihi videntur isti perspexisse astutias et dolos diaboli, qui ita leviter loquuntur de Mose,⁶⁷⁰ ut videantur Christum tollere, cum tamen alterum sine altero vix totum nosci possit* (547, 18-548, 1).

The significance of this *responsio* is not just the window it gives into the character of antinomianism as seen by Luther, but even more the connection it makes between the law and Christ. This is the first time that Luther explicated this following the lines already laid down in his fifth *Thesenreihe*.⁶⁷¹ Prior to this the main reason that Luther has given for the retention of the law has been that the *pii* still remain sinful *quoad carnem* and therefore need the law to keep the flesh under check. Related to this emphasis has also been the role he has assigned the admonitions and exhortations of scripture, which, though strictly law, are taken under the control of the gospel in faith and used in its service. But here too, the chief end has been to encourage Christians to remain faithful to Christ, to be awake, to fight the good fight in the power of the Spirit, to mortify the flesh and so forth. However, this is the first time that Luther has made it clear that the re-

⁶⁷⁰Moses in this context can only refer to the Decalogue and not, as is more usual, the whole Mosaic law.

⁶⁷¹39 I, 357, 29-30 (ATh, V, #66): *Est igitur legis doctrina in ecclesiis necessaria et omnino retinenda, sine qua Christus retineri non potest.*

moval of the law will inevitably entail the loss of Christ because only the law can prepare us for God's *opus proprium* by reminding us time and again that we are sinners doomed to die.

This argument is no last ditch effort on his part to bolster his position, nor does it represent an element foreign to his theology. For when all is said and done, it is thoroughly consistent with and flows out of the very heart of Luther's theology, which, by his own testimony, is the doctrine of justification.⁶⁷² And in actuality the doctrine of justification belongs to christology for it teaches that we are justified *gratis propter Christum per fidem*. And since the person and work of Christ cannot be separated without destroying biblical christology, so we need to show that part of Christ's *officium* was the fulfillment of the law. This is not to elevate the law over Christ in a teleological sense, as if the fulfillment of the law was the ultimate purpose of God's coming. Rather, the fulfillment of the law was one way (but alone does not describe the fullness of our redemption) in which Christ rescued fallen humanity from its helplessness plight vis-à-vis the *lex impossibilis*, yet paradoxically he not only fulfilled the law, but also defeated it. Enslaved to sin and unable to fulfill the law and yet held responsible by God for something that we cannot do—a condition full of existential contradictions, where in the end we come face to face with the *Deus absconditus*, which Elert comprehensively describes as the *Urerlebnis*,⁶⁷³ that is the predicament from which Christ liberated us. Now although we only come to full clarity about the hopelessness of our con-

⁶⁷²See his opening remarks in his *Praefatio* to this disputation: *Quemadmodum iam semper audistis et auditis quotidie tum in lectionibus tum pro concione, ita quoque nunc dicimus locum iustificationis esse sine ulla controversia doctrinae christianae caput et summam* (489, 4-6).

⁶⁷³See Elert, *Structure*, 17-28.

dition without Christ when we are ἐν Χριστῷ looking back with the eyes of faith, nevertheless, Luther argues that the law makes it clear what Christ fulfilled to save us and without it we would only know that Christ fulfilled the law but not what.⁶⁷⁴ This must suffice for now. The thesis that Luther advances here will obviously need to be taken up again in the next chapter within the framework of a more systematic discussion.

Argument 24⁶⁷⁵

It is superfluous to teach what is known naturally. The law is known naturally. Therefore, it is superfluous to teach the law.

Response : Both of the propositions are false because we teach and learn also what we know. Because memory is prone to error even among the best trained experts, the most learned must go to their books again and again to learn. Indeed they above all others are constantly learning, as we see from our greatest geniuses who never stop. Secondly, the law of God is not so well known that there is no need for it to be taught or urged, for otherwise there would have been no need to give the law and to send Moses, nor do we know as much about the law as God would wish. For who can ever know how great and monstrous an evil his own sin is? Also disobedience, hatred, anger, greed, fornication, not to mention sins of the first table. For we are so corrupt through original sin that we cannot discern the magnitude of our sin. For our flesh, the devil and the world are at hand, who persuade us otherwise and obscure the law of God written in our minds. Here therefore it is necessary to be constantly admonished lest we forget God's commandment, especially since the law of God is the highest wisdom and so as the source, origin, and wellspring of all virtues and disciplines toward God and human beings, it is infinite because sin is infinite. Till now neither theologian nor jurist has been found who could say, or in saying comprehend, how great are an evil passion and greed. If there are people who truly feel sin, like David, they are truly in hell and live at the portals of death, as the psalm says: The terrors of hell have come upon me [Ps. 18: 6].

⁶⁷⁴This point does not come out in the *responsio* but is articulated in his *Thesenreihe: Quid enim de Christo retineas, dum lege remota, quam ille implevit, nescias, quid impleverit?* (39 I, 357, 31-32; ATh, V, #67).

⁶⁷⁵39 I, 549, 2-550, 7.

The antinomians attempt to argue here that the law does not need to be taught because it is already known naturally: *Quae naturaliter non sunt* [and the law is included here] *supervacaneum est docere*. Not only does Luther deny the conclusion, he also rejects both *propositiones*. And yet by repudiating the minor premise, he almost seems to be denying an earlier argument, to the effect that since the Decalogue is written on the heart and inheres in the conscience we all have knowledge of it *naturaliter*.⁶⁷⁶ Nonetheless, it is implicit in what he says that he still holds to the *lex insculpta*, his point here however is that by itself it is not enough to ensure an adequate knowledge of God's law for our memory is fallible [*memoria est labilis*] and needs to be refreshed. Luther argues from a human analogy: even the *optimi artifices* and the *doctissimi* must *recurrere ad ipsos libros et siscere*. Even the *summa ingenia* never stop learning (549, 5-6). His second reason why the law must be taught is that it is not as well known as God would wish. Without the revelation of the law the magnitude of our sin remains unknown: *Quis enim est, qui unquam scit, quantum et quam ingens malum sit peccatum ipsum? . . . Ita enim corrupti sumus per peccatum originis, ut non possimus cernere magnitudinem peccati* (549, 11-12). And this ignorance, or better still, forgetfulness is not just the result of our human sinfulness but it is compounded by the intrigue and lies of the devil who tries to persuade us that we are not at all sinful or culpable *coram Deo* but intrinsically good. To overcome this amnesia, so to speak, and bring the *mandatum Dei* to mind again, Luther emphasizes the need for admonition. This *admonere* however is really nothing different from the preaching of the law, that is, the *lex scripta* or Decalogue.

⁶⁷⁶See 39 I, 374, 1-5 (1 AD, Arg. 7). Again, Luther argues that the law has been written on the hearts of all people, see 1 AD, Arg. 25 and 3 AD, Arg. 19.

What is different about the proclaimed law as compared with the inscribed law is not its content but simply its form.⁶⁷⁷ As we saw again in *argumentum* 19, the *lex praedicata* serves the *lex insculpta* or *lex naturae*, not vice versa. However, the proclaimed law is still necessary in order to overcome the soporific and amnesiac effects induced in people by the disease of sin and the deceit of Satan. The memory must not only be reactivated but it also also needs correction for the flesh, the devil and the world are continually trying to hinder and distort the knowledge and experience of the law especially in the unregenerate who have nothing more than the *lex insculpta*.

Luther pits the *lex Dei* as the infinite *summa sapientia* with its *fons et origo et scaturigo* [sic] *omnium virtutum et disciplinarum erga Deum et homines*, against the *peccatum infinitum* (550, 1-3). But what is the *lex Dei* that we need to be reminded of? Is it the *lex accusans*? That is clear from the fact that Luther says that we could never know the enormity of our sin were it not for the law, and then he lists some: *Item inobedientia, odium, ira, avaritia, scortatio, ut taceam de peccatis primae tabulae* (540, 12-13). So the first thing that the law does is hold up a mirror to us so that we may see ourselves as we are seen by God. That is certainly *usus legis theologicus*. But it does not stop there. Luther, in the passage we cited earlier (550, 1-3), speaks about the law in the way faith speaks. Only faith can say that the law, which condemns sin, is also the fountainhead and source of all *virtutes* and *disciplinae* toward God and our fellow human beings. Even though Christians qua sinners are still targets for the *lex accusatrix*, they can still make this bold confession about the goodness of the law, like the writers of Psalm 19 and 119, because

⁶⁷⁷See our discussion and also the Elert quote in connection with our analysis of 3 AD, Arg. 19.

they know that by faith in him who is the *lex impletor* and whose *impletio* is given to them, *imputative*, as a gift, they need fear no condemnation for they live under the shadow of his wings. Now the law is seen with new eyes and is treasured as God's *summa sapientia* because it teaches us what good works are pleasing to God and helpful to the neighbor.⁶⁷⁸ This is how we understand the two terms *virtutes et disciplinae*. But Luther does not conclude with this positive use of the law (traditionally called the *tertius usus*) but takes us back to the second use or *usus theologicus*, and leaves us staring into the depths of Sheol, on the threshold of despair, just as people like David and others who experience the *sensus legis* feel themselves trapped by the snares of death [*illi vere sunt in inferno et versantur in portis mortis*] (550, 5-7).⁶⁷⁹ The reason that Luther stresses this point is because this accusing and convicting function of the law was denied by the antinomians. They knew only of a positive use of the law which functioned as *disciplina* in the civic realm.

In summary, the law needs to be taught to call to mind the forgotten *lex naturae*, to clarify its contents on the basis of the Decalogue, to reveal our utter sin-

⁶⁷⁸Is there any important connection between the works offered to God and those done for the neighbor? Indeed, Luther says elsewhere that God does not need our works but our neighbor does. Works that are pleasing to God are those that he himself commands us to do. The fact that they carry his recommendation prevents them from becoming purely arbitrary, self-serving or merit-seeking. For good works that are not good and helpful for the neighbor are not pleasing to God either. Hence, Luther can say in his tractate, *The Freedom of the Christian*, that we live in Christ by faith and in the neighbor through love.

⁶⁷⁹However, while Luther, drawing on Psalm 18: 6, ends with the *terrores legis* in order to stress that the *usus theologicus* is the chief use of the law, we must not forget that the psalm writer goes on to say that when he called on the Lord, he heard his cry for help and delivered him out of all his trouble (vv. 7, 17-20).

fulness before God. Moreover, it is also to be used as the source of our knowledge of all *virtutes* and *disciplinae* in the fight against sin.

Argument 25⁶⁸⁰

Eternal death is the penalty for our remaining sin, because disdain of God is eternal. Therefore, sin remains and is not abolished in death.

D. M. Luther: The argument is this: A dead person is justified from sin. Judas, Nero, Caligula, Diocletian are dead. Therefore, all these and others, beasts rather than humans, are also justified.

Response: I respond to the major premise, in which a distinction needs to be made along the lines mentioned above: to be dead and to die to sin is a Pauline phrase meaning to fight with sins and not let them rule us. And this happens not only in any one member but in all, that is to say, our heart, eyes, hands, tongue, feet function differently now than before and serve Christ the Lord, not sins, then straightaway, day by day, I become holier and better. But because this nature is totally infected by the devil, we have no hope of being completely free from sins before the body is covered with earth and consumed by worms. There are then two deaths in Paul: one is to die to sins or to the world, the other is to die to nature. The ungodly also die to nature, as much as they are that, but the godly also die in this life to sins, that is, to the world with all its passions, what Paul elsewhere calls mortifying and crucifying their flesh, as he says to the Ephesians: Let the thief no longer steal [Eph. 4: 28]. But such a death on the part Christians is not seen. For it is hidden in Christ, where there is neither male nor female (Gal. 3 [: 28]). But meanwhile, as long as this life lasts, we have to constantly struggle here with remnants of sins in the flesh, and because they cannot be wholly abolished, it is necessary to retain the law which keeps the flesh in submission.

This *argumentum* is clearly not a serious exposition of antinomian doctrine but is once again intended to drive Luther into the corner by attempting to show the illogicality or inconsistency of his theology. The reason we can be certain of this is because we have already seen from our background study of antinomianism, from Luther's *Praefatio*, and from his argumentation at different points in the disputation that the antinomians taught that all sin has been removed by Christ so that the *pii* have no *reliquiae peccatorum*. The absurdity of the antinomian posi-

tion emerges from Luther's recapitulation of their arguments. According to them even such *bestiae* as Nero, Caligula and Diocletian are *iustificati* because they teach that *mortuus est iustificatus a peccato* (550, 11-551, 1). However, this can only be said if objective justification is stressed in such a one-sided manner that reconciliation is entirely independent of faith. The Pauline and Lutheran view, on the other hand, is that while from God's standpoint it is true that he has reconciled the world to himself in Christ, yet that λόγος τῆς καταλλαγῆς can only be appropriated through faith. Hence, the appeal [παρακαλεῖν] of Paul's missionary preaching: δεόμεθα ὑπὲρ Χριστοῦ, καταλλάγητε τῷ θεῷ (2 Cor. 5: 18-20). The antinomian view of justification was *simplex*: a person is either without sin (if a member of the church) or is sinful (if outside the church). Luther's view, on the other hand, is *duplex*: Christians are both *simul iusti* and *simul peccatores*; *iusti* by faith, *peccatores* on account of the old sinful nature.

In keeping with the above Luther clarifies what it means scripturally to be dead and to die to sin. He says that *mortuum esse et mori peccato* is a Pauline phrase meaning *pugnare cum peccatis et non sinere, ut in nobis dominetur* (551, 2-4). Clearly then to die or be dead to sin does not mean to be without sin but rather to fight it and not let it gain the upper hand.⁶⁸¹ Because in Christ by faith we are a καινὴ κτίσις (2 Cor. 5: 17), it means that our life will no longer be determined by the old nature but rather by the new, which we received in holy Baptism. Consequently, our eyes, ears, feet, and hands etcetera will no longer be servants of sin but of Christ and righteousness (cf. Rom. 6: 12-19). Since the baptized belong to the light, having been transferred [μεθιστάναι] from the ἐξουσία τοῦ σκότους

⁶⁸¹Cf 3 AD, Arg. 6 (esp. 514, 25-515, 11) where Luther stresses the paradoxical fact that being a saint and praying for sin always go together.

into the βασιλεία of God's Son (Col. 1: 13), Paul appeals to them to walk as children of the light (Eph. 5: 8). Luther maintains that this death to sin brings about a change in the whole person *et sic fieri subinde de die in diem sanctior et melior* (551, 6-7).⁶⁸² As we have had occasion to point out before, when Luther says that Christians become holier and better each day this is not in conflict with his doctrine of justification according to which Christians receive the whole of Christ's holiness and righteousness by imputation, through faith in Christ. Luther however also connects the *totus-totus* of justification with the *partim-partim* of sanctification.⁶⁸³ The forgiveness of sins and the daily expulsion of sins through repentance are the opposite sides of the same coin. Therefore, as we have already seen, Luther says that sin ceases in two ways: *imputative* and *formaliter* or *expurgative*. The Holy Spirit given in justification immediately enters the fray against sin, and so long as Christians remain steadfast in faith and dead to sin, the Spirit will rule us and keep sin in submission. As we saw earlier, this is what Paul means by dying to sin or to the world. This *mori in hac vita peccatis* is, according to Luther, what Paul calls *mortificare et crucifigere carnem suam*, and which evidences itself in

⁶⁸²See 39 I, 432, 7-11 (2 AD, Arg. 3) and our discussion there on the relationship between justification and sanctification within the context of the connection between the *imputative* and *formaliter* or *expurgative* aspect of the *impletio legis*.

⁶⁸³Paul Althaus, *The Theology of Martin Luther* (Philadelphia: Fortress Press, 1966), 226, rightly points out that Luther uses *iustificare* in more than one sense. In addition to its common declaratory meaning, *iustum reputare* or *computari* also has a factitative sense which includes not only the declaring righteous but also the making righteous (cf. 39 II, 202). "Justification in this sense remains incomplete on earth and is first completed on the Last Day. Complete righteousness in this sense is an eschatological reality." Thus, cf. Th. 23 of Luther's *Thesenreihe* on Rom. 3: 28 (1536): *iustificari enim hominem sentimus, hominem nondum esse iustum, sed esse in ipso motu seu cursu ad iustitiam* (39 I, 83, 16-17).

his various admonitions to lead a godly life. But the *christianus mortuus* (our term) is a hidden reality known only to faith. Therefore, although Luther affirms that Christians grow more holy each day, this holiness can never be measured or even seen. All we can see is our sin. And it is precisely this that can so often give rise to great *Anfechtung* such as we see in the apostle Paul in the latter half of Romans 7. The more we look for it in ourselves the more unholy we appear because holiness is to be found only in Christ not in us. As we sing in the *gloria in excelsis* of the holy liturgy: *Tu es solus sanctus*. Rather, it is only as we despair of ever finding any intrinsic holiness in ourselves and seek it only in Christ (*semper ad baptismum*) through the forgiveness of sins, that we will truly grow into Christ and that his gifts and new life will control and shape us so that we walk less and less according to the flesh and more and more according to the Spirit. The good tree bears good fruit for that is the tree it is. In the same way the life of faith will manifest itself in love and good works to the neighbor. But at the same time this fruit, these good deeds of loving kindness, are hidden from our sight—we are not aware of them because we do them unselfconsciously. Faith does not blow its own trumpet but serves the neighbor without letting the left hand know what the right hand is doing—hence the surprise of the δίκαιοι at the Last Judgment in Jesus' parable (Matt. 25: 37-39). Luther, following Paul, says that the *mors christianorum* is not seen for it is *abscondita in Christo* (Col. 3: 3).⁶⁸⁴ Yet even though the Christian has died to sin and his old self has been buried with Christ in the grave

⁶⁸⁴Luther goes on to cite part of Gal. 3: 28 [*ubi neque masculus, neque femina*], however it would seem that he is getting mixed up with Col. 3: 3 where Paul says that our life is hidden with Christ in God. Common to both is the idea that we are all members of the body of Christ through faith. However, the focus of Luther's thinking here is not the oneness of the body but the hiddenness of the saints. Therefore, the Gal. 3: 28 does not really fit the context.

and the *homo novus* has risen with Christ to walk in newness of life, we still have to struggle constantly with the *reliquiae peccatorum in carne* (552, 1-2). For it will not be until the *credentes* have died the second death (not to be confused with the second death in the Book of Revelation), coinciding with their physical death, that they will be free from the scourge of sin. Meanwhile, says Luther, the law must be retained to keep the flesh in submission.

Two observations may be made at this point. First, the retention of the law to keep the flesh *in officio* should not be thought of as corresponding only to the *usus civilis*. It is that, and indeed it is a reminder that the church also has the task of preaching the *usus politicus* (if one ever preaches a use!) from the pulpit for there is genuine reciprocity between the first two uses of the law. For when preached from the pulpit there is a real mutuality between the *usus politicus* and the *usus elencticus* which cannot really be separated. This can be seen from the apostolic admonition (used by Luther above) that the thief should no longer steal. To the non-Christian that is merely the civil use of the law but for a Christian it can also be parenesis if it is understood within the framework of the gospel. This leads to our second point. The law is to be retained, says Luther, to keep the flesh in submission. Now insofar as the checking and restraining function of the law has usually been associated with its first use, this remark could be seen as simply a reference to the first use of the law. On the other hand, as we have just seen, parenesis, which is usually understood as *tertius usus*, functions not only didactically but also as second use in mortifying the flesh by putting to death sins and lusts, not just by restraining gross sin as the law does in the case of a non-Christian, but putting to death the old sinful nature so that the new self, born of water and the Spirit in holy Baptism, may again and again be reborn and walk

before God in holiness and righteousness for ever. We hope to continue this discussion later.

Argument 26⁶⁸⁵

Contra 44

The law is not laid down for the righteous [1 Tim. 1: 9]. Therefore, the law is not to be preached to the godly.

Response: This proposition is aimed directly against the antinomians because it clearly says that the law is to be taught in the church, not removed, when it states: [The law is not laid down for the righteous] but for the unrighteous, for murders, for those who kill their fathers and mothers, and for sinners etc [1 Tim. 9-10]. For there always are such people and they are found in the church. Therefore, the law is laid down and is not laid down for the righteous, that is, insofar as they are righteous. The law then is and is not laid down. Insofar as people are righteous the law has been abolished, insofar as they are sinners, the law remains. The person who knows how to distinguish these properly is a good theologian. To the extent that Christ is our Lord and we have forgiveness of sins in Christ, we are truly saints, clean and righteous, just like Gabriel himself in heaven, through faith, and are truly seated in the heavenly places with Christ [Eph. 2: 6]. But as far as I and my flesh are concerned, I am a sinner. However, just as there [in heaven] I become lord of all, and thus in the kingdom with Christ beyond the law, death and the devil, so here I become a servant of all and a soldier of Christ against sin and all worldly passions, as Christ says: Go, sin no more, lest something worse befall you [John 5: 14; cf. 8: 11].

Since 1 Timothy 1: 9 seems at first sight to support the antinomian position perfectly, it is not surprising that this should be one of their favorite texts. It has already come up at least four times before and will come up once more later on in this same disputation. Earlier Luther stressed that since Christians already have in Christ the *lex impleta*, they should not be burdened with the *lex implenda*.⁶⁸⁶ Later he makes it clearer that the law must still be taught and even sharpened on

⁶⁸⁵39 I, 552, 6-553, 7.

⁶⁸⁶See 39 I, 478, 20-479, 3 (2 AD, Arg. 25).

account of the *reliquiae peccatorum* in the flesh.⁶⁸⁷ Therefore, he concludes that the reason why the law is still to be taught to the *pii*, 1 Timothy 1: 9 notwithstanding, is because the Christian is a true Tom Thomas or twin, truly *simul iustus et simul peccator*.⁶⁸⁸

What Luther says in his *responsio* to the present *argumentum* is substantially the same. He claims at the outset that 1 Timothy 1: 9 passage is actually directed against the antinomians because it goes on in verse 10 to say that the law has indeed been given not to the *iusti* but to the *iniusti* and that the reason the law still needs to be preached is because such people are always to be found in the church.⁶⁸⁹ Therefore, Luther agrees with the text: *iusto non est lex posita*, with this qualification: *in quantum iustus* (552, 10-11). He recognizes that because Christians by their fallen nature are at one and the time *sancti* and *peccatores*, and that the law both is and is not abolished for them: *Lex itaque posita est et non posita. In quantum iustus, sublata est lex, in quantum peccatores, manet lex* (552, 11-12). This is the clearest and most concise answer that Luther gives to the question of whether the law is still to be taught to Christians. This is his definitive formulation and when the text does come up once more as it does in *argumentum* 37/10 he says nothing new. Because he is convinced that this distinction, which is nothing other than the distinction between law and gospel, is the key to understanding the role of the law in the life of the Christian, he remarks: *Haec qui bene novit distinguere, bonus est theologus* (552, 12-13). He once more elaborates this distinction to make his position

⁶⁸⁷See 39 I, 502, 16-21 (3 AD, Arg. 2).

⁶⁸⁸See 39 I, 504, 6-10 (3 AD, Arg. 3); Luther expresses this twofoldness also by describing the *pious* as *Christianus militans et triumphans*.

⁶⁸⁹See also 39 I, 502, 19-21 (3 AD, Arg. 2).

crystal clear: on the one hand, *quoad Christum dominum nostrum et remissionem peccatorum in Christo* we are *sancti, mundi et iusti*, like the angels in heaven, now through faith; on the other hand, *quod ad me et carnem meam*, I am *peccator*. In the first case I become *dominus omnium* and reign with Christ *super legem, mortem et diabolum*; in the other case, I become *omnium servus et miles Christi contra peccatum et omnes concupiscentias*.⁶⁹⁰

This is a fitting conclusion to the first part of this Third Disputation. He has shown that when it comes to speaking about the law and the Christian life, one cannot properly answer the question of whether the Christian still needs the law with only one statement. Rather, the very nature of the Christian as *simul iustus et peccator* requires two statements to answer the one question since the *pious* must be considered both *quoad Christum* and *quoad in se*. From the standpoint of the first, the law has been abolished as Paul says in 1 Timothy 1: 9, for the law is not given to the saints. However, from the standpoint of the second, the law still remains because and as long as sin remains, for Christians are still sinners because they still have the old nature.

Argument 27⁶⁹¹

Paul says: You are not under the law but under grace [Rom. 6: 14].
Therefore, the law is not to be taught to saints.

Response: It is the same argument as that immediately above, and the same distinction holds true and consists in explaining Paul's sentence, what it means to be under the law.

⁶⁹⁰There are overtones here from his 1520 treatise: *Von der Freiheit eines Christenmenschen*, where Luther says that the Christian is a perfectly free lord subject to none and also a perfectly dutiful servant subject to all.

⁶⁹¹39 I, 553, 9-13.

We offer this *argumentum* without comment because Luther merely refers here to what he has just said above. This concludes the disputation held before lunch.

We turn now to the analysis of the arguments which we presented after lunch. It would seem that the lunch break provides the transition between the doctoral disputation, which dealt with arguments propounded by the antinomians, and a fully fledged disputation against the antinomians in which Luther plays the leading role.

Translation and Analysis of Arguments
of the Third Disputation
Afternoon Session

The preceding arguments were put forward and defended before lunch.
The following were put forward after lunch on the same day.⁶⁹²

Argument 28/1⁶⁹³: Doctor Caspar Cruciger
Contra 18

The efficient cause of sin is not to be taught. The law is the efficient cause of sin; not only does it manifest sin, but it also incites to sin. Therefore, the law is not to be taught.

Proof of major premise: The sinful passions, which were aroused by the law, were at work in our members to bear the fruit of death [Rom. 7: 5]. This means that our passions are effective through the law because our natural lack of trust is confirmed by the law and, as it were, incites us to sin, and in my opinion, this is what Paul means.

Response: D. Martin Luther: The law came in, he says, to multiply the trespass [Rom. 5: 20],⁶⁹⁴ and in order that sinning might become sin beyond measure, the law that was being added stirred up these passions. And in

⁶⁹²39 I, 554, 1-2: *Haec argumenta sunt ante prandium proposita et soluta. Sequuntur ea, quae a prandio eodem die proposita sunt.*

⁶⁹³39 I, 554, 5-560, 12.

⁶⁹⁴Quoted according to the Vulgate.

fact, if the law had not come, sin would have been a good companion and slept; without the law that wretched sin would not have been thus exposed or brought forth. Therefore, the law incites us to sin. Quicklime without water does not catch fire. When it is sparked it does not catch fire, but when water is poured on it, it begins to burn, so it is also with law, as Augustine says.⁶⁹⁵ Therefore, the law is the efficient cause of sin just as the water added to limestone is the effective cause. Now then whatever happens to stir people up and incite them to sin is not to be taught but rather forbidden. The law is such as has already been said. Therefore, it is not to be taught.⁶⁹⁶

Here we must ask the question whether the water only shows that quicklime burns or whether it itself ignites it. Of course it itself ignites it.

Now my response: Augustine's similitude itself refutes the argument. For if this nature or heat were not in the quicklime, there is no way that it would be set alight by water or anything else that was poured on it. But because quicklime has a kind of fiery and burning nature, the water arouses it and gets it burning the more. The same is true of us, because our nature is evil on account of the serpent's breath in paradise, as we have often said above, and also secure and wicked. But when the law comes that depraved and corrupt nature becomes more and more irritated because it sees that it cannot do what the law demands, and it begins to become indignant, angry and irritated with God. And the longer it goes on, the angrier it gets against God. For all of us are such by nature that what we are forbidden we desire the more, as he says:

We strive after what is forbidden and always desire what we are denied.⁶⁹⁷

They are unwilling when you want it, and when you are unwilling they are full of desire.⁶⁹⁸

A¹

Therefore, the law is not the efficient cause of sin but shows that our nature is sinful, and arouses sin by forbidding it. But it appears by its own power to urge our natural wickedness and to activate it, so to speak. For if it were silent and quiescent people would live agreeably, they would not become angry with God, neither would they sin, nor would the trespass abound, as at present. We have already said that the law is not the effective

⁶⁹⁵ Augustine, *De civitate Dei*, bk. 2, ch. 4; cf. WA 39 I, 450, n. 1.

⁶⁹⁶ This is a rehearsal of the Cruciger's argument.

⁶⁹⁷ Ovid, *Amor* III, 4, 17.

⁶⁹⁸ Terrence, *Eunuch* 813 (IV, 7, 43).

cause of sin but the ostensive, not the originating but the demonstrative cause of this so perverse and corrupt human nature. But here it is necessary to explain that phrase of Paul's, what it means that sin increases and the trespass abounds through the law [Rom. 5: 20]. These are certainly amazing words and contrary to reason. For laws are given and made by kings to counter sins and if possible to heal them. But here he speaks in such a way that the law, which is good and holy, seems to produce death and despair, not because it does this itself, as we have also said several times above, but because when it comes and convicts our corrupt and evil nature, our nature immediately becomes terrified and angry against God's judgment and wrath, which it can no longer bear, and begins to despair of salvation, hate God and blaspheme. The law therefore is a servant of wrath and death and increases sin [Rom. 4: 15; cf. 2 Cor. 3: 6], not externally of course but internally, and arouses terrors and despair within the heart, that is, it stirs up sin so that it terrifies and kills us, as it says in 1 Corinthians 15 [: 56]: The sting of death is sin. Before the law came we lived quit complacently, securely, thinking nothing evil, but after the law came in to show us the kind of people we are, it commands things which we cannot do even though we might desire to. There I must then despair and begin to hate and blaspheme God, who seems to deal so unjustly with me. Thus sin becomes greater and is increased, because formerly I heard the law but lived without it, and at that time thought that I was fairly holy. But when the law says: You shall love the Lord your God with all your heart etc, and you shall not have other gods, I cannot but despair because no one ever could or can keep the law except Christ. When David committed adultery he by no means thought that sin was so great, but later he recognized it after he had been reproved by Nathan the prophet [2 Sam. 12: 1-15]. Here we see how the law truly increases sin, that it, it shows him the magnitude of God's wrath against sin so that he would have surely despaired in his terror had not Nathan added: The Lord has put away your sin etc. This is truly to increase sin through the law, that is, to make it more known, more conspicuous and plain, so that even by its appearance it strikes and terrifies the heart. It is impossible that there is any one who ever saw how great a sin it is not to fear God, not to trust God, not to love God, to despise his word, not to call on God; indeed if any did see it, he would already be dead. The law was given that we might know something of these things, that the sin already present in our nature might terrify and provoke us, and that it might show us what sort of people we are inside at heart, but the law itself does not make us into that sort of people, as they falsely accuse the law of doing.

I have spoken about the sins of the First Table. The same should now be said about all others sins in turn. For just as we are afflicted by them more when the law is present than when it is absent, and are more terrified and afraid on account of the commandment, so here we begin to rage more

against the law and more and more seek after what the law prohibits, as I have said above. We desire what is denied us, we hate what is present and seek after what is to come. And because we are forbidden by the law to covet and lust, so that another man's wife not yield to us, yet we want to indulge in fornication and run after prostitutes. So too in everything else, I want to do what I do not want to do and what I ought to do I do not want to do. And this is [what it means] to increase sin in things coarse and fleshly, but in inward, that is, spiritual things [this happens] if when the law commands us to love and esteem God and to trust him, we begin to despair, to hate God and to blaspheme him, because we realize that we cannot satisfy this law. For our nature has been totally corrupted. The law then is the cause of sin, you will say, if the effect is such that this would not occur if it were removed? I deny this because the law is not the effective cause of sin but only the ostensive. But since nature itself has been depraved and corrupted, the good and holy law cannot by itself have a better effect in such a nature. The law only says what is to be done, that God is to be trusted and feared. This you do not do, and for that reason you are angry with God and blaspheme him as you want both God and the law abolished.

Therefore, nature, depraved and corrupt in its condition, not the law, is like a bad pupil; he is bad per se, since beforehand he was going to do something, but afterwards, when the command of the parent or teacher comes along, he does not do it. It is not the command of the teacher that causes this, but because his nature is not good. So too we, when we hear: I am the Lord your God, you shall have no other gods; I will visit the iniquity of the fathers etc. [Exod. 20: 1-6] we despair rather than trust God, and Lyra says that this happens consecutively, because the trespass increases through the law, not causally.⁶⁹⁹

The substance of what Luther says here has already been expounded in his *responsio* to 1 AD, Arg. 10 and 3 AD, Arg. 16, although here he goes into more detail.⁷⁰⁰ We may therefore be brief. As Luther has already pointed out earlier, a critical distinction needs to be made between the efficient or originating cause of sin and the ostensive or demonstrative.⁷⁰¹ The real cause of sin is not the law,

⁶⁹⁹*Bibliorum sacr. tom. VI, cum glossa ordinaria et Nicolai Lyrani expositionibus* (Lugd. 1545) fol. 17^a on Romans 7: 13.

⁷⁰⁰See 39 I, 377, 9-378, 2 (1 AD, Arg. 10), and 529, 3-6 (3 AD, Arg. 16).

properly speaking, but our corrupt nature. What the law does is reveals the sin that is already there.

Luther illustrates this point by resorting to Augustine's *similitudo* about quicklime and water. The quicklime already has *quaedam natura ignea et ardens* so that the *aqua accendens* and *superinfusa* does not cause the fire but only ignites it in the sense of causing it to burn the more vigorously.⁷⁰² But the law does more than reveal sin. It provokes and exacerbates sin so that a person's sin becomes sinful beyond measure, so that instead of making people better it actually makes them worse. The law therefore does not lie dormant (is not a *lex tacens et quiescens*) but is a power which acts on our *natura corrupta* and causes sin and evil to flare up in our lives. This is exactly what Paul means in Romans 5: 20 when he says *peccatum augere et abundare delictum per legem* [νόμος δὲ παρείσθηθεν, ἵνα πλεονάσῃ τὸ παράπτωμα]. Again, it is not the law itself that does this because, as Paul affirms, the law is ἅγιος and καλός (Rom. 7: 12, 16), but the law takes advantage of or exploits the sinful nature in order to show the worst in us. It excites sin precisely by forbidding it [. . . *prohibendo exercet peccatum*] (556, 8-9).⁷⁰³ Again, the fact that the law should have such a perverse effect on us is the result of our sinful nature. Its purpose in magnifying and increasing sin is to leave us in no doubt that we are sinners under the wrath of God. The end result, apart from

⁷⁰¹556, 15-557, 3: *Iam diximus, legem non esse effectivam causam peccati, sed ostensivam, non auctricem, sed monstrativam istius tam perversae et corruptae naturae hominis.*

⁷⁰²Luther has already referred to this *similitudo* in 39 I, 450, 9-11 (2 AD, Arg. 9).

⁷⁰³Cf. 559, 8-10: *Et tamen quia lege prohibitum est, ne desideremus, concupiscamus, ne alterius nobis uxor concedatur, tamen volumus scortari, scorta sectari.*

disobedience to the commandments of the Second Table is hatred and finally despair of God: . . . *non possum non desperare, quia nemo unquam potuit nec potest praestare legem nisi Christus* (558, 2-10). Without the law we would live in relative tranquility simply because we would not know that sin is sin. Luther illustrates this from the example of David. It was only after the prophet Nathan came and confronted him with his sin, that is, preached the law to him, that David recognized the magnitude of his sin and God's wrath.⁷⁰⁴ Luther says that our nature (not the law) is *prava et corrupta* like a *discipulus malus*; he is bad per se because formerly he had intended to do right but when the *mandatum praeceptoris* is given, he does not do it. The reason for this perversity lies in his *natura nequam*, and is not to be sought in the teacher (560, 6-9).⁷⁰⁵

Luther has defended the law against the charge, brought by the antinomians, that the law causes others to commit sin. If the law is "guilty" of aiding and abetting sin (as, say, akin to an agent provocateur) its sole and sufficient defense is that it does this, not with "criminal intent," as if deliberately to bring about the death of the person, but, on the contrary, for the sake of ultimately saving him from the certain death that would ensue had the law not apprized him of his parlous plight as a sinner and pointed him to Christ as the only one in whom he can find refuge and safety from death. The antinomians lose the case, for to con-

⁷⁰⁴557, 18-558, 2: *Ita lex est ministerium irae et mortis et auget peccatum, videlicet non externum, sed internum et intus in corde excitat terrores et desperationem, hoc est, armat peccatum, ut nos perterrefaciat et occidat, ut I. Corinth. 15: Aculeus mortis peccatum.*

⁷⁰⁵The proper way of understanding the relation between the law and sin is consecutively and not causally. This is concisely stated by Lyra (see translation for reference): *consecutive fieri, quod abundet delictum per legem, et non causaliter.*

vict the law of sin is ultimately to convict God of causing sin because he is the author of the law in the first place. On the other hand, the final word in defense of the law can only come from the gospel, for in spite of their mutual antagonism, from the standpoint of faith (which is that of the gospel) the work of the law, teleologically, stands in the service of the gospel, and thus in the service of life and not death. This is not apprehensible to plain reason but is a reality revealed only to faith and as such can only be confessed by those who know themselves to be under the law as sinners and yet pardoned, forgiven, and rescued for Christ's sake through the gospel.

Argument 29/2⁷⁰⁶

Contra 41

If saints are partly under the law, but partly not under the law, doubt lingers and faith becomes uncertain. But faith must be certain. Therefore, this partiality should not be posited.

Proof of Major Premise: This partiality does not allow anything certain to be established, because people do not know to what extent they are not under the law and think perhaps that it is too little or too much, since they cannot establish for certain to what extent they are sound and to what extent ungodly.

Response: D. Martin Luther: The argument is this: Christian doctrine ought to be certain, indeed utterly certain, but if we are partly righteous, and partly unrighteous, a partiality must be posited. Therefore, we cannot be certain. The statement: I am partly doubtful, partly certain, means nothing. They [the parts] cannot stand together at the same time. Doctrine per se is certain and is to be set forth most certainly in order that a person may know what indeed it is that is taught. Thus Augustine⁷⁰⁷ says: Faith must be most certain and no uncertainty can ever arise because it is a firm assent to God's word or promise of free grace, that is, the forgiveness of sins on account of Christ our savior and priest. For example, if someone wants to believe and

⁷⁰⁶39 I, 561, 3-563, 6.

⁷⁰⁷It cannot be determined which of all the many passages in Augustine Luther is thinking of here when he speaks of *certitudo*, *firmitas*, *securitas fidei* in connection with Christ's salvific work.

in this way believes that Christ Jesus is the Son of God by his nature, and that he should attach no importance to this or the other articles, that person truly gets damned, because faith ought to be certain, firmly believing that Christ is the Son of God, and in no way leave this in doubt, whether it is so or not so. For that would not be faith but rather opinion.

Response: This is one dialectical sophism. We are not making the assertion that it is uncertain, neither that the law nor faith is uncertain, because of what is most certain: we are partly righteous and partly sinners, because we carry around with us the flesh of our father Adam which has been infected by original sin, in which we have been conceived and born, and if any one does not know this and does not see sin in himself, let him consult his own heart and conscience, and he may be convinced by his own conscience, which may tell him what your bed will call out to you while you are sleeping, who you are. However, we are righteous because it is certain that we have been baptized in the blood of Christ and have been received into grace by the Father on account of Christ in whom we believe; here we are altogether holy and righteous by imputation, because sin is not imputed to us, as we have said at length above. It is true that faith can be weak, but not uncertain and doubtful; this is an enormously important distinction. Therefore, this must be known and constantly upheld that doctrine, faith, law, and gospel are so entirely certain that there can be nothing more certain, yet faith can also be weak and feeble, but not uncertain.

The syllogism rejects the *particularitas* that *sancti partim sunt sub lege, partim autem non sunt sub lege*, on that basis that it leads to *dubitatio* and so produces a faith that is *incerta*. The antinomians argue that this kind of thesis encourages a quantitative approach to faith in that it forces the Christian to ask: *in quantum non sit sub lege*. The result is that some will estimate they are more under the law than they are and others less, because they cannot establish with certainty *quanta sit sanitas* and *quanta impietas* (561, 3-9). We have already seen that the antinomian answer to the problem of uncertainty, as they perceive it, is to assert simply that Christians are wholly saints and righteous, without qualification, and again that they are not at all under the law.⁷⁰⁸

⁷⁰⁸The antinomian syllogism is directed against Luther's argument that the Christians are still under the law insofar as they are still not wholly free from

Luther replies that the antinomian rejection of the *particularitas* on the grounds that it allegedly leads to uncertainty is nothing but a σόφισμα. He restates his position as emphatically as possible: *Nos non dicimus, quod sit incertum, neque quod lex neque quod fides sit incerta, quia certissimum est, nos esse partim iustos, partim peccatores . . .* (562, 9-11).⁷⁰⁹ Already in the first *Argumentum* the antinomians wanted to throw out the law because it does not offer certainty or a good conscience. There Luther pointed out in reply that the law does indeed give certainty, but only with regard to sin, and that it does this by terrifying the conscience. Because the antinomians know nothing about the distinction between law and gospel they are incapable of knowing the difference between the certainty of the law (concerning sin) and the certainty of the gospel (concerning forgiveness). So too in the present argument they misunderstand the certainty of faith. The certainty born of the gospel does not necessitate the complete abolition of the law. Rather, it believes in the truth of the gospel in spite of the judgment of the law; it believes that for Christ's sake we are forgiven sinners, saints and righteous, even though according to the judgment of the law we are condemned sinners under sentence of death. Because the antinomians do not accept the dialectical tension between law and gospel they know nothing of the "nevertheless" character of faith which believes that we are saints in spite of the fact that all that we can see in ourselves is sin. Because Luther knows that the holiness we have as Christians is not

sin. They specifically aim they argument against Th. 41: *Quatenus vero nondum est in nobis suscitatus, eatenus sumus sub lege, peccato et morte* (39 I, 356, 17-18).

⁷⁰⁹We see no grounds for supposing that when Luther says *nos esse partim iustos, partim peccatores* (562, 11) he means anything different from the more common formula *simul iustos et peccatores*. Since we have already discussed what this means in Luther in connection with our analysis of *Argumentum 3* (39 I, 503, 7-508, 9) we will not go into that here.

ours but Christ's, and that we by nature are still sinful and unclean, he sees no contradiction in asserting the *iustus* while at the same time confessing the *peccator*. To let go of the *simul* at this point can only end in an unbiblical perfectionism which, as we saw, Luther strongly denounced in his *Praefatio*.⁷¹⁰

The important thing here is the imputation, which is the cornerstone of the Pauline doctrine of the *simul iustus et peccator*: we are entirely *sancti et iusti* through imputation [*imputative*] because our sin is not imputed to us (562, 17-563, 1).⁷¹¹ The non-imputation of sin is simply the reverse side of the imputation of holiness and righteousness. The big difference between Luther and the antinomians at this point is that he speaks of the non-imputation of sin, through faith, which means that our sins (or the guilt of our sin) are no longer held against us or charged to our account but, on the contrary, forgiven. However, this presupposes that we still have sin, indeed, Luther says that we still carry around the sin-infested flesh of our father Adam, whereas the antinomians talk only of the complete removal of sin. The one new thought that Luther introduces here is the distinction between certain faith, on the one hand, and weak or feeble faith, on the other. The antonym of *certa* is *incerta* or *dubia*, not *imbecillis* or *infirma*. This distinction is important for two reasons: First, it implies that the important thing is not the subjectivity of faith but its objectivity, not the *fides qua* but the *fides quae*, not the experience of faith but the ground of faith. The two aspects of faith of

⁷¹⁰Luther advises those who are in any doubt about the fact that they are still sinful to consult their heart and conscience; in fact if they had ears, even their bed would tell them! (562, 13-15).

⁷¹¹Note that Luther connects the imputation with baptism: we have been baptized in the blood of Christ, received grace from the Father *propter Christum*, and here are *sancti et iusti* through imputation (562, 16-563, 1).

course belong together but their proper order or priority is important. Hence, it is of little consequence if our faith at times seems weak and shaky for it is not that which saves us but only Christ in whom we believe. Secondly, as we have often seen, Luther stresses the ongoing struggle of faith against sin and Satan. Some find it easier than others to resist sin, some are often plunged in great bouts of *Anfechtung* and can only cry out: Lord, I believe; help my unbelief. Luther then makes an important distinction between the subjective experience of faith, which may be weak and feeble, and faith itself which is indubitably certain because it is grounded in Christ.⁷¹²

Argument 30/3⁷¹³

Christ's benefit: justification, new life, freedom from the law belong to the whole person. Therefore, that partiality, that we are partly righteous, partly unrighteous, must not be made.

Proof of Conclusion: We are [either] totally righteous or totally sinners.

Response: By imputation, of course. For this is true that by divine imputation we are truly and totally righteous, although sin is still present. It is proper for us to retain that synecdoche, just as when somebody who had been wounded is now healed we say that the whole person is healed. Likewise, we say that a person has been injured even if it is only just a part of the body that has been injured. So also we are truly and totally sinners, that is, in respect to us and our first birth; on the other hand, insofar as Christ has been given for us, we are saints and righteous totally. Thus, from a different viewpoint, we are said to be righteous and sinners at one and the same time.

Luther's *responsio* here follows on very closely from the foregoing and again stresses that Christians are both righteous and sinners at the same time.

Luther again affirms the truth of the *particularitas* in the face of its antinomian re-

⁷¹²563, 4-6: *Quare hoc sciendum et tenendum perpetuo est, quod doctrina, fides, lex Evangelium certissima sint ita, ut nihil posset esse certius, sed tamen fidem posse etiam esse infirmam et imbecilem, sed non incertam.*

⁷¹³39 I, 563, 8-564, 7.

jection: *quod simus partim iusti, partim iniusti*.⁷¹⁴ The grounds for its rejection by the antinomians are very cogent and logical: two opposing things cannot both be true at the same time.⁷¹⁵ This comes out in the proof they offer for their *consequentia: quia nos sumus totaliter iusti vel totaliter peccatores* (563, 11-12), where the *vel* is the operative word. Luther, on the other hand, asserts the theological truth of the simultaneity of righteousness and sin in the same person at the same time. Literarily, he justifies this *modus loquendi* by comparing it with the use of synecdoche.⁷¹⁶ In other words, Luther is proving to the antinomians that even apart from theology, there is literary precedent (albeit illogical) for saying that Christians are *prorsus sancti et iusti* and yet meaning that they are *partim sancti et partim iusti*. If in synecdoche the whole may stand for the part, that is exactly what is happening when Luther asserts *sumus et iusti totaliter*, for we are that not *quoad se* but only by imputation, that is, *propter Christum per fidem*. Conversely, Luther holds *sumus et totaliter peccatores*, but here he is not contradicting what he said above because this time his point of view is human nature and not Christ and divine imputation. Therefore, as we have seen before, the only way Luther can do full justice to the biblical doctrine of anthropology is by speaking dialectically, that is, by making two opposite statements at the same time and applying each to the whole person without resolving the tension. And that is precisely how he concludes: *ita diverso respectu dicimur iusti et peccatores simul et semel* (564, 6-7).

⁷¹⁴See note on *partim* in above *Argumentum* in connection with 562, 11.

⁷¹⁵Cf. 515, 6-7 (3 AD, Arg. 6) and see note there for other references.

⁷¹⁶On the use of synecdoche, see our analysis of 2 AD, Arg. 18, 3 AD, Arg. 11, and 3 AD, Arg. 22.

Argument 31/4⁷¹⁷

John says: Love drives out fear [1 John 4: 18]. The law teaches fear. Therefore, the law is not to be taught.

Luther: The argument is that those who fear do not have perfect love. For just as the angels do not fear, that is, do not expect punishment from God, neither do Christians expect any punishment from God. Therefore, the law ought not to be presented to them because they are terrified by and exposed to God's wrath and death. For the law is the servant of death.

Response: Most certainly love drives out fear, but not entirely. For if it were to drive it out entirely we would already be with the angels themselves in heaven. John's sentence, love drives out fear, is therefore to be explained in this way: those who believe and who are in the divine imputation are without fear because fear and comfort cannot coexist: one cannot rejoice in the Lord and at the same time fear punishment. But otherwise within us and outside of this sphere of imputation there is, as Paul says, fear within and crying and terrors without [2 Cor. 7: 5], namely, when we are located in ourselves (when our point of reference is ourselves), although that fear is now no longer servile but has been made filial and cannot confound Christians altogether.

Luther has already responded to a very similar *argumentum* in the last disputation.⁷¹⁸ However, not only is his *responsio* different here, in our estimation it is also far more lucid and persuasive, mainly because law and gospel are distinguished more clearly. In his earlier response, in opposition to the antinomian insistence that the law be abandoned because it only produces fear and not love, Luther advocates that the law should be preached precisely for this reason, to show us that we do not have love; then the gospel should be preached which will create the faith as well as the love that overcomes fear.⁷¹⁹ After he has discussed the nature of repentance under the gospel in terms of fear and love, he concludes

⁷¹⁷39 I, 564, 9-565, 11.

⁷¹⁸See 39 I, 437, 6-440, 15 (2 AD, Arg. 5).

⁷¹⁹As a comparison with the *responsio* to 2 AD, Arg. 5 will reveal, this is our simplified summary of a rather tortuous argument.

by drawing a distinction between two kinds of fear: *timor sine charitate* and *timor cum charitate*, the former being diabolical, the latter evangelical. Here, on the other hand, he does not discuss repentance from the standpoint of fear and love, nor does he take up the idea of the two fears, but rather focuses simply on the two sides to love, or better, looks at love from the vantage point of law and gospel. Right from the start we know how he will develop his counter-argument when he says: *Certissimum est, quod charitas expellit timorem, sed non totum* (565, 3-4). From the angle of the gospel and imputation, there is no fear, for fear has been replaced by love, that is, God's love for us in Jesus Christ. Luther says that *pavor* and *consolatio, gaudere in Domino* and *timere poenam* cannot coexist. It is not the subjective feeling of fear that is excluded by the comfort of the gospel, but the objective basis of fear. There are no longer any grounds for fear for the *credentes* who are *in reputatione divina*, because as far as God is concerned there is no longer any sin to punish. As Paul proclaims, there is now no condemnation for those in Christ Jesus (Rom. 8: 1). However, there is another side to this for we are not yet free of sin, therefore Luther (following Paul) says: *Sed alioqui infra nos et extra hanc sphaeram reputationis est, ut Paulus inquit, intus pavor, clamor foris et terrores* (565, 7-9). Here the fear within and the terror without (2 Cor. 7: 5) is descriptive of the Christian as the *simul iustus et peccator*, so that in this case, unlike that of the *non credens*, the fear is no longer servile but filial [*ille timor iam est ex servili factus filialis*] and so does not cause despair (565, 10).⁷²⁰

In conclusion, Luther's answer to the antinomian interpretation of 1 John 4: 18 as a basis for eliminating the law is simple and straightforward: The fact that

⁷²⁰For other references to *filialis timor* and *servilis timor*, see our note in connection with 2 AD, Arg. 5.

love drives out fear does not mean that it drives out fear entirely, because we are still sinners, by virtue of our fallen nature, and therefore still need the law to keep driving us to that love which alone can overcome and banish fear.

Argument 32/5⁷²¹

What Christ commands to be preached must be preached. Christ has given the mandate to preach the gospel [Mark 16: 15]. Therefore, the gospel alone is to be preached and not the law.

Response: Avoid the saying that the law and the gospel fight each other, nor should this be conceded, because the law is a witness to the gospel, as Paul says in Romans 3: the righteousness attested by the law and the prophets [Rom. 3: 21]. Death and life are indeed opposites, but the revelation of death, wrath and sin causes life. For the purpose of the manifestation of death and wrath is not that you should perish but that, knowing these things, you might flee to him who is the Lord of death and wrath, and the author of this life. We however are really the opposites and the contradictions to law and gospel because there is nothing in us that matches the law.

Response: It is not like that in the law and gospel, for the physician is not the contradiction and the opposite to the disease, but a servant who warns about the disease in order that you might know the gravity and a severity of the disease and consequently seek a remedy.

We cannot be certain as to the identity of the first respondent in this *Responsio*. By convention, if a student attempts a response first, Luther will also follow it with his own. There is no precedent of Luther himself giving two independent *responsiones*. The closest we come to that is when he first sums up the gist of the antinomian argument before offering his *responsio*. But that is not the case here. However, this response by its very nature and length seems more authoritative than that of a student's (consider already the opening sentence). Therefore, this leads us to assume that this second part of the Third Disputation is not simply a continuation of the doctoral disputation begun in the morning but is really an independent antinomian disputation.⁷²²

⁷²¹39 I, 565, 13-566, 11.

The point made in the first *responsio* is that law and gospel are not inimical to each other but that they in fact both work for the good of the person whom they impact: *Absit hoc, quod lex et Evangelium pugnant inter se, neque hoc concedi debet, quia lex est testis Evangelii, ut Rom. 3 ait Paulus: Iustitia testificata a lege et prophetis* (566, 1-3). Since the δικαιοσύνη θεοῦ, as given by the gospel, is attested by the law (= Torah) and the prophets, the law and the gospel cannot be at cross purposes. However, it is important to define our terms here. The law that is being spoken of here is not the *lex accusatrix et condemnatrix*, but the revelation of God's will in the תורה. Secondly, the antinomians are wrong when they think that Christ's mandate to preach the εὐαγγέλιον precludes the preaching of the νόμος. Since the mandate in Mark 16: 15 does not include any term antithetical to εὐαγγέλιον it is reasonable to conclude that in this case the referent of the term gospel is the whole teaching of Jesus (cf. the πάντα ὅσα ἐνετειλάμην ὑμῖν of Matt. 28: 20) inclusive of the law (where law does not mean only *lex accusans* but also parenesis). Even though the *responsio* does not explain it in exactly these terms, our explanation is consistent with the assertion that *lex et Evangelium non pugnant inter se* (which is a reformulation of the opening warning in a positive form). The respondent goes on to say that the real opposition or contradiction is to be found between ourselves, on the one hand, and the law and gospel, on the other, because there is nothing in us that matches the law (566, 6-8). Death and life are indeed opposites but the purpose of revealing our death is to drive us to him who is the Lord of death and the author of life (566, 3-6). The second respondent merely reinforces the point that law and gospel work together for the health/salvation of a person by comparing the law with the physician who first

⁷²²See our introductory remarks to the Third Disputation for further details.

diagnoses the disease and warns the patient of its severity and then induces him to seek the remedy of the gospel.

The main point that needs to be emphasized here is that the argument that law and gospel are not inimical to each other should not be interpreted to mean that they are not antithetical. The *responsio* is specifically intended to refute the antinomian contention that the dominical mandate to preach the gospel *eo ipso* excludes the law. Here, however, we need to remember what was pointed out above. The term gospel as used in the mandate is not exclusive of the law but includes the whole of the dominical teaching. The precise denotation of the term gospel (whether used broadly or narrowly) can only be determined by context. Moreover, there are several passages which we have already discussed where Luther clearly teaches that law and gospel are so antithetical that the law (especially when it is used by Satan) would simply drive us straight to hell and plunge us into the abyss of despair were it not for the gracious intervention of the gospel which plucks us out of the grasp of the law and gives us life and comfort in Christ.⁷²³

Argument 33/6⁷²⁴

Paul was converted by a voice from heaven. The voice of God is the preaching of the gospel. Therefore, people are converted through the gospel and not through the law.

Response: Nothing is proven from single statements. Another refutation: It was not the gospel but the terrible law that formed the greatest part of the (heavenly) address and vision, for it made him a murderer, not of the

⁷²³See our discussion of 2 AD, Arg. 8 where Luther says that the law must be told to stay within its bounds, and that although Paul calls the law a *paedagogus* that leads us to Christ, it is that only when interpreted by the Holy Spirit. This problem will be taken up again in ch. 4.

⁷²⁴39 I, 566, 13-567, 14.

Jews but of Christ the Lord. Therefore, first he is accused of being a murderer, a thief and a worthless traitor. In fact, it also terrifies him so much that he calls out: Lord, what do you want? and the voice responds: I am Jesus whom you are persecuting [Acts 9: 5]. But the voices of the gospel are these: your sins are forgiven you, go in peace, and you will be saved [Luke 7: 48, 50]; be assured, I have overcome the world [John 16: 33], and in this story of Paul: go into the city and there you will be told what you must do next [Acts 9: 6]. The voice of God and the voice of the Lord do not always mean the gospel, but God also utters a voice that convicts sin, as in Psalm 29 [: 3]: The voice of God above the heavens, but also sometimes it is a voice that breaks the rocks [Jer. 23: 29]. Therefore, this passage is in our favor and against the Antinomians because God wanted Paul to be converted through the voice of the law and not through the gospel, as the whole story proves.

Luther has dealt with the role of the law and the gospel in the conversion of Paul three times already, but the present *responsio* is the most detailed and cogent.⁷²⁵ The pivot of the antinomian argument, expressed in the minor premise, is that the *vox Dei = Evangelii praedicatio* (566, 13-14). Luther, on the other hand (assuming he is the respondent), points out the fallacy of this equation and argues that most of the Lord's speech from heaven is *lex horribilis* for it accuses Paul of being *homicida, latro et perfidus nequam* (567, 3-4). That this is an accurate diagnosis is confirmed by Paul's reaction to the heavenly voice: *Domine, quid vis?* which is hardly a reaction to the gospel, and by the Lord's own self-identification: *Ego sum Iesus, quem tu persequeris* (567, 5-6). Instead of assigning the *vox coelestis* to the gospel, like the antinomians, Luther ascribes it to the law and thus distinguishes it from the gospel which, in his view, embraces the subsequent events culminating

⁷²⁵All three occur in the First Disputation: 39 I, 393, 17-394, 6 (1 AD, Arg. 20); 7-11 (1 AD, Arg. 27); 406, 19-407, 5 (1 AD, Arg. 28). However, the present *Argumentum* is the only one where the topic is made the subject of the syllogism and also answered in the *responsio*. By way of contrast, the topic is raised by the proponent of the argument in Arg. 20 but not really answered by Luther in the *responsio*. On the other hand, the topic of Paul's conversion is not directly raised in Args. 27 and 28 but is introduced by Luther all the same in his *responsio*.

in Baptism, though he himself does not mention Baptism but simply refers the gospel to the words: *Vade in civitatem, et ibi dicetur, quid tibi faciendum sit porro* (Acts 9: 6; Baptism is only mentioned in 9: 18). Luther's thesis is the opposite to that of the antinomians: *Vox Dei et vox domini non semper significat Evangelium, sed vocem etiam arguentem peccata sonat Deus*. Here he gives the example of Psalm 29: 3: קוֹל יְהוָה עַל-הַמַּיִם הַמְּיָרִים which he translates as: *Vox Dei super coelos*,⁷²⁶ as well as Jeremiah 23: 29 where he describes the *vox* as *conterens petras* [וְכַפְּטִישׁ יִפְצֹץ סֶלֶעַ] הֲלוֹא כֹה דִבְרֵי כְּאֵשׁ נֹאֵם-יְהוָה].⁷²⁷ In both cases Luther argues that the *vox Dei* = *lex arguens*, which in turn supports his thesis: *vox Dei ≠ Evangelium* (at least not always). We would contend that there is a parallel in the mind of the antinomians between their thesis here that the *vox Dei* is identical with the gospel and their argument that the words of Paul in Romans 1: 18: ἀποκαλύπτεται γὰρ ὀργὴ θεοῦ ἀπ' οὐρανοῦ mean that *de coelo* = *ex evangelio* because the gospel comes from heaven. Luther, on the other hand, argues that the phrase means nothing more

⁷²⁶The text merely says Psalm 29 (567, 10); we take the words *vox Dei super coelos* to be referring to v. 3 rather than as a description of the whole psalm. If that is the case, it is easy to see how the error in translation came about since the words הַמַּיִם and הַשְּׂמַיִם look very similar. Nevertheless, the mistranslation works in Luther's favor for he obviously identifies the *vox Dei super coelos* with the *vox coelestis* (law), which spoke to Paul on the Damascus road.

⁷²⁷Technically, Jeremiah. 23: 29 does not use the word קוֹל but דִּבְרֵי. All the same, we would not want to suggest that there is any difference in meaning. Luther of course implies no contrast between the *vox Dei* of Psalm. 29 and that of Jer. 23. His point is simply to show that the *vox coelestis* which spoke to Paul (which he identifies with the *vox Dei super coelos* of Psalm. 29) is not the gospel, indeed, it is not even a quiescent word, but is the same word of judgment and wrath, which Jeremiah likens to a fire and a hammer that splits rocks. Exegetically, both passages are talking about the dynamic power of the *vox/verbum Dei*, the former in the realm of nature, the latter in the realm of proclamation.

than that God's wrath is *divina ac coelestis*, hence not *terrena*.⁷²⁸ So here too, the mere fact that the *vox* is *e coelo* (or *super coelos*) does not automatically make it evangelium. It is not its point of origin that is important, for both law and gospel, judgment and mercy are *e coelo* because God is the author of both. The decisive factor is rather the content, and here Luther has clearly established criteria as to what constitutes law and what constitutes gospel. The law is anything that puts us under divine wrath and judgment and exposes our sins; the gospel on the other hand is the gracious word of promise that offers and gives us forgiveness of sins, life, and salvation.

Argument 34/7⁷²⁹: Justus Jonas

The law was always in the world, also in especially worthless people like Caligula, Nero and others. But the law did not produce contrition in them, but blindness remained. Therefore, the law is not the cause of contrition and terror, but is an outward discipline.

Response: To say that a person is without the law is the same as saying that he is secure, just as these people were once secure, but [only] until that hour when the law bursts forth and comes to life again, and then they grow pale after they have perceived the meaning of the law, not to mention the fact that they immediately rush forth and do violence to themselves, like Nero himself, Caligula etc, and as you also see from the fact that certain people become so frightened at the sound of thunder it is as if they were dead. For in that hour no one would hope for salvation unless Christ should intervene as mediator and draw him out of that hell.

This *argumentum* brought forward by Justus Jonas is not an antinomian argument because they in the first place deny the proposition *lex semper fuit in mundo*. We will come back to that. Rather, it seems that Jonas floats an argument that was particularly dear to Melanchthon. Not that the latter ever denied the *lex accusans* (*usus elencticus*), but he certainly put more emphasis on the character of

⁷²⁸For the full refutation see 39 I, 423, 1-425, 5 (2 AD, Arg. 1).

⁷²⁹39 I, 568, 2-569, 2.

the law as *externa disciplina* than did Luther.⁷³⁰ The *argumentum* attempts to show from history that the primary purpose of the law is to maintain external discipline (*usus civilis*) and not to cause contrition (*usus theologicus*). As we intimated above, the view that the law was always in the world is not an antinomian argument; rather the universality of the law in the sense of the *lex naturae* was specifically advanced by Luther to combat the narrowing of the law in antinomian theology by equating it with the *lex Mosaica*.⁷³¹ Therefore, to say that a person is without the law is not to be understood as a negation of the *lex insculpta* but rather as a recognition of the fact that the person is in the grip of *securitas*. But the person is *securus* only until the law suddenly bursts into his life and becomes an existential reality for him, after which he becomes terribly distraught and may even take steps to end his own life.⁷³² This view of things is consonant with the distinction Luther made earlier between the law and its effect or power: the former is universal but not the latter.⁷³³ However, this does not exclude the need for the *verbum praedicatum* because sin has made the natural knowledge of the law vague and uncertain. Therefore, it is only through the *ministerium legis* that the *sententia legis*

⁷³⁰For more on this see the background discussion in ch. 2.

⁷³¹The *lex naturae*, written on the heart, predates the law of Moses (1 AD, Arg. 25); the law was not given through Moses but it belongs to the whole world; *lex Mosaica* ≠ *Decalogus* (2 AD, Arg. 25).

⁷³²Cf. the death of Dr. Krause of Halle who committed suicide after he was overcome by despair, but in this case brought about, not by the law but by the gospel heard as law (3 AD, Arg. 18).

⁷³³Cf. 39 I, 369, 13-14: *Lex est omnium, sed non omnium vis et sensus legis* (1 AD, Arg. 3).

will become clear.⁷³⁴ However, once the *vis legis* has been felt one's life becomes a living hell and the only way out is through Christ. Luther wants to make it clear that we are not yet talking about the power of the law if we speak of it only in terms of *externa disciplina*. That is certainly one of its functions but not its main one. Nor is it within our power to bring about the *effectus legis*. God alone does that. But when the law does strike its effect is so frightening that we would give up all hope of salvation, Luther says, *nisi Christus mediator intercesserit et te ex isto inferno eduxerit* (569, 1-2).

Argument 35/8⁷³⁵

The veil is not removed from the face of Moses through the law [Ex. 34: 29-35]. To have the veil removed is to know that the law demands. But to know that is true contrition. Therefore, true contrition does not occur through the law but through the gospel and the Holy Spirit.

D. M. Luther: The argument is that Moses put a veil over his eyes which is not removed through the law but through the gospel, 2 Corinthians [3: 15, 16]. Therefore, contrition does not arise from the law but from the gospel and consequently the law is not to be taught.

Response: Paul speaks of two faces, that of Moses and then that of Christ, and then he says that Moses' face is twofold, namely, veiled and un-veiled. Those who look to the veiled face of Moses are hypocrites for they do not see that the law is spiritual and think that it can be satisfied with works, as Paul thought before his conversion, and as the people of Gemorrah thought who killed the prophets and who never had any sensation of the law or a true knowledge of it. Therefore, the veiled face of Moses causes their hypocrisy. So when Moses came down and said: You are hypocrites, un-godly, and sacrilegious, they were by no means able to bear the brightness of his face nor listen to this voice of his. Therefore, Moses was forced to veil his face and to speak kindly, otherwise he would not have kept even one hearer, as happened at Mount Sinai. You shall not kill, you shall not steal are interpreted according to the deed alone, as if somebody kills another person with his hand; likewise as if somebody digs into another person's treasury and

⁷³⁴For the relation between the *lex insculpta* and *lex scripta* (or *lex praedicta*) see 3 AD, Arg. 19.

⁷³⁵39 I, 569, 4-571, 3.

takes his goods. These are the veils of Moses. Clearly the law is to be interpreted as Christ does in Matthew 5: Whoever hates his brother is a murderer; again, whoever is angry with his brother [Matt. 5: 21-22] etc.; if anyone covets another person's property etc.; that is to look into the very face of Moses and to grow pale because of dread and the magnitude of the divine wrath against sin. But we should not stand here or linger too long lest we be swallowed up, but draw near to the face of Christ which is far brighter than the face of Moses, for he overcame in himself all our evils: sin, death and the devil. Before this light Moses is nothing at all, nor do I worry here much about his deadly horns with which he formerly used to stab me when I had not yet fixed my gaze on Christ.

At first blush the antinomian *argumentum* looks persuasive, but it contains a fundamental flaw. The crux of the problem revolves around the interpretation of the removal of the veil of Moses and what this entails. First we need to look at the biblical data. After God had (re)written on stone tables the דְּבָרַי הַבְּרִית (also called the ten words [עֲשֶׂרֶת הַדְּבָרִים]) Moses' face shone so much from speaking with him that the people were afraid. Therefore, after Moses finished speaking with the people he put a veil on his face [וַיִּתֵּן עַל-פָּנָיו מִסְוָה]. He only removed the veil when he went into the אֹהֶל to speak to the Lord and when he spoke on behalf of the Lord to the people. At all other times he kept his face veiled (Ex. 34: 29-35). From the Old Testament point of view the reason Moses veiled his face was mercifully to prevent them from becoming unduly troubled by the reflection of the divine glory in the face of Moses. However, St. Paul interprets this action in a different way in the light of the καινή διαθήκη. The reason he gives for Moses' veiling his face is that this was to hide his fading glory from the people. Thus he says that the people could not look at Moses' face because of its glory, even though it was fading [διὰ τὴν δόξαν τοῦ προσώπου αὐτοῦ τὴν καταργουμένην] (2 Cor. 3: 7). The operative word here is fading [καταργεῖν]. Again: Μωϋσῆς ἐτίθει κάλυμμα ἐπὶ τὸ πρόσωπον αὐτοῦ πρὸς τὸ μὴ ἀτενίσαι τοὺς υἱοὺς Ἰσραὴλ εἰς τὸ τέλος τοῦ καταργουμένου (2 Cor. 3: 13).

Paul naturally is at pains to stress the temporary character of the old covenant compared with the permanent character of the new: εἰ γὰρ τὸ καταργούμενον διὰ δόξης, πολλῶ μᾶλλον τὸ μένον ἐν δόξει (2 Cor. 3: 11).

Furthermore, he interprets the veil as symbolic of the *πώρωσις* of contemporary Judaism, which is removed only through faith in Christ: ἄχρι γὰρ τῆς σήμερον ἡμέρας τὸ αὐτὸ κάλυμμα ἐπὶ τῇ ἀναγνώσει τῆς παλαιᾶς διαθήκης μένει, μὴ ἀνακαλυπτόμενον ὅτι ἐν Χριστῷ καταργεῖται (2 Cor. 3: 14). For Luther however the *διακονία τοῦ θανάτου* (3: 7), or *διακονία τοῦ κατακρίσις* (3: 9), represented by Moses and the *γράμμα* is not purely a past event but continues in the present wherever the hegemony of the killing law (τὸ γὰρ γράμμα ἀποκτείνει) remains unchallenged by the gospel, for the *διακονία τοῦ θανάτου* is finally synonymous with the old existence under the law. On the other hand, the *διακονία τοῦ πνεύματος* (3: 8) or *διακονία τῆς δικαιοσύνης* (3: 9), which is inaugurated by Christ and enacted through the Spirit (τὸ δὲ πνεῦμα ζωοποιεῖ), is identical with new life created by the gospel. These two contrasting *διακονίαι* describe not two successive dispensations but two different modes of existence, the former life under the law, the latter under the gospel.⁷³⁶ Moreover, Luther makes a further distinction between the two faces of Moses in the ethos under the law: the *Mosis facies velata* and the *Mosis facies non velata* (569, 11). All who look at the former are *hypocritae*, for they misunderstand the law at the critical point: they do not see the law is *spiritualis* but think that it can be satisfied with their

⁷³⁶When Luther says: *Paulus facit duas facies, Mosis et deinde Christi* (569, 10), the *deinde* should not be interpreted in an exclusively temporal way. There is indeed an historical sequence: Christ comes after Moses. But, by the same token, Paul teaches that the veil of Moses remains unlifted wherever people do not believe that Christ is the *τέλος* of the law.

works. In other words, they see only the letter of the law and follow the law to the letter, like the pre-Christian Paul, but know nothing about its spiritual aspect as shown by Jesus in his Sermon on the Mount.⁷³⁷ But after Paul became a Christian and understood the law in an altogether new light, he no longer boasted as he did during his days in Judaism: κατὰ δικαιοσύνην τὴν ἐν νόμῳ γινόμενος ἄμεμπτος. Now turning his back on his former sarxic pride he says: ἄτινα ἦν μοι κέρδη, ταῦτα ἤγημαι διὰ τὸν Χριστὸν ζημίαν and no longer seeks a δικαιοσύνη τὴν ἐκ νόμου but instead a δικαιοσύνη ἐπὶ τῇ πίστει through faith in Christ (Phil. 3: 6-9). Christians understand the law *spiritualiter* because they understand it from the standpoint of its τέλος, Christ the *impletio legis*. For them the law is not an end in itself but its purpose is to lead people to Christ (cf. the παιδαγωγός of Gal. 3: 24). Unbelievers however cannot see beyond the γράμμα and cannot interpret the law any other way than *de facto* because for them the *velum Mosis* has not yet been removed.

This way of viewing the law is good and useful as far as *externa disciplina* is concerned, as we discussed in the last argument, but it breeds hypocrisy and pride because it fosters the idea that *legi satisfieri posse operibus*. It is only when a person has been unmasked and stripped naked by the law so that he stands *coram Deo* with nothing to offer but the plea: ὁ Θεός ἰλάσθητί μοι τῶ ἁμαρτωλῶ (Luke 18: 13) that the law loses its comparatively harmless character as legislation or instruction and becomes an overwhelming power that puts one under the wrath

⁷³⁷The hypocrite interprets the commandments only according to the deed [*de facto tantum*], that is, literally, but for Luther such interpretations are the *velamina Mosis*. However, those for whom the veil has been removed through Christ and who understand the *sensus legis*, know how to interpret the law spiritually (569, 11-570, 9).

and judgment of God. Perceived *spiritualiter* the law as *lex arguens et accusans* lumps us all together without distinction and charges us with idolatry, murder, adultery, theft, etcetera. And the faith that is given us by God in that hour recognizes the truth of the charges preferred against us by the law, but in spite of that appeals against the law to the gospel and receives divine acquittal.⁷³⁸ Such is the confidence that Luther has through the forgiveness of sins that he is no longer worried by the accusing voice of the law that will continue to try to accuse us of all manner of sins and evils that still plague us and will do so until the day we die. Because he does not trust in his own imperfect righteousness but Christ's perfect righteousness, he now has nothing to fear from the *parentalia cornua* which formerly used to threaten death before he began fixing his gaze on Christ.⁷³⁹

We must now attempt to nail down Luther's argument and show at what point it differs from that of the antinomians. Both agree that the veil is removed, not through the law, but through Christ or the gospel (2 Cor. 3: 15, 16). However, the antinomians equate the removal of the veil with contrition, and hence argue that *vera contritio non fit per legem, sed per Evangelium et Spiritum sanctum* (569, 4-6).⁷⁴⁰ Luther however holds that the veil is only removed through faith, for the *depositio veli* is not just the recognition of the *sensus* or *effectus legis* in contrition, but the abrogation of the law altogether through faith in Christ the *impletor legis*.

⁷³⁸Thus speaking of the *vis legis* Luther says: *Sed hic non est standum neque diu morandum nobis est, ne absorbeamur, sed appropinquandum est ad faciem Christi longe clariorem facie Mosis, ut qui in semetipso vicit omnia mala nostra, peccatum, mortem et diabolum* (570, 13-571, 2).

⁷³⁹For an explanation of the "horns" of Moses, see the note in connection with our analysis of 1 AD, Arg. 10.

⁷⁴⁰Cf. 569, 4-5: *Velum tolli est cognoscere, quod lex exigit*.

For this reason Luther, as we saw above, distinguishes between the unveiled face of Moses and Christ. Although the veil is removed through Christ the *Mosis facies non valata* is not equated with *Christus*. The former is equivalent with the *lex arguens* and produces contrition, while only Christ can give the contrite repentance through the gospel. Both Luther and the antinomians agree that the veiled face of Moses leads only to hypocrisy, but for Luther the unveiling of Moses' face is the same as Christ taking the law into his own hands and using it spiritually to expose our sin.⁷⁴¹ That produces contrition, but only when the law is seen with the eyes of faith is its christological intention understood for the *depositio veli* is brought about only *per claritatem Christi*. The mistake made by the antinomians is the assumption that the removal of the veil through Christ is the same as contrition, whereas in fact in contrition the veil is not yet removed as it is through faith in Christ, but it is simply removed in the sense that now the *sensus* and *effectus* of the law is recognized, just as it is when Christ preaches the law in the Sermon on the Mount. But that is not Christ's gospel office but his law office; not his proper work but his alien work. To avoid this error Luther not only talks of the contrast between Christ and Moses (where the veil is lifted only in Christ) but also about the *duplex* face of Moses (where the unveiled face of Moses is equivalent to the *usus legis spiritualis* or second use of the law).

⁷⁴¹Cf. the parallel text in 39 II, 140, 14-20 (Mörlin, Arg. 26): *Claritas est duplex, Christi et Mosis; claritas Christi non tantum tollit velamen Mosis, sed etiam ipsam claritatem, quia claritas Mosis collata ad claritatem Christi aut nulla aut exigua est; 140, 29-31 (B): In eodem textu constat duplicem esse claritatem Mosis et Christi, et depositio veli fit per claritatem Christi et non per claritatem Mosis; credit Moses cum suo velamine.*

Argument 36/9⁷⁴²

The contrition of the godly comes about through the love for righteousness. The love for righteousness, in the sense that one is willing to be righteous, does not spring from the law but from the sweetness of the gospel. Therefore, instead of the accusing law, the gospel is to be taught in the church .

Luther: The argument is that the love of righteousness produces true contrition but the law causes hatred for God's righteousness. Therefore, the gospel is to be taught and not the law. For by terrifying us the law does nothing other than create hatred for God.

Response: It is true that immediately at the beginning of this cause we began vigorously to teach the gospel and we even used to use these words which are now being used by the Antinomians. But the circumstances then were much different than today. At that time the world had been terrified more than enough so that the pope or the face of one little priest caused the whole of Olympus to shake, not to mention earth and Tartarus,⁷⁴³ for that man of sin arrogated to himself authority over all these realms. Thus, since consciences had already been oppressed and terrified by troubles, anxieties, and afflictions, it was not necessary to inculcate or even teach the law. But here it was necessary to apply that other part of Christ's teaching where he also gives the mandate to preach the forgiveness of sins in his name [Luke 24: 47] in order that those who are already desperate and terrified enough might learn not to despair but to flee to the grace and mercy offered in Christ. But now, although the times are different and dissimilar than those formerly under the pope, our Antinomians, as they are "sweet" theologians, hold on to our words, our doctrine, and that joyful promise about Christ, and what is worse, want nothing but that, having no regard for the fact that people now are not the same but are different than they were under the hangman the pope. Indeed, they have become and are secure and evil, stubborn, wicked robbers, better yet, Epicureans, who respect neither God nor human beings, who are confirmed and greatly strengthened by this teaching. At that time we were so terrified that we would tremble at even the rustling of a leaf falling from a tree [cf. Lev. 26: 36]. Therefore, I admit that we also at first had taught that repentance springs from the love of righteousness, that is, from the gospel, because people at that time had been crushed too much by the papacy and brought to the brink of despair, and indeed were already living in the midst of hell so that, unless we wanted to utterly destroy them, it was necessary to lead them back out of hell as

⁷⁴²39 I, 571, 5-575, 2.

⁷⁴³Vergil, *Aenid*, IX, 106.

quickly as possible. Now, if God will permit it, our Antinomians want to do the same thing and sing of nothing but sweetness and light, meanwhile they care nothing about the fact that the state of the times is far different now from what it was at first, that it, it is most perverse. Therefore, they make people who are secure in themselves still more secure in order that in the end they fall from grace completely because it is done very methodically.

Therefore, my response to the argument is this: Repentance is to be taught or began out of the love for righteousness, that is, in those who are and were afflicted and contrite, as we were at that time under the pope; we have hardly yet returned and [still] we flee those monstrous terrors and fears which that worthless man inflicted. I know, and have established through great effort, that I will only gradually escape, and even today I [still] cannot look on my Lord Jesus as joyfully as I would like: they have so inculcated that pestilential doctrine in me by which they depicted God as angry with us and Christ as judge, because all their sermons said nothing about faith in Christ and the free forgiveness of sins on account of Christ, and [likewise] there was nothing but silence in all the canonists and summists even though they expressly said that what they wanted to do was to heal consciences.

Now these [Antinomians] of ours want to preach sermons belonging to an age when people were contrite in an age when people are secure. But that certainly is not a proper dividing of God's word, but wounds, scatters and destroys souls. In our opinion, it is still sound and ought to be done like this. Preach Christ, preach grace as much as you can to those who are troubled and contrite, but not to those who are secure, indifferent, immoral, adulterers, and blasphemers. If you do not do this you will be held accountable for their shameful misdeeds [cf. Ez. 3: 17-21]. There are two kinds of people in the world: the poor, weak, and godly, or those who want to be godly, on the one hand, and the rich or healthy, that is, the ungodly and secure good-for-nothings, on the other. People in all ages therefore remain the same, but it is over against this that you learn how properly to divide the word of God, as I have said already, so that you do not teach everybody everything without distinction. If you do that who will receive what they need? What is the need? For as Christ said, what need do the healthy have of a physician? [Mark 2: 17]; likewise, what need do the rich have for charity? On the other hand, comfort the faint hearted [1 Thess. 5: 14]. Again, do not fear, little flock [Luke 12: 32]; God will judge the immoral and the adulterous [Heb. 13: 4].

The antinomian syllogism encapsulates the heart of their theology of contrition. The major premise particular offers a terse summary: *Contritio piorum fit*

amore iustitiae (571, 5).⁷⁴⁴ The reason for their insistence that it is the gospel that induces contrition is coupled with their belief that the law engenders only hatred of God, not love. Prior to Luther's response to this argument he gives us a very informative autobiographical sketch of his method of preaching in the early stages of the Reformation. He concedes that at the beginning he too preached only the gospel and used the same language as the antinomians use now: *Est verum, nos sub initium causae huius coepimus strenue docere Evangelium et utebatur etiam istis verbis, quibus nunc Antinomi* (571, 10-12).⁷⁴⁵ However, Luther is emphatic that there is a crucial difference between the beginning of the Reformation and the contemporary period, namely, the state of the times [*status temporis*]. The people then lived in such constant fear and terror due to the thoroughly nomistic preaching of the papists that it was not necessary for Luther to inculcate and teach the law.⁷⁴⁶ They had already experienced the *vis legis*. Therefore, he preached *illa altera partem concionis Christi*, namely, Christ's mandate to preach the forgiveness of sins in his name (572, 3-5).⁷⁴⁷ The antinomians however blindly followed Luther's early method and preached only the gospel regardless of the

⁷⁴⁴For documentation, see our discussion in ch. 2.

⁷⁴⁵Cf. 572, 15-573, 1: *Quare dico nos etiam primo docuisse poenitentiam ex amore iustitiae, id est, ex Evangelio.*

⁷⁴⁶Luther remarks that he has been so deeply scarred by those *ingentes terrores et metus* inflicted by the pope [*ille nequam homo*] and that the *pestilentem doctrinam* inculcated at that time, in which Christ was depicted only as judge, left such a profound impression on him that it has taken him a long time to recover from it and that even to this day he still cannot look at *dominum meum Iesum* as joyfully [*laeto vultu*] as he would wish (573, 13-574, 4).

⁷⁴⁷This is clearly an allusion to Luke 24: 47; for Luther's treatment of that text and other references to its occurrence, see our analysis of 1 AD, Arg. 19.

fact that times had changed and that people in the late 1520s and 1530s were no longer living in fear of God's wrath and judgment as at the beginning of the Reformation, but, on the contrary, had slumped into a state of spiritual complacency [*securitas*] and were in grave danger of falling from grace.⁷⁴⁸ The superiority of Luther as a theologian compared to the antinomians is that he was not beholden to any one particular "method." The critical issue for him was the proper distinction between law and gospel so that the gospel could be heard in its full clarity. Consequently, when he realized that the times had changed and that he could no longer presuppose the effects of the law in his hearers, he changed his method. He began to preach law and gospel, not just gospel.⁷⁴⁹ The antinomians however stuck rigidly with Luther's early gospel-only preaching and actually criticized Luther himself for being unfaithful to his early evangelical begin-

⁷⁴⁸Describing the way that people have changed Luther says that they are now *securus et malos, prae fractos, iniquos raptos, imo et Epicurarios, qui neque Deum neque homines revereantur* (572, 12-13). On the other hand, he recalls, in memorable words, the fear and terror of people at the time when he began preaching the gospel: *Nos tunc eramus perterrefacti, ut vel ad strepitum folii de arbore cadentis trememus* (572, 14-15). This reminds us of the close nexus between fear, guilt and the wrath of God. To a guilty conscience, even a falling leaf can be a messenger of divine wrath. For Elert, all this belongs to the *Urerlebnis*, which is the necessary presupposition for experiencing the joy and peace of the gospel (Structure, 17-49).

⁷⁴⁹Although in another sense he never really changed his method at all. He always preached law and gospel; but at the beginning of the Reformation, because of the fear that had been inculcated in people by the papacy, he did not need to articulate the law himself because people had already experienced its crushing effects and were in desperate need of hearing the gospel. For a further discussion on the problem of methodology in relation to Luther's distinction between law and gospel, see our critique of G. Heintze, *Luthers Predigt von Gesetz und Evangelium* (Munich: n.p., 1958) in ch. 1.

nings.⁷⁵⁰ Luther is prepared to grant that repentance can be taught or begun *amore iustitiae* provided that the people in question here are those who are and were *afflicti et contriti* (573, 10-13), in other words, people who already know the *sensus et vis legis*. But in reality that is no concession at all, for the antinomians argue that *contritio* comes about *amore iustitiae*, that is *ex evangelio*, while Luther is in effect saying no more than he has always said, namely, that *contritio* is *ex lege* and that repentance, which presupposes the law, is *ex evangelio*. The *amor iustitiae* therefore does not supplant the law in the act of penitence but rather follows the law as the second part of repentance. When the task of producing contrition is not carried out by the law but given to the gospel, the problem is that the impenitent are absolved and that, as Luther says, can only lead to *securitas* for such people then presume against the grace of God and think that it is their right even though they refuse to acknowledge themselves as sinners under the wrath of God who are in need of grace and forgiveness. That is why Luther criticizes the antinomians for taking sermons belonging to an age when people were contrite and preaching them in an age when people are secure [*conciones saeculi contritorum in saeculo securorum*] (574, 5-6). Instead of the one-track gospel-only method of preaching espoused by the antinomians, Luther stands by his two-track method of preaching law and gospel which he already enunciated in his first set of theses.⁷⁵¹ The method that he advocates [*Sententia nostra adhuc sana est et debet sic fieri*] is this: Preach Christ or grace to the *afflicti et contriti*, but law to the *securi, otiosi scortatores, adultri et blasphemii*. Luther's method is predicated on his belief

⁷⁵⁰For more on this see our discussion of antinomianism in ch. 2.

⁷⁵¹See 39 I, 346, 34-347, 24 (ATh, I, Ths. 25-39). The method is epitomized in the message of Jesus: *Poenitemini et credite Evangelio* (Mark 1: 15) (Th. 35).

that, theologically speaking, there are only two types of people in the world: *pauperes, infirmi, pii vel qui desiderant pii esse, et divites seu sani, hoc est, impii et securi nebulones* (574, 7-13). Even though Luther said earlier, *contra antinomus*, that times change and that the method of preaching needs to change accordingly (which is saying nothing more than that one always needs to distinguish between law and gospel), he also knows that human nature itself does not change [*Idem manent igitur homines omnibus temporibus*]. When one fails to distinguish between the demand of the law and the gift of the gospel one simply teaches everybody everything without distinction. But that is like a doctor prescribing all the remedies at his disposal without even doing a diagnosis and telling the patient he is ill. When applied to preaching such an approach does nothing but harm because it deprives the hearers of a proper spiritual diagnosis and therefore robs them of a lasting cure.⁷⁵²

Argument 37/10⁷⁵³

The righteous are not under the law. All Christians are righteous. Therefore, no Christians are under the law.

Response: To the extent that they are Christians, it is correct to call them righteous and to say that they are not under the law, because the law was not laid down for the righteous [1 Tim. 1: 9], to the extent that a person is righteous. Certainly we must be extremely careful lest any difference come between the bride and the bridegroom. For the forgiveness of sins ought to rule the conscience with Christ, and it should not be allowed to be harassed by this law. For this little bed is now too narrow to receive and accommodate

⁷⁵²Without wishing to press the analogy, *mutatis mutandis*, it is almost like the unworthy reception of our Lord's body and blood. Ironically, unworthiness here is to think oneself worthy. In the realm of preaching, unless we are first apprized of our unworthiness *coram Deo*, we receive the gospel "unworthily" because it is meant only for the unworthy, or to change the image, as medicine it is meant only for the sick.

⁷⁵³39 I, 575, 4-576, 4.

the law or any tradition as well. Here the bridegroom alone will sleep with his bride when all witnesses have been thrown out. Yet because we still carry around with us the flesh and the body of sin, the law is to be applied and urged, and a yoke added, lest we begin to grow licentious since the flesh is commonly the most powerful part. Therefore, put its fodder higher and keep a tight rein on it, lest it go beyond the limits. And in the case of those who kick over the traces, the law is to be sharpened even more rather than for the gospel to be preached. Otherwise my answer is this: Insofar as that they are upright, they are called righteous and are not under the law, because the law was not laid down for the righteous.

There is nothing essentially new in either the *argumentum* or the *responsio*. The error in the syllogism comes in the minor premise and is typical of antinomian anthropology. Instead of asserting with Paul and Luther that Christians are at one and the same time righteous and sinners, the premise omits the *simul* and merely states: *Omnes christiani sunt iusti* (575, 4). In his counter-argument Luther does not specifically speak of the Christian as *simul iustus et peccator*, but such a view clearly lies behind and controls his use of *quatenus*. He agrees with the antinomian argument that Christians are under the law, on one condition: *Quatenus sunt christiani* (575, 6). As we have already seen, this is also Luther's way of interpreting 1 Timothy 1: 9: δικαίῳ νόμος οὐ κεῖται.⁷⁵⁴ He agrees that the law has not been given for the righteous, that is, insofar as they are righteous. However, he does not want this qualification in any way to weaken the certainty that Christians have been freed from the law, that is, the *lex accusans*, and that they therefore have a good conscience with nothing to fear. To underscore this he again utilizes the image of the marriage relationship between Christ and his bride, in this case, not the church but the individual Christian, or more precisely, the Christian's con-

⁷⁵⁴See 39 I, 552, 7-553, 7 (3 AD, Arg. 26) and our analysis for a summary of Luther's exegetical comments on this passage. Since this present *responsio* adds nothing new to Arg. 26, we regard that as his definite statement.

science. He makes it quite clear that the nuptial bed is too small to accommodate the law as well so that as long as Christ is there and only he,⁷⁵⁵ there is no room for the law in the Christian's conscience.⁷⁵⁶ When the bridegroom is alone with his bride, all witnesses who would watch in judgment are thrown out (575, 11-12).

But how is that possible when the Christian is still a sinner? Here everything depends on the imputation of divine forgiveness through faith. It is because the law now has nothing to condemn since Christ has fulfilled it on our behalf that it is not permitted to harass us. And yet the law does still have a place because we still carry around with us our *caro et copus peccati*, but it does not belong in the conscience. Rather its domain is the body. The yoke of the law that was lifted from our conscience through faith in *Christus impletor legis* is now imposed on our flesh to keep it under restraint so that we do not begin to turn our freedom into

⁷⁵⁵This is not the *unio mystica* of the German mystical tradition but a metaphor to express the intimate relationship between Christ and the believer which results from justification and faith. At this point a *tertium quid*, such as the law, is excluded. The phrase: *Hic sponsus cum sponsa solus cubabit* (575, 11-12) bears nothing more than a terminological connection with the thought-world of late medieval mysticism. We agree with the basic criticism made by A. E. McGrath, *Luther's Theology of the Cross* (Oxford: Basil Blackwell, 1985), 171, n. 69, against many authors' writings on the relationship between Luther and mysticism, and that is that they tend to assume that a reference to, or a citation from, a mystic such as Tauler implies Luther's full acquiescence with the view expressed or that he uses terms in exactly the same way. For a sane approach to this problem see the essay by H. A. Obermann, 'Simul Gemitus et Raptus: Luther und die Mystik,' in *Kirche, Mystik, Heiligung und das Natürliche bei Luther: Vorträge des Dritten Internationalen Kongresses für Lutherforschung*, ed. I. Asheim (Göttingen: n.p., 1967), 20-59.

⁷⁵⁶575, 10-11: *Nam hic lectulus angustior est, quam ut praeterea legem aut ullam traditionem possit recipere et admittere. Hic sponsus cum sponsa solus cubabit eiectis omnibus arbitris.* Cf. 39 I, 498, 16-18 (3 AD, Arg. 1) where Luther again highlights the exclusivity of Christ's claim to his bride: *hic sumus in Domino, qui noster sponsus est, nec patitur, ut quisquam in hoc tam angusto lectulo condormiat.*

licence and become licentious. Although the flesh has been subdued by the Spirit and sin is no longer *peccatum regnans* but *regnatum*, nevertheless, Luther recognizes that the flesh is so potent and intractable that it often breaks away and gains the upper hand.⁷⁵⁷ When that occurs the law-gospel balance needs to be tipped in favor of the law. He does not say that the gospel is not to be preached at all but that the law must be sharpened: *Et effrenibus plus est acuenda lex, quam praedicandum Evangelium* (576, 2-3). When the law is to be sharpened, it is no longer being used parenetically as when Christians are warned and admonished to walk according to the Spirit in the footsteps of Christ. For this is, as Luther has pointed out, a softened and mitigated use of the law, and it can be that for the *credentes* since they are constantly looking to and taking comfort in the *lex impleta* wrought for them by Christ.⁷⁵⁸ However, the situation with the *effrenes* is different. They have given up the struggle against and instead have given in to sin. Consequently, they must be brought back. The law cannot do that alone, but it can begin by confronting them with their sin and giving them a guilty conscience. To do that however the law must reenter the conscience, but now it has every right to do so because the conscience has broken faith and deserted the marriage bed. But it is permitted by Christ to accuse and terrify only so long as the person remains impenitent.⁷⁵⁹ As soon as faith returns and the struggle against sin resumes the

⁷⁵⁷575, 12-576, 1: *Verum quia adhuc circumferimus carnem et corpus peccati, adhibenda lex est et urgenda, addendum iugum est, ne lascivire incipiamus, ut, cum caro maxima pars sit plerumque.* An "ut" is best replaced by an "et" as in Rel. B.

⁷⁵⁸On the amelioration of the law among the saints in connection with its use in exhortation, see our discussion of 2 AD, Arg. 21.

law must exit from the conscience for then the Pauline dictum once again comes into effect: *iusto lex non est posita* (576, 4).

Argument 38/11⁷⁶⁰

Those who have been translated into the kingdom of God [Col. 1: 13] are driven by the Holy Spirit without the law. Christians are such people. Therefore, they are driven by the Holy Spirit without the law.

Response: We concede the whole argument, but Christians still fail in one point: the children's feet still stick out, insofar as we have been translated, as in Romans 7 [: 25]: with my flesh I serve the law of sin.

The antinomian *argumentum* brings into antithesis the law and the Spirit: Those who have been translated into the kingdom, either are driven by the Spirit or by the law. Luther concedes the whole argument: Christians are in fact driven by the Spirit without the law, but again with one qualification: *quatenus sumus translati*. He could have equally said: *quatenus sumus Christiani*. As we saw in the previous argument, the reason he has to qualify his answer is because the antinomians deny that Christians *in se* are still sinners. For them therefore it is unnecessary for Christians to be admonished to stand firm and fight against the temptation to sin because they believe that Christians can no longer sin for all sin has been forgiven through Christ. As we have seen in the *Praefatio* and elsewhere, Luther regards such a teaching as satanic because Satan is allowed to enter the citadel of a Christian's life through the ensuing *securitas* and make his assault from within.

Luther for his part knows the reality of the temptation to sin and the ever-present danger of apostasy. He knows that even against his will, due to the weak-

⁷⁵⁹In 39 I, 498, 10-16 Luther says that the law must be sharpened in the church militant in order to discharge its *duplex usus*, but that it must not be allowed to trouble the conscience and rob it of peace.

⁷⁶⁰39 I, 576, 6-10.

ness of the flesh, he still sins daily. Falling back on an image that he used earlier, he says that the reason for this failure in Christians is this: *Das dem kindlein die fußlein noch herfur hangen*. It follows then that the admonition to Christians, using this same imagery, is: Keep your feet tucked up and don't let them stick out from under your robe.⁷⁶¹ This is a paranetic appeal which is based on the gospel. It is not intended to accuse but to keep the Christian alert to the ever-present danger of the assaults of sin and Satan. In the previous *Argumentum*, on the other hand, we saw that the law functioned primarily in its theological capacity (*usus theologicus*) because the Christian had succumbed to sin and was in danger of forfeiting salvation. It is this dynamic use of the law in the life of the Christian that the antinomians know nothing about, where the law oscillates between parenthesis and accusation, depending on whether it is heard in faith or not. Because the law has already been fulfilled in Christ and Christians are no longer sinners, the only use of the law that they are prepared to acknowledge is the *usus politicus*. Since this has already been spelled out earlier there is no need for us to elaborate on it here.

Argument 39/12⁷⁶²

D. Philipp Melanchthon, Rector of the Wittenberg Academy

No one can please God unless he is totally righteous. No one is totally righteous, as our many theses show. Therefore, no one pleases God.

Response: Nothing follows from pure particularities and from pure negatives.

Melanchthon's⁷⁶³ *argumentum* leads nowhere, as Luther says. The conclusion at any rate, even as it stands, is not sympathetic to the antinomian cause.

⁷⁶¹See 39 I, 521, 7-11 (3 AD, Arg. 10) where Luther warns that they should keep their feet tucked up lest Satan should bite them.

⁷⁶²39 I, 576, 13-15.

That is confirmed by a quick glance at the arguments which they have proposed in this disputation. On the contrary, they would claim that it is only the law that would destroy this certainty that we are pleasing to God or that would give us a bad conscience.

Argument 40/13⁷⁶⁴

In every conversion the Holy Spirit is given through the gospel, not through the law, as Paul says: Faith comes from what is heard [Rom. 10: 17]. The law however does not come from faith. Therefore, the law is useless for converting the godly and avails only for bodily discipline and least of all for the conversion of the godly.

Proof of Conclusion: When the Holy Spirit is given only through the gospel and the preaching of Christ, what need is there for the law, especially since its preaching has no effect because it is a useless word and a mere letter? And I am speaking only about the beginning of conversion and the mortification and vivification that precedes it. I do not think that the law is useful for the converted and the godly other than for discipline and morals.

Response: It is true that God gives his Holy Spirit on account of the word that is heard, given or preached to the world through Christ. But it does not follow that the law of Moses is therefore nothing and is to be completely removed, as they want, for this too has its office and circuit or sphere in which it is to operate. And we cannot and ought not concede, nor do we wish to support what they say for they regard the law as some kind of external discipline, by which the godly may be admonished to lead a godly life. As far as I am concerned, Master Philipp, you concede too much to these antinomians, who openly say: Moses belongs on the gallows! You should be helping me to proceed against them, and regard them as our enemies.

Philipp's Response: Father and teacher Luther, I have said this for the purposes of discussion, not to defend them, in order that fact and truth may shine through more clearly in our investigation. For the antinomians are profane and ungodly and their opinions blasphemous.

Luther: Now to your argument. The Holy Spirit is not given through the law but through the gospel. Therefore, the law is not to be taught, which is taught in vain where nothing follows. Response: The law indeed does not

⁷⁶³For Melanchthon's role in the antinomian controversy, see ch. 2. There is a resemblance between this argument (except for its negative form) and that of 1 AD, Arg. 11 where Melanchthon posited that human beings cannot purpose good by themselves.

⁷⁶⁴39 I, 577, 2-579, 2.

give the Holy Spirit, as through the gospel, but in the mean time the material is prepared by the Holy Spirit through the law, in which he can later manifest his power and virtue, namely, in the poor, the troubled, and the contrite. For otherwise the Holy Spirit is given neither through the law nor through the gospel unless the material first has been prepared through the law in order that it may have need of such a physician and comforter, as it is written: A contrite and humbled heart, God, you will not despise [Ps. 51: 19]. But the Holy Spirit is not given to all the contrite. Why this way and not some other way? Response: This has not been revealed to us, but is to be left to the judgment of God.

The antinomian argument is very logical: if faith is *ex auditu* or *per Evangelium et praedicationem de Christo*, as Paul indeed argues (Rom. 10: 17), the law can play no role in conversion but is useful only for external discipline [*Ergo lex est inutilis ad conversionem piorum et valet tantum ad corporalem disciplinam et minime ad conversionem piorum*] (577, 2-5). In other words, the antinomians claim that the *lex accusans* has no role to play in the church and that the only function of the law that is appropriate for Christians (as well as for society at large) is the first or political use. In the *probatio* the opponents reaffirm that when it comes to the beginning of *conversio* and the preceding *mortificatio et vivificatio*, the law is *inutile verbum et tantum litera*, that is, that it is useful only *quoad disciplinam et mores* (577, 6-11).

Luther naturally agrees that the Spirit is given *propter verbum auditum seu praedicatum mundo per Christum*, but for him it is a non sequitur that *propterea lex Mosis nihil sit et tollenda prorsus e medio*. Against the antinomians he asserts that the Decalogue--this is surely what Luther intends with *lex Mosis*--still has its *officium et circuitum seu sphaeram* also in the Christian life. That this is a reference to the *usus theologicus* is clearly implied by his gentle rebuke of Melancthon whom he accuses of conceding too much to the antinomians. From our reading of the text, the concession apparently is that the law is an *externa disciplina* by which the

pii can be admonished to lead a godly life.⁷⁶⁵ But Luther, as we have seen, can also admonish Christians to lead a godly life. So where is the difference. The difference seems to lie in the fact that Luther does not exclude the *usus theologicus* but continues to see it as the chief use of the law also among Christians, whereas the antinomian slogan was: *Moses gehört an den liechten galgen*. This is a very important difference and bears further explication. The only use of the law that the antinomians will allow for the *pii* is that of *externa disciplina*, which is really just another way of describing the *usus politicus*, which is charged with restraining sin and evil. Although Luther hardly uses the term discipline, it is significant that it should come up precisely in the controversial conclusion to the Second Disputation. There we saw that the *paedagogia* was connected with *disciplina* or the *usus civilis* rather than with the *usus theologicus* as is typical in Luther. In other words, the *conclusio* interpreted *paedagogia* or preparation for Christ in terms of *disciplina*.

In his *responsio* here however Luther understands *praeparatio* in terms of the second use of the law by the Holy Spirit, and thus as preparation for Christ and the gospel. The Holy Spirit is not given through the law but through the gospel;⁷⁶⁶ nevertheless, the Spirit uses the law to prepare the heart so that people may become penitent, that is, *pauperes, afflicti et contriti*, and hence prepared for the gospel. In other words, it would seem that Luther associates *disciplina* with

⁷⁶⁵578, 5-8: *Neque possumus neque debet concedi neque ferre volumus, quod dicitur, eos ponere legem pro externa disciplina quadam, qua admoneantur iam pii, ut vivant pie. Vos, mi domine, Philippe, nimium istis indulgetis Antinomis, qui iam aperte dicunt: Moses gehört an den liechten galgen.*

⁷⁶⁶See our analysis of 1 AD, Arg. 4 where Luther points out the distinction between the law-Spirit, who is synonymous with the *Deus nudus*, and the gospel-Spirit who is the equivalent of the *Deus revelatus* and is pure gift.

paedagogia and uses both in connection with the *usus theologicus*, whereas Agricola and the antinomians connect them to the *usus politicus*.

What is the difference then between Luther's admonition to Christians to lead a godly life and that of the antinomians? The answer lies in the relationship between the law and the gospel. Luther's use of parenesis, as we have seen, arises from the gospel and leads back to the gospel. It is not simply moral instruction, for one does not need the gospel for that. Parenesis is gospel parenesis because it is anchored in the gospel and its demands have been fulfilled in the gospel. It is the gospel that provides both the motivation and goal of parenesis. Its purpose, one could say, is to admonish Christians to remain free: not to fall back into bondage to the law (by thinking that one's salvation, or certainty of salvation, is based on performance and achievement), or to sin (by succumbing to temptation instead of resisting it). So long as *credentes* remain in Christ and struggle against the flesh, parenesis takes the form of encouragement and warning and exhortation. But when Christians fall into open sin and remain impenitent, then the parenesis becomes rebuke and accusation in the hope that they will repent and return to Christ and find shelter under his wings.⁷⁶⁷

Parenesis admonishes us not only to remain free in Christ, but to continue fighting against sin and Satan, and to keep our feet tucked up under our baptismal robe, according to Luther's vivid picture. This is an altogether different use of the law than the *externa disciplina* advocated by the antinomians to the exclusion of any other use, for the former presupposes the gospel and is intended specifically for Christians whereas the latter is intended for both, but in the case of Christians,

⁷⁶⁷See also our discussion of law and parenesis in connection with our analysis of 3 AD, Arg. 13.

it is a purely external use of the law to govern the life [*mores*] and behavior of Christians but can never accuse them of sin. For Luther such a separation is artificial and impossible. In his view the parenesis achieves its goal not simply by instructing Christians what they should do or how they should live but also by reminding them at the same time how far short of the goal they are always falling and then pointing them, not to their own good resolve, but to Christ who has already fulfilled the law for them and in whom alone they can find strength daily to preserve and daily to confess their sins, for a contrite and humble heart God will not despise (Ps. 51: 19).⁷⁶⁸

This then is the chief difference between Luther's use of parenesis to instruct and admonish the godly and the antinomians' use of the law as *externa disciplina*. And it would seem that the reason why he is so severe on them and even chastises Melanchthon for conceding too much [*Vos debetis mihi auxiliari in persequendo eos, et habendi sunt a nobis ut hostes nostri* (578, 8-9)] is bound up with the fact that they will have nothing to do with the *lex accusans*, which after all is the *praecipuus legis usus* of the law, also for Christians, because the *pii* are not only *sancti* but at the same time are *peccatores*. The *simul* with its implied anthropology is what stands between Luther and the antinomians at this point.

Another Argument 40/13 A⁷⁶⁹

The church is holy also in this life. The faithful are members of the church. Therefore, the faithful are holy also in this life.

Response: We concede the argument entirely, to the extent that they are such.

⁷⁶⁸With regard to the final question: *Cur sic et non aliter?* and Luther's response: *Hoc nobis non est revelatum, sed relinquendum iudicio Dei*, see his remarks in 39 I, 368, 5-369, 16 (1 AD, Arg. 3).

⁷⁶⁹39 I, 579, 4-6.

This *argumentum* is not entirely new and Luther's response is consistent. We review his earlier statements on this matter. When he says he agrees with the argument entirely, *quatenus sunt tales* (scil. *sancti*), he is simply affirming the doctrine of the *simul iustus et peccator*. Earlier he said that the church is never without the ungodly and hypocrites and that the *sancti* in the church still have sin but that it is not imputed to them because they are deemed righteous for Christ's sake.⁷⁷⁰ Because sin never ceases, the *sancti* and the *impii* are always comingled. Hence, the church is holy, yet not holy, and individually members are righteous and yet not righteous, blessed and yet not blessed.⁷⁷¹ By synecdoche (or we could also say, but in a different sense, by imputation) the church is holy and righteous but yet it is not without sin.⁷⁷²

Argument 41/14⁷⁷³

What is given for a time ceases. The law is of such. Therefore, it ceases.

Proof of Minor Premise: The law and the prophets are until John [Luke 16: 16].

Response: The law is until John; it includes him and does not exclude him. The condemning and accusing law will no longer exist for those who have received Christ through the pointing of John. But if only we could hold on to that, so that the law might not go beyond John and we find rest in the revealed lamb and so be certain of salvation. When the bride and bridegroom come together, the piper falls silent and puts his pipes away in the bag.⁷⁷⁴ Tomorrow is soon enough for sobriety.

⁷⁷⁰39 I, 514, 13-16 (3 AD, Arg. 6).

⁷⁷¹Ibid., 515, 1-5; Cf. 544, 4-11 (3 AD, Arg. 22): The church is holy by synecdoche. It is holy on account of the holy part, and unholy on account of the ungodly part.

⁷⁷²39 I, 564, 1-7 (3 AD, Arg. 30/3).

⁷⁷³39 I, 579, 8-580, 2.

Again there is nothing essentially new here. The *argumentum* confuses the Mosaic law and the Decalogue. The former was given *ad tempus*, not the latter.⁷⁷⁵ Therefore, as we have often seen, Luther cannot agree that the law ceases. Rather, he says that the law is until John,⁷⁷⁶ meaning that for those whom John points to Christ, and who then receive him in faith, the law ceases, but for the others, and also for the Christian *quoad peccator*, it remains.⁷⁷⁷ But the law is not so domesticated or compliant that it automatically ceases as *lex accusatrix et condemnatrix* as soon as John points to Christ. The law must be told by the gospel not to overstep its limits.⁷⁷⁸ The only way that we can find refuge from the accusing law and certainty of salvation is to cling to Christ, the *impletor legis* and hence also the *finis legis accusans* (579, 12-580, 1).

Argument 42/15⁷⁷⁹

The gentleness and kindness of Christ calls us to repentance. Therefore, there is no need for the harshness of the law.

The conclusion is valid from the nature of correlatives.

Response: It is true, as Paul says in Romans 2 [: 4]: Do you not know that the God's kindness moves you to repentance? But if only it were possi-

⁷⁷⁴Cf. Mark 2: 19-20. See the supplementary note, 39 II, 585, where reference is made to Wander, *Sprichwörterlexikon* I, 454, no. 56 under "Braut." The saying is said to be a further elaboration by Luther of a conventional proverb. The WA text however reads *Pfeifer* for *Pfeffer*.

⁷⁷⁵On the relationship between the law of Moses and the Decalogue (= *lex naturae*), see our analysis of 2 AD, Arg. 25.

⁷⁷⁶But John himself is under the law: *Lex usque ad Ioannem inclusive, non exclusive* (579, 10). But he points to him who fulfills the law.

⁷⁷⁷For John as the *monstrator agni*, see 39 I, 366, 6 (1 AD, Arg. 2), and 455, 5 (2 AD, Arg. 13).

⁷⁷⁸See 39 I, 445, 15-16 (2 AD, Arg. 8).

⁷⁷⁹39 I, 580, 4-16.

ble for us to follow God, after having been moved by divine kindness, rather than run away from him, as we said above. When you consider how many gifts you have received from God the Father without any merit, and neglected, what else can follow from this than an even greater kind of despair than would have resulted if you had acknowledged your sins on the basis of the law (since this is truly the knowledge of the law). For what sin is greater than ingratitude, especially to God? There are four ways to repentance which God mostly uses: threats, promises, benefits, and calamities. Those not moved by these may perish or prosper.

The *argumentum* is a statement of one of the central doctrines of antinomian theology, and that is that repentance arises exclusively through the gospel (specifically the *benignitas Christi*,⁷⁸⁰ as here, or the *violatio filii*⁷⁸¹). Luther, does not deny that repentance may be *ex evangelio*, indeed earlier he said that Christ is the principal part of repentance, though he does not hold that it must arise exclusively from the gospel or from the *benignitas Christi* (or *Dei*). In fact, for reasons that we have already seen, he argues the opposite way: that normally repentance (more precisely, contrition) is produced by the law and that when it arises from the gospel instead, it may have the unfortunate consequences of driving someone to despair, and even suicide, as in the case of Dr. Krause of Halle,⁷⁸² because they have no where else to turn. This is a solemn reminder that when Christ does the work of the law (as he does when the gospel is used to bring about repentance) one cannot so easily turn to him again for comfort and seek refuge in him from the condemning law. The antinomian argument is purely logical as is clear already from the *probatio*: *Consequentia valet ex natura correlativorum* (580, 6),

⁷⁸⁰Rom. 2: 4 is used as a *probatio* in 39 I, 400, 17-18 (1 AD, Arg. 24).

⁷⁸¹See 39 I, 384, 4-6 (1 AD, Arg. 15).

⁷⁸²For Luther's verdict on the case of Dr. Krause, see our analysis of 3 AD, Arg. 18.

whereas Luther's is theological. However, to exclude the law from repentance because the *acerbitas legis* is not a correlative to the *benignitas Christi*, is a reductionist argument which arbitrarily limits the horizon of revelation to the gospel and hence accepts the law only in synthesis with the gospel and not as its antithesis. Luther, on the other hand, as we have already seen, holds the law and gospel in dialectical tension, even in the *vita christiana* because Christians must still struggle with sin in themselves even as they celebrate their victory over it in Christ through faith. Luther's anthropological realism, over against the perfectionism of his opponents as evidenced in their claim to sinlessness, reveals itself in the wistfulness inherent in his response to their use of Romans 2: 4, as if repentance signaled the end of sin altogether: *Atque utinam sic possit esse, ut moti benignitate divina Deum sequeremur et non magis eum fugeremus* (580, 8-9).

Luther's main concern here is not with the origin of repentance. Indeed, he readily admits that the repentance wrought by the gospel (contemplation of the *beneficia Dei* and the *benignitas Christi*) can lead to far greater despair than that ever produced *ex lege* (580, 10-13) for what sin is greater than *ingratitude*, especially *erga Deum*?⁷⁸³ In fact Luther earlier advocated that when the *duri* are not moved to repentance by threats and terrors then we need to try using gifts and promises,⁷⁸⁴ or even tears and entreaties (*ars rhetorica*) like the sons of Korah.⁷⁸⁵ However, although one can come to repentance by means of either law

⁷⁸³Cf. 39 I, 536, 4-537, 19 (3 AD, Arg. 18). It is precisely for this reason that Dr. Krause ended up in interminable despair, as the continuation of the passage shows (537, 19-538, 13).

⁷⁸⁴See 39 I, 401, 4-6 (1 AD, Arg. 24). In the present *Argumentum* Luther says that there are four ways in which God can work repentance: *minae, promissa, beneficia, and plagae* (580, 15-16); cf. 541, 11-12 (3 AD, Arg. 20).

or gospel,⁷⁸⁶ that does not alter the fact that when the gospel is used in this way to bring about repentance, it is functioning not as gospel in the proper sense but as law. Luther made this clear earlier when he pointed out that whatever accuses and condemns the conscience, whether it comes from the law or the gospel, is finally law.⁷⁸⁷ That is also proof of the fact that the law has not yet been abolished per se, but only abolished for faith. This then is what Luther wishes to stress here: Even if repentance does arise *ex evangelio*, that does not negate the law as such but rather establishes it.

Argument 43/16⁷⁸⁸

The proper purpose of the exposure of sin is despair. But despair is induced by the law. Therefore, the law is not to be taught.

Response: Despair of ourselves is the best thing and is pleasing to God. But despair of God is the greatest outrage and a sin against the First Commandment. Here either way it is a sin in the highest degree, either to despair of God or to rely on our own powers and be secure. Therefore, we should argue like this: The law leads to despair of God. Therefore, the law is not to be taught. Here I deny both the premise and the conclusion, because it is not the intention of the law that you despair of God but rather that, having acknowledged your sin, you despair of yourself and learn to seek help from him in whom it has been offered by God. For this is the sum of the first commandment: do not despair, but trust and fear and love God above everything, for he wants you to believe in him with your whole heart, and this is more than just your hands and feet. But by the same token, if the law comes along and finds that we do not hope and do not love God, there it convicts that security and infidelity, the contempt for God and our presumption and both commands and desires that we despair of ourselves, but have good hope of God and trust in him. But I cannot. Then call upon him, he says, who is powerful to bring it about that you can, and hope, do not despair, but cry out to him.

⁷⁸⁵See 39 I, 401, 6-15 (1 AD, Arg. 24).

⁷⁸⁶See 39 I, 407, 1-13 (1 AD, Arg. 28).

⁷⁸⁷See 39 I, 535, 2-5 (3 AD, Arg. 18).

⁷⁸⁸39 I, 581, 2-582, 5.

The major premise presupposes that despair is a bad thing. Hence, the law, which causes it, is not to be taught. Luther, on the other hand, rejects the notion that despair per se is bad, but distinguishes between good and bad despair, or in other words, between evangelical and demonic despair. He suggests to his opponents that "*desperatio*" needs to be qualified because the word itself is equivocal. Hence, it would be more correct to argue: *Lex inducit desperationem de Deo. Ergo lex non est docenda* (581, 8). But even with that added precision Luther still denies both the premise and the conclusion because *lex non vult, ut desperes de Deo, sed magis agnito peccato de te ipso et discas quaerere auxilium ab eo, in quo propositum est a Deo* (581, 9-11). The *summa primi praecepti* is that we fear, love and trust in God above all things; that is the very opposite of despair and so one could hardly say that the law given by God was given to end in making us despair. On the other hand, where this fear, love and trust in God is missing and there is only *securitas et infidelitas, contemptum Dei et praesumptio*, the law does create despair, but not *de Deo*, at least that is not its intention, but rather *de te*. That also is the difference between the demonic and evangelical despair.⁷⁸⁹ And where someone finds it hard to trust in God, Luther's advice is not to despair in God but rather in one's own strength and ability, and to pray to him and he will give it to you.

Argument 44 / 17⁷⁹⁰

Paul commands the godly to rejoice always [Phil. 4: 4]. Therefore, the godly are not to be terrified by the law.

Response: To the extent that they are godly. But how am I to know whether they are godly or ungodly? Where the word of God has not been heard, we must be silent, as the Lord says: If they do not welcome you in

⁷⁸⁹Luther has expressed himself on this theme before; see, for example, 427, 18-428, 6; 430, 7-11 (2 AD, Arg. 2).

⁷⁹⁰39 I, 582, 7-13.

this place go elsewhere [Luke 10: 10]. But since we do not know who are truly ungodly and who are truly godly, we must preach until the ungodly separate themselves; then I must not preach to them. I will certainly not preach to the devil nor are we to cast [pearls] before swine [Matt. 7: 6].

The *argumentum* bears similarity to others in this disputation, such as those that basically argue that the law must not be preached because people ruled by the law cannot be certain or have a good conscience.⁷⁹¹ In all of these arguments the antinomians disregard sin and accordingly fail to distinguish between law and gospel. Paul certainly does exhort his readers to rejoice, but they are to rejoice in Christ. On the other hand, they are to be sorrowful over the sin that still marks their lives as children of Adam. And when Paul in his catalog of sufferings (and for him suffering is a mark of the true apostle) says: We are treated as imposters and yet are true; . . . as sorrowful, yet always rejoicing [ὡς λυπούμενοι ἀεὶ δὲ χαίροντες] . . . (2 Cor. 6: 10), he beautifully captures the dialectic of the Christian life lived between the twin poles of law and gospel. But even more, the gospel is not merely a counterweight to the law that results in a life of suspended tension. The gospel is victorious over the law as *lex accusatrix et condemnatrix*, it routs the law and elicits from the *pīi* the spontaneous joy that is characteristic of the new life in Christ. It is the "nevertheless" of the gospel *contra legem* that allows Paul to exult in the fact that although he may be sorrowful because judged by the law he is still *peccator*, yet he can also rejoice greatly as *iustus* because the judgment of the law is no longer determinative for him and his life since Christ, as the *impletor legis*, took that judgment on himself. However, of the *simul iustus et peccator* nature of the *vita christiana*, the joy of the new life will often be hidden under suffering, just as Christ's victory is *victoria sub cruce tecta*.

⁷⁹¹Cf. 3 AD, Args. 1, 3, 6.

Luther however does not respond to the *argumentum* in terms of the saint-sinner dialectic, at least not directly, although it is only because of it that he can say here what he does. Since the new life is a hidden reality and not open to empirical verification, Luther is justified in asking how one can distinguish between the *pīi* and the *impīi*. For this Luther relies on the δύναμις of the word. Where the word is preached people will either receive it or reject it.⁷⁹² This is in line with our Lord's instruction to the seventy-two (Luke 10: 10). Hence Luther says: *Cum autem nos non sciamus, qui sint vere impīi et qui vere pīi, praedicandum est, donec ipsi se ipsos separent, tunc non debeo illis praedicare* (582, 10-12). The *pīi* are not terrified by the law, or if they are, they immediately take refuge in Christ who has overcome the law; the *impīi*, on the other hand, either remain in unbelief or despair. Therefore, the antinomian argument falls to the ground. Luther does not preach the condemning law to the *pīi*, and moreover whenever their conscience does accuse them, they again and again receive forgiveness through faith in Christ. Hence, the *pīi* are not terrified by the law, *in quantum sunt pīi* (582, 7-8).

Argument 45/18⁷⁹³

Abraham is righteous without any law. Therefore, we are all justified without the law. Therefore, the law is not to be taught.

⁷⁹²There is parallel between the κρίσις-character of the *verbum praedicatum* and that of the *verbum incarnatum*, Jesus Christ, the living word. The "crisis" precipitated by our Lord's coming to his world is nicely described in John's Gospel; see esp. 3: 19-21 where κρίσις means a division of the world into two groups: those who come to the light and do the truth (*pīi*) and those who shun the light and do evil (*impīi*). Different things are said of each in mutually exclusive terms. Each can function as either law or gospel.

⁷⁹³39 I, 583, 2-17.

D. M. L.: The argument is this: Abraham is righteous before the law. Therefore, Abraham is righteous before sin [came into the world], since without the law there is no sin, and consequently he was justified in vain because he was already righteous beforehand. Or alternatively: Abraham was justified without any law convicting sin. Therefore, we too are justified without the law, and consequently the law is not to be taught.

D. M. L. Response: It is the same as if somebody were to say: This person has been raised from the dead although previously he was not really dead. Therefore, the passage must mean: the law was 400 years earlier, that is, the written law or the law of Moses [Gal. 3: 17]. For that matter the law is there with us when we are born. Nor was Abraham entirely without the law, since God said to him: walk before me and be blameless [Gen. 17: 1]. And he was also not without sin, for scripture clearly says that Abraham lived beyond the River and served foreign gods [Joshua 24: 2]. Therefore, Abraham was an idolater. Hence, it also necessarily follows that he was not without the law. But heeding him who was calling him, he was justified through faith in the promised seed.

In the *argumentum* premises are correct but the conclusion is wrong.

Abraham is indeed justified or *iustus* without the law, but the *sine ulla lege* does not mean, as the antinomian suppose, that he is *iustus ante legem*, but that he is justified apart from the law (meaning specifically the works of the law). Paul's argument in Romans 4 is not against the law per se but against justification on the basis of the law, for Abraham (and indeed all Christians) is *iustus* through faith alone in the promised seed. Again, it is not, as the antinomians think, that Abraham is *iustificatus sine ulla lege arguente peccatum*, for it is precisely the *lex arguens* that exposes our sin and guilt and thus shows us our need for justification. Therefore, Luther cannot agree with the antinomian argumentation, nor with the conclusion that that *lex non est docenda* even though he agrees that Abraham is righteous without the law in the sense that the law has no part in the article of justification (583, 2-8).

Luther argues that to say that Abraham was justified *ante legem* is to say that he was justified *ante peccatum*, for *sine lege non est peccatum*.⁷⁹⁴ Consequently, justification would be superfluous because he would be righteous already. The passage that he undoubtedly has in mind is Galatians 3: 17 where Paul argues that the law that came 430 years after the promise made to Abraham (based on his having been justified through faith; cf. Gen. 15: 6) does not annul the prior covenant of grace or make the promise void [ὁ νόμος οὐκ ἀκυροῖ εἰς τὸ καταργῆσαι τὴν ἐπαγγελίαν]. In what appears at first to be a somewhat arbitrary reading of the text Luther posits: *Ideo intelligendus est locus: 400 annis antequam esset lex*, where *lex* is understood to be the *lex scripta* or the *lex Mosis* (583, 10-11). Where Paul says that the law came 400 odd years after the promise Luther says that we should take this to mean that the law 400 years earlier, meaning that it was coterminus with Abraham. What is true of us all is true of him also: *Nam alioqui lex nobiscum nata est* (583, 11). Luther's interest here is not the dating of the law given on Sinai but the prior existence of the universal law in the sense of the *lex naturae*. The natural law is something that all people are born with and that is equivalent to the Decalogue (which is what Luther means here by *lex scripta vel Mosis*) in terms of content.⁷⁹⁵ Luther's purpose here is not to contradict his earlier assertion about justification *sola fide*, but rather to demonstrate that even Abraham was not without the law although he was justified apart from the law. As further proof of this Luther adduces the fact that before Yahweh called him,

⁷⁹⁴Luther has already shown the inseparability of the law and sin; see, for example, 39 I, 354, 24 (ATh, V, Th. 7). In fact the whole Fifth *Thesenreihe* deals with the theme of the inseparable nexus between law, sin, and death.

⁷⁹⁵On the relationship between the *lex naturae* or *lex insculpta* and the Decalogue, see our analysis of 1 AD, Arg. 13, 25 and 3 AD, Arg. 19.

Abraham was an idolater; he lived with his polytheistic family beyond the River and *servierit diis alienis* (Joshua 24: 2). Therefore, Luther concludes, Abraham had to have the law even before he was justified by faith because, as we have seen, there is an inseparable connection between law and sin. There is no real contradiction between what Luther says here and what Paul says in Romans 5: 13: ἄχρι γὰρ νόμου ἁμαρτία ἦν ἐν κόσμῳ, ἁμαρτία δὲ οὐκ ἐλλογεῖται μὴ ὄντος νόμου.⁷⁹⁶ Each is speaking from a different point of view. The referent of νόμος in Paul is the νόμος Μωϋσέως, whereas the referent of *lex* in Luther is the *lex naturae*. Given Luther's standpoint then he could say that there is a *lex accusans* even before Moses for the *lex insculpta* is a given fact, it is *schon da*.⁷⁹⁷ Thus, Luther has established that Abraham was not *sine lege*, even though he was justified through faith in Christ [*in semen promissionis*].

However, not only is the law present to Abraham as *lex naturalis*, but also in the form of a command given by Yahweh: *Nec fuit Abraham omnino sine lege, cum Deus ad ipsum dixerit: Ambula coram me et esto integer* [לִפְנֵי יְהוָה הֵיטֵב] (Gen. 17: 1). Although Luther's concern is only to cite this as an instance of law, we might parenthetically inquire into its *usus*? Could this directive be a candidate for the so-called *tertius usus legis*? We notice at the outset that these words are spoken to Abraham after justification. Consequently, they have the same function as the parenetic appeals of the New Testament. They presuppose God's gracious turning toward us in mercy, his declaration that we are righteous. Therefore, the imperative *ambula coram me et esto integer* is really an invitation to

⁷⁹⁶Cf. also Rom. 4: 15: οὐ δὲ οὐκ ἔστι νόμος οὐδὲ παράβασις.

⁷⁹⁷See 39 I, 477, 7 (2 AD, Arg. 24).

do something that would be quite impossible without justification. But since through faith Abraham was *integer coram Deo*, God was simply asking him to be what he was and to live accordingly. Therefore, what we have already said about the nature of New Testament parenthesis applies here also. The law is taken into the service of the gospel, under the control of the gospel, and since it does not address us as the demanding *lex implenda* (= *lex acusans*) but the encouraging *lex impleta*, it is really at this point an evangelical use of the law rather than a nomological one.⁷⁹⁸

Conclusion⁷⁹⁹

The vote of thanks by D. M. L. We thank you all, both those who have participated in the disputation and those of you who have come along to listen.

This is the end of this disputation dealing with the blasphemous teachings of the Antinomians.

This disputation was held at Wittenberg

Deo Laus

⁷⁹⁸When used (by God) evangelically, the law bestows, enables, prompts etc., but when used (by God) nomologically it is accusing, demanding, and condemning.

⁷⁹⁹39 I, 584, 1-5.

CHAPTER FOUR
EXPLICATION OF KEY THEMES IN THE DISPUTATIONS
IN THE LIGHT OF LAW AND GOSPEL

Introduction

In this chapter we will attempt to pull together some of the main threads running through the disputations and organize them under certain key topics in order to develop a clearer understanding of why Luther insists that the law must continue to be preached in the church and how he defends this thesis against the antinomians. In doing this we will at the same time gain a more complete and coherent picture of Luther's understanding of law and gospel, his doctrine of the law, and the role that it plays in the Christian life. Since many of the points to be covered have already been discussed in a preliminary way in our analyses of the disputations, we will not attempt to reargue our interpretation of the points in question but will take them as our point of departure for a more comprehensive discussion of the given topic both within the whole compass of the disputations and within the wider framework of modern Luther-scholarship.

At its most basic level, the antinomian contention is that the divine law must not be taught in the church because it represents a false *Heilsweg*, which was brought to an end with the birth of Christ. We saw the various arguments for the antinomian position in our analysis of the *positiones antinomicae* in chapter two. From these arguments the central doctrine of Agricola's antinomianism can be

formulated as follows: 1) Since the law **only** convicts and drives to despair, the gospel, as the one word of God, is called on to do double duty (*duplex revelatio*): first to announce God's forgiveness, and then in the light of his goodness and grace to lead the sinner to a recognition of the divine wrath against sin, and thus to repentance. 2) Therefore, repentance is to be taught *ex evangelio* and not *ex lege*; in other words, *ex violatione filii* and not *ex violatione legis*. 3) The scriptural basis for this position was found especially in Luke 24: 47, John 16: 8; Romans 1: 18, 2: 4, and the account of the conversion of St. Paul (Acts 9: 1-6 and pars.). Agricola finds further evidence for his conviction that the law is not necessary (and we remember this problematic word *necessitas* was itself the subject of several arguments in the disputations) since the gospel both forgives and condemns, in the Augustinian schema of *sacramentum-exemplum*.¹

¹The meaning of this term has already been discussed in connection with our analysis of WA 39 I, 461, 20-466, 11 (2 AD, Arg. 15). The crucial distinction is that *quoad exemplum* we can follow Christ and imitate [*imitari*] him, whereas *quoad sacramentum* Christ is alone and we cannot do anything but receive. This *discrimen* represents the watershed between the early Augustinian Luther and the later evangelical Luther because it reflects the proper distinction between law and gospel. Augustine could also distinguish between Christ as *sacramentum* and *exemplum* but it was not a distinction between law and gospel but a distinction within the law and simply represented two stages along the one continuum of the *lex*. The distinction between Christ as *sacramentum* and as *exemplum* was one of degree. Thus, early Luther says that Christ is different from us (the saints) only in degree; his passion and death is not yet seen as unique and substitutionary (*pro nobis* and *extra nos*) but merely as exemplary, in that Christ provides the model of how God works salvation *in nobis* as we submit to the sufferings and crosses (the use of the plural *cruces* is indicative of early Luther) which God lays on us as we follow in the footsteps of Christ. Thus, the *exemplum* is understood here in the sense that God now puts us through the paradigm of Christ's suffering and by means of *iudicia*, *accusatio sui*, *humilitas* etc he gradually transforms and heals us (sin is sickness according to this scheme of things) so that being made like Christ, the *imago Dei*, we eventually become worthy to be loved by God. Thus the *sacramentum-exemplum* schema is the classical solution to August-

In what follows, we will attempt to show that Luther's response to anti-nomianism is not simply to counterbalance it with a (pro)nomian emphasis in the opposite direction. That would simply result in an error of equal magnitude of the opposite kind and would finally fail, according to Luther's criteria, because it falls into the trap of a law-oriented way of doing theology and therefore fails to distinguish between law and gospel. And whenever this distinction is forgotten, the victim is never the law but always the gospel. This was something that Luther was keenly aware of. It is surely not insignificant that in the three disputations we have studied, disputations in which Luther was specifically engaged in

tine's own problem of how to reconcile the divine attributes of wrath and love: It is the way of factitive *iustitia* and transformative *iustificatio*, not an *iustitia aliena* imputed to faith as a gift. In all of this it is the "gospel" (understood as *nova lex*) in the service of the law. Later Luther knows that what Christ does as *sacramentum* is inimitable. When it comes to bearing the full weight of the world's sin for us, Christ stands alone and in our place before God as the *agnus Dei*. Alone he suffers the law, fulfills the law, and overcomes it *pro nobis*. And what he wins he gives us freely. Here there is no *imitatio*. But afterwards, faith follows in his footsteps, and does so *hilariter et sponte*. He is now our exemplar or *Vorbild* in good works.

It should be noted that the antinomians argued that since they had Christ's *exemplum* they did not need the law. Here they are simply restating their central thesis re the *duplex revelatio*. Christ in the gospel first pardons then shows us our sin. Luther, faithfully following his law-gospel distinction, connects the *Doppeltamt* of Christ as *redemptor* (*donum, sacramentum*) and as *exemplum* with a twofold preaching of the law. When Christ is preached as *redemptor*, the law is preached at the same time in the sense of the *usus elencticus* (= *theologicus*); for whoever has Christ as redeemer is also confessing himself a sinner. However, when Christ is also preached as *exemplum*, the command (*Gebot*) is preached at the same time in a way that immediately norms the Christian life. Thus, Wilfried Joest, *Gesetz und Freiheit: Das Problem des tertius usus legis bei Luther und die neutestamentliche Parainese*, 4th ed. (Göttingen: Vandenhoeck & Ruprecht, 1968), 76. Hence, Luther refuses to speak of the Christ of Calvary as *exemplum*. There he is *sacramentum et donum*. However, Luther will accept the term *exemplum* for Christ as the exemplar and teacher of good works. Thus, he proposes the Augustinian *sacramentum-exemplum* distinction, interpreted now on the basis of law-gospel antithesis, in place of the twofold distinction within the *exemplum Christi* as taught by the antinomians.

combatting what he later came to realize was one of the most subtle and yet virulent heresies in Christian theology, he never insists that the law must be preached simply for its own sake (even if it is in the Bible!), and even when he recognizes that the libertinism inevitably results from a failure to preach the law properly, he never suggests that the law should be preached more fervently in order to improve the people's morals. Luther is no moralist; there is no question about that. Then why does he defend the law? Indeed, is that even the right question? We will attempt to show in this chapter that when Luther insists, *contra antinomios*, that the law must be retained and preached in the church, he does it for the sake of Christ and the gospel. He has no interest in the law *per se* (even though it is God's law) but only because it serves to magnify his dear Lord Christ. He knows that if the law is lost, Christ (and hence the gospel) will be lost as well.² It is this evangelical outlook that informs his whole approach to antinomianism, and is the reason why he attacks it so fiercely.

In each of the following parts, the heading represents one counterargument to the central antinomian thesis. However, because Luther's response, considered in its entirety, is never simply the assertion of an opposing position, but always involves distinguishing law and gospel without losing one of them, we will attempt to show how Luther's response is able to confess both sides of the law-gospel dialectic.

The Universality and Permanence of the Law

In this first part we will not only look specifically at how Luther meets the antinomian claim that the law is purely temporary, but also consider how he un-

²WA 39 I, 357, 29-30 (ATh V, Th. 66): *Est igitur legis doctrina in ecclesiis necessaria et omnino retinenda, sine qua Christus retineri non potest.*

derstands the law before and after the fall, the uses of the law as well as the law-gospel dialectic. Although these later topics do not directly address the question of the universality and permanence of the law, they need to be discussed here because they are fundamental to everything that will be said in all parts of this chapter. We make no claims to treating any of these areas exhaustively. The discussion will focus primarily on the disputations that we have examined rather than simply being a wide-ranging theological inquiry in general. Our concern here is not simply with the question of the unity and universality of the law in general but with how Luther used these ideas to combat the antinomian denial of the law.

Unity and Universality of the Law

It is clear from Luther's *Auseinandersetzung* with the antinomians that they rejected the law for at least two reasons:³ 1) the law is nothing but a shadow of the coming Christ and is thus purely temporal and temporary;⁴ 2) the law was given to a specific people, namely, the Jews.⁵ Certainly Luther admits that the

³We saw in ch. 2 from our study of Agricola's own writings that he asserted (but never proved) that the law, which he took at God's failed *Heilsweg* in the Old Testament, came to an end in the year one with the birth of Christ. This idea lies behind the antinomian assertion that the law is impossible (WA 39 I, 476, 3-4 [2 AD, Arg. 23]; 515, 14-15 [3 AD, Arg. 7]). It is presupposed in the their arguments put forward in the disputations but not explicitly stated. The arguments rather try to substantiate this basic thesis exegetically. Luther, on the other hand, knows a double *finis legis*, first of all through Christ's first advent (cf. John the Baptizer pointing to the Christ as *agnus Dei*), and then through his daily coming to us. See Gustav Hammann, "Nomismus und Antinomismus innerhalb der Wittenburger Theologie von 1524-1530," unpublished diss., Bonn, 1952, 31-33, 45.

⁴WA 39 I, 475, 9 (2 AD, Arg. 22).

rite of circumcision and the other ceremonial and juridical laws found in the Old Testament have no continuing validity but are limited to a specific time and nation. We know from elsewhere that Luther refuses to accept the law of Moses as binding on Christians but rather regards it as *der Juden Sachsenpiegel*. It applies to Christians only insofar as it illuminates the *Urschrift* of God's will, which is carved into the hearts of all people from the creation of the world.⁶ Moses is not the author but merely the interpreter of this *Grundschrift* [*interpres et illustrator legum scriptarum in mentibus omnium hominum*].⁷ Thus Luther consistently refuses to identify the law with the *lex Mosi*, but instead connects it with the Adamic *lex naturae*, which he in turn equates with the *decalogus*, in terms of its content.⁸ This is an important hermeneutical distinction because it gives Luther a basis for criticizing the antinomians for their wholesale rejection of the Old Testament law as passé, without at the same time obligating him to accept everything Mosaic in the canon. Thus, he argues that the validity of the Decalogue is not confined to one particular people (the Jews) but makes a universal claim on all people, of all

⁵WA 39 I, 380, 11 (1 AD, Arg. 13); 539, 4 (3 AD, Arg. 19); 39 II, 142, 9 (6 AD, Arg. 30). Neither Agricola nor Luther makes the modern and important distinction between the Israelites, as God's Old Testament people, and the Jews, as the nation stemming from the emergent Judaism of the intertestamental period.

⁶WA 39 I, 454, 4-5; 14-16 (2 AD, Arg. 13).

⁷WA 16, 380, 23 (Unterrichtung, wie sich die Christen in Mosen sollen schicken, 1525): *Also halt ich nu die Gepot, die Moses geben hat, nicht dariumb, daß sie Moses geboten hat, sondern daß sie mir von Natur eingepflanzet sind und Moses allein gleich mit der Natur ubereinstimmt.*

⁸WA 39 I, 478, 16-18: *Decalogus non est Mosi lex, neque primus ipse eam dedit, sed decalogus est totius mundi, inscriptus et insculptus mentibus omnium hominum a condito mundo* (2 AD, Arg. 25). We make no attempt, either here or elsewhere in this chapter, to cite all the parallel passages. For cross-references the reader is referred back to ch. 3.

times and places, because it has been inscribed on the hearts of all people already at creation.⁹

What then is the difference between the law of nature and the Decalogue, if the content of each is identical? First, one of the great merits of Martin Schloemann's work is that he has convincingly shown that the *lex naturae* and the *lex praedicata* form a unity.¹⁰ However, the preaching of the law both points back to (thus presupposes) and clarifies the *lex naturalis* inscribed on the heart.¹¹ Thus we have the following identity: *lex naturae* = *lex insculpta* = *decalogus* = *lex praedicta*.¹² This means that although the Decalogue was given at Sinai to

⁹On the identity of the *decalogus* and *lex insculpta*, see WA 39 I, 352, 5-6 (ATh III, Th. 40); cf. 374, 2-3 (1 AD, Arg. 7): *Decalogus vero haeret adhuc in conscientia*.

¹⁰Martin Schloemann, *Natürliches und Gepredigtes Gesetz bei Luther: eine Studie zur Frage nach der Einheit der Gesetzesauffassung Luthers mit besonderer Berücksichtigung seiner Auseinandersetzung mit den Antinomern* (Berlin: Verlag Alfred Töpelmann, 1961), 97-131. The following is based on his work.

¹¹In WA 39 I, 403, 2-3 (1 AD, Arg. 25) Luther understands the divine revelation of the law on Sinai to be also the institution of the *ministerium publicum* of the preaching of the law. And yet he also knows of an oral tradition of the law (thus, *doctrina legis*) that was handed down by the patriarchs (WA 39 I, 402, 16-403, 3 [1 AD, Arg. 25]). In addition to that, it is clear from 403, 14-404, 8 that with Christ a new public office was inaugurated to make it known that ever since Adam the essence of sin has been *incredulitas Christi*. For wherever there is the proclamation of the gospel in the form of the promise of *Christus venturus*, there is also a preaching of the law.

¹²WA 39 I, 413, 14-15 (1 AD, Arg. 34): *Decalogus autem ideo maior et praestantior est, quia est insculptus omnium cordibus et mentibus et nobiscum manebit etiam in futura vita*. It is significant that the Decalogue is preeminent, not because it is given by divine revelation on Sinai, but because it is inscribed on the minds of all people and will remain for all eternity. However, Luther qualifies the *decalogus aeternus* by saying that in the *futura vita* it will remain not as *lex* but as *res*. On this see below.

particular people, it has universal applicability insofar as it agrees with the Adamic law of nature in all people. Since the *lex naturae* is prior to the propagation of the *decalogus*, already before the revelation of the *lex Mosi* human beings were confronted with the *lex* as *lex generalis*.¹³ Thus the natural or general experience of the law is prior to the *lex praedicata* because it precedes it both temporally and materially.¹⁴ It is instructive in this connection to recall why God gave Moses the Decalogue in the first place. Luther says it was to remind man of the knowledge of the divine will which he already had but which became progressively dimmer as he fell deeper and deeper into sin after the fall. God gave man the Decalogue, not as something new, but to remind him of the natural knowledge of the law, which he had all but forgotten¹⁵ Thus, the *lex praedicata* exercises a retrospective function in relation to the *lex naturae*. Furthermore, just as there is no difference in terms of content between the commands of the natural law and those of the preached law, so too there is no difference between natural

¹³WA 39 I, 374, 3-5 (1AD, Arg. 7): *Nam si Deus nunquam tulisset legem per Mosen, tamen mens humana naturaliter habet hanc notitiam, Deum esse colendum, proximum diligendum*; cf. 456, 1-2 (2 AD, Arg. 13). Even without the *decalogus* people would know *naturaliter* that God is to be worshipped and the neighbor loved. Through the *lex naturae* every person stands in this double relationship. And this demand is always experienced in the concrete, practical situation of daily life. Hence, there are not two different demands but one natural law which claims and binds man in two relations. Luther always describes the double command to love God and neighbor (law of Moses and natural law) as one. These two relations, which were integrated in perfect harmony in paradise and which fell apart through the fall, become for the natural man the cause of idolatry and despair. They occur in every individual (whether he knows it or not) as a demand for faith and love.

¹⁴This will be taken up again when we discuss the temporal priority of law to gospel as a reflex of the *ordo rei*.

¹⁵WA 39 I, 426, 9-13 (2 AD, Arg. 2).

sensus legis and that produced by the *lex praedicata*.¹⁶ Thus, Luther's concept of the law is that of the general law (*lex generalis = lex naturae*). In other words, Luther does not make any distinction between two kinds of laws or demands. Rather, as Schloemann points out, he consistently stresses the unity of the law which he then sets in antithesis to the gospel. That which makes the preached law special compared with the natural law is only the presence of the gospel, for Luther insists that wherever the law is preached the gospel must also be preached.¹⁷ This can only be stated here but it will be developed further below.

Luther's idea of the unity of the law sheds light on the relation between law and gospel. One important consequence is the fact that the real antithesis is between Adam and Christ more so than than between Moses and Christ.¹⁸ The Mosaic public *ministerium legis* in Christian preaching merely makes accessible

¹⁶The *sensus legis* stands under the "*ubi et quando visum est Deo*" (to use the language of CA V) as much as does the proclamation of th gospel; cf. 39 I, 345, 20-21 (ATh I, Th. 3); 368, 9-369, 16 (1 AD, Arg. 3); 370, 3-371, 3 (1 AD, Arg. 4). But the *sensus legis* is not necessarily bound to the *verbum paedictum* in the same way as the gospel, although the full experience of the *Strafamt* and *Zornesamt* of the law apart from *lex praedicta* would be rare.

¹⁷The law can never really be "added" because it is *schon da* as a universal fact. However, this does not mean that we could dispense with the explication of the law, the concrete interpretation of what is demanded of us. Therefore, the *lex praedicata*, based on the Decalogue, will clarify and interpret what is implicit but still unclear in the *lex insculpta*.

¹⁸We note in passing that exegetically, the New Testament knows both contrasts. Moses is the antithesis to Christ in terms of the contrast law and grace (John 1: 17), Adam (as the representative of fallen or Adamic mankind) is the antithesis to Christ in terms of the contrast sin/ death and grace/righteousness (Rom. 5: 14: Ἀδὰμ ὡς τύπος τοῦ μέλλοντος). The latter however is the more important for Luther because it reflects the *ordo rei*. This will be taken up again below when we discuss the basis of Luther's law-gospel sequence.

again the experience of the Adamic *lex naturae*, which has been forgotten through the blindness of natural man. That is to say, the preaching of the gospel forms the antithesis to all the experience of the law and the preaching of the law. It is consistent with this that Luther does not take the *generalis definitio evangelii* (the whole teaching of Christ) as his proper definition of the gospel, like the antinomians do, who contrast the "one" revealed word of God (gospel in the broad sense) with the natural experience of the law.¹⁹ Rather, for him the gospel in the proper sense (*definitio specialis*) is the gracious word of absolution, the bestowal of the forgiveness of sins. His real concept of the law, on the other hand, is that of the general law (*lex generalis, lex naturae*), which is common to all people (though not all experience the full *sensus legis*), and which is renewed through the special preaching of the law.²⁰

There are three key emphases to Luther's doctrine of the law that play an important role in his disputations against the antinomians: The first is the unity of the law; that is to say, the content of the Decalogue (*lex praedicta*) is one with the *lex naturae*. The second is that the law in its totality (natural law, Decalogue, Golden Rule, Love Command etc.) stands in dialectical opposition to the word of the gospel. It follows from this that while the preached law can find continuity with our experience of the *lex naturae*, the gospel, on the other hand, comes as a completely new word, because it is purely an external word and has no base or

¹⁹WA 39 I, 343, 21-23 (Positiones antinomicae, Th. 18).

²⁰WA 39 I, 354, 27-28 (Ath. V, Th. 9): *Legem accipimus extra Christum*. Cf. 39 I, 445, 5-446, 8 (2 AD, Arg. 8). For the above, see Schloemann, *Gesetz*, 129-130.

Anknüpfungspunkt in creation or our world of experience. The third emphasis in Luther's doctrine of the law is its universality and hence its inescapability.²¹

We have seen that one way Luther argues for permanence of the law over against the antinomian claim that it is intrinsically Mosaic and thus *ipso facto* purely temporal, is to show that it is an absolutely inescapable reality for every human being because it does not simply go back to Moses but to Adam.²² The antinomians, on the other hand, always took Moses as their point of departure in talking about the law, which they understood as a preliminary but false *Heilsweg*, which God revoked and abolished at the coming of Christ. Luther, on the other hand, outmaneuvers them on the level of sheer dialectics (logic) by consistently refusing to identify the law with the *lex Mosi*, but connecting it instead with the Adamic *lex naturae*, which he equates with the *decalogus*, in terms of its content.²³

²¹On the basis of this fact, Luther can argue *contra antinomios* that even if they were to remove the letters LEX, they would still not have succeeded in getting rid of the law for the *chirographum* (the *lex damnans*) remains etched on our hearts (WA 39 I, 456, 18-457, 1 [2 AD, Arg. 13]); cf. WA 50, 473, 475 (Wider die Antinomer, 1539).

²²This will need to be nuanced more carefully later because, as we will see, even if Luther does use the term *lex* to describe the *Grundverhältnis* between God and Adam in the primal state, it is not the same *lex* that confronts man *post lapsum* and is imposed on all people coercisively. Hence, when we use the term Adamic law in this discussion, we are not speaking from a supralapsarian perspective, but always *post lapsum*.

²³The law of nature and the Decalogue coincide only insofar as we see in the decalogus the unveiled face of Moses; for it is the veiled face that the hypocrites and Pharisees see who do not realize that the law is to be understood spiritually, and think that they can satisfy it with works. The unveiled Decalogue, as it was originally, is understood on the basis of Jesus' interpretation; see WA 39 I, 569, 9-571, 3 (3 AD, Arg. 35/8). The *lex naturae* therefore is the same as the Decalogue interpreted in a Christian way, and is present as the *lex insculpta* in every person.

From the standpoint of academic theology, Luther advanced an invincible argument when he asserted the universality of the law and thus its inescapability as a *datum* of human existence. He always defines the law in the general sense of the *lex naturae* and thus can simply assert as fact: The law is *schon da*²⁴ and is imposed on every human individual from birth.²⁵ In Schloemann's opinion, this argument about the universal validity of the law based on the notion of the *lex naturae* was the clincher in Luther's debate with the antinomians, ensuring him a decisive and conclusive victory. It is an irrefutable denial of the possibility of a simple and total *abrogatio legis* in the year 1 AD as Luther's opponents claimed.²⁶ Its decisiveness and cogency is indisputable. However, if it is true that this is his top-ranking argument, what implications does it have for our thesis that Luther's argument for the retention of the law is ultimately christological and for the sake of the gospel? Perhaps, the keyword here is "ultimately." We would submit that it is important to understand the function of this line of argumentation within the overall framework of Luther's scheme of thought. Here surely he is attacking the antinomians at one of their most vulnerable places, and he uses the argument of the universal validity of the law to his advantage, in order to show his opponents that if they think they can remove the law by mere assertion they are mistaken, because it is inscribed on the heart and conscience of all people. This of course is

²⁴WA 39 I, 477, 7: *Nam lex iam adest, ist schon da. Lex prius adest in facto.* The real question rather, as Luther goes on to say, is how we can be free from the law.

²⁵WA 39 I, 539, 7-11 (3 AD, Arg. 19). Luther's only exception are the *prorsus monstrosi*.

²⁶Schloemann, *Gesetz*, 54-55.

not yet to say why the law must be retained and taught in the church, but simply prepares the way for positive doctrinal statement by first refuting the error of the opponents.²⁷ If he had said no more than he does here, Luther he would have merely advanced a law argument, which has no immediate connection with the gospel. If however it can be shown that this is no more than propaedeutic to his main theological argument, that the law must be preached for the sake of Christ, then the rational argument about the universality of the law as *lex naturae* would assume its proper place as ancillary to Luther's theological arguments.

Law and the Primal State

For Adam the fulfillment of the law was not only possible but delightful. He did what the law required and did it perfectly because he did it with his whole heart, spontaneously, without any coercion.²⁸ After the fall the situation is

²⁷With his incisive logic Luther is more than capable of exposing the absurdities, banalities, weaknesses and errors of his opponents' arguments, and at times he revels in poking fun at them, showing them up to be incapable of rigorous dialectic, and teaching his own students a lesson in the process. For instance, he describes the antinomians to his audience as theologians who are examples of poor thinkers and bad logicians. He wants the future doctors of the church to learn from their mistakes. See WA 39 I, 385, 14-20 (1 AD, Arg. 15). Nevertheless, until we look below the surface of his dialectics and rhetoric and discover what it is that drives his theology, we will not understand Luther the theologian. And we are convinced, in the light of our analysis of his argumentation in ch. 3, that his theology is evangelical to the core. And it is the role of dialectics to serve that end. The antinomians, on the other hand, as we have had occasion to observe several times in the last chapter, use their logic against theology rather than in the service of theology. Consequently, the gospel itself finally becomes a casualty of their logic because of its sheer illogicality and they themselves becomes the prisoners of their own system.

²⁸WA 39 I, 364, 11-13 (1 AD, Arg. 1).

reversed. Now the law is impossible to fulfill and becomes a burden.²⁹ Luther makes it clear however that this is not the fault of the law, which, as Paul says, is holy and good in itself (Rom. 7: 13-14), but it is the fault of sin and Satan.³⁰ However, as we will see later, the burden of the law is lifted through faith in Christ, the fulfiller of the law, so that even now faith begins to know that joy in the law which will be perfected in paradise of heaven.³¹

The fact that the law in paradise was a thing of delight while after the fall it became not only a burden but above all a *lex accusatrix et condemnatrix*, raises the question of whether the term law [*lex*] should even be used to describe the will of God in paradise. Even though Luther himself uses the word *lex* at this point, it is clear from his description of the function of the law after the fall that the paradisaal law, which is in every way a *lex iucunda*, is now an altogether different law, or at least functions altogether differently, than the *post lapsum* law

²⁹The the assertion of the impossibility of the law is made in view of justification. Luther holds that vis-à-vis justification the law is both impotent and impossible (see *Thesenreihe* for 2 AD). See Lauri Haikola, *Usus Legis* (Helsinki: n.p., 1981), 85-92, who argues that there is no support in Luther for the idea that the law could have been a way of salvation if only it had been properly kept. This notion was defended by the Gnesio-Lutherans in connection with the later antinomian controversy after Luther's death. On the impossibility of the law and its abiding validity, see the essay by Rudolf Hermann, "Zur Bedeutung der *lex*, ihres Unvermögens und dennoch Bleibens, nach Luthers Antinomerthesen," in *Gott und die Götter, Festgabe für Erich Fascher* (Berlin: Evangelische Verlagsanstalt, 1958), 142-153.

³⁰WA 39 I, 364, 17-365, 2 (1 AD, Arg. 1); 449, 8-450, 14 (2 AD, Arg. 9).

³¹WA 39 I, 373, 6-7 (1 AD, Arg. 6): *Ergo reddere legem iucundam, immaculatam est officium Christi, impletoris legis*; cf. 365, 2-6 (1 AD, Arg. 1).

which exposes our sins, terrifies our conscience, and threatens us with wrath and eternal death.³²

Before we consider the nature and function of the law *post lapsum*, we must first inquire into the nature of the law in paradise before the fall. Here we are faced with the important question of how are we to understand the divine command of Genesis 2: 16-17. Is this law or is it not? As we have already hinted, the law *ante lapsum* is an all together different law than that *post lapsum*.³³ It is certainly tempting to follow Schloemann in maintaining that the divine command given in Genesis 2: 16-17 [אֶלֶּם] is not yet law, but law and gospel together in one (as-yet) undivided word.³⁴ Accordingly, he refuses to characterize the primal *Grundverhältnis* as Gesetz in the sense of an eternal, immutable divine will [*lex aeterna*] that orders the way Adam and Eve stand in

³²This contrast was noted already by Th. Harnack and prompted him to distinguish between the *Wesen* and the *Amt* of the law. See Theodosius Harnack, *Luthers Theologie mit besonderer Beziehung auf seine Versöhnungs- und Erlösungslehre*, Part I: *Luthers theologische Grundanschauungen*, new ed. (Munich: Chr. Kaiser Verlag, 1927), 368-461, esp. 368-401.

³³It is this recognition that has prompted Paul Althaus, *Gebot und Gesetz: Zum Thema "Gesetz und Evangelium,"* in *Beiträge zur Förderung christlicher Theologie*, 46 (Gütersloh: C. Bertelsmann Verlag, 1952), 12 to distinguish between the *Gebot* of paradise and the *Gesetz* of the fallen world. Before the fall, he says, God's command means life and joy. However, after the fall the command becomes law [*Durch den Fall wird das Gebot zum Gesetze*]. The law is the form that God's will for us must take on account of sin.

³⁴Cf. *Hoc verbum erat Adae Evangelium et lex* (WA 42, 110, 18 [Gen.-Vorl., 1535-45]; cf. 112, passim). Adam faithfully kept God's word. Therefore, Schloemann, *Gesetz*, 52, n. 156, thinks that Althaus' assertion, that after the fall the command becomes law, is only a half-truth. Luther can just as easily connect the creative primal word with the gospel and derive the latter from it, as his *Genesis-vorlesung* often shows.

relation to God.³⁵ He supports his position in two ways: 1) by the analogy between protology and eschatology: in heaven the law will remain *in re*, but not as *lex accusans* because it will have nothing to accuse; likewise, before the fall man was perfect and so the law would have had nothing to accuse. 2) Since

³⁵It is not our intention to enter into a discussion of the concept of the *lex aeterna*, a philosophical term used in scholasticism, which Luther eliminated, but which later found its way back into theology via Melanchthon and the orthodox dogmatists of the seventeenth century orthodoxy. See Johannes Heckel, *Lex charitatis: eine juristische Untersuchung über das Recht in der Theologie Martin Luthers* (Munich: n.p., 1953), 55, n. 355. Although the term as such does not appear in the disputations, the idea of the eternity of the law (= *decalogus*) does; see WA 39 I, 349, 39-350, 6 (ATh II, Th. 45-48); 353, 39-40 (ATh. III, Th. 34); 413, 14-20 (1 AD, Arg. 33); 459, 13 (2 AD, Arg. 12). However, Luther reinterprets the whole notion on the basis of the gospel. Thus, Haikola, *Usus Legis*, 101, n. 53 (cf. *Studien*, 10), is right when he notes: "Gottes 'ewiges Gesetz' (*lex aeterna*) bedeutet bei Luther, wie im Nominalismus, die Treue Gottes zu sich selber, aber dieses Gesetz kommt in der dem Menschen zugänglichen Erfahrungssphäre (*potestas ordinata*) niemals in endgültig fixierter Gestalt vor." One of his major criticisms that Robert Schultz, *Gesetz und Evangelium* (Berlin: Lutherisches Verlagshaus, 1958), makes of Th. Harnack focuses on the concept of the *lex aeterna*, which he thinks lies behind Harnack's purportedly nomological description of the primal relationship of man to God. Leaving aside the problem of Harnack's interpretation of Luther, Schultz is right in saying that it is not the case that in Luther the law "von der Schöpfung bis in alle Ewigkeit als Grundverhältnis des Menschen zu Gott gültig sein sollte" (144). When Luther says in one passage *decalogus est aeternus* (WA 39 I, 413, 17), he is not referring to the *lex aeterna* but to the *lex naturae* with which it agrees and which was inscribed in the heart from the beginning. He goes on to say in that same passage, it is eternal, not as *lex* but as *res*, because in the *futura vita* what the law demands will be fully realized (cf. WA 39 I, 374, 5-12, where Luther stresses that the *lex* has a limit and will be abolished completely in the life to come). See *Luther und die Theologie der Gegenwart: Referate und Berichte des Fünften Internationalen Kongresses für Lutherforschung*, ed. Leif Grane and Bernhard Lohse (Göttingen: Vandenhoeck & Ruprecht, 1980), 161. In Luther one can really only speak of *lex* in the interim between the fall into sin and the return of Christ (WA 39 I, 383, 17-19). The existentialist interpretation of Luther stresses that the law has validity only for the old aeon, which Christ has abolished. Hence, it denies the normative authority of the law for Christians. This is a point we will need to come back to later. For now it is enough to point out that the defense of the *tertius usus doctrine* in orthodoxy is built on the foundation of the *lex aeterna*.

according to Luther the law also accuses Christians, *quoad carnem*, even as it instructs them,³⁶ the command given Adam can not be *lex* in the sense of the counterpart (or antithesis) to gospel, for Adam was sinless and the gospel was preached only *post lapsum*. Therefore, this command was not *lex* in the sense in which Luther normally uses it³⁷ (hence his qualification *in re*), but simply *verbum Dei*.³⁸ As helpful as Schloemann's suggestion is in attempting to understand the nature of the divine command to Adam, the fact remains that in the disputations Luther consistently calls it *lex*, but then always proceeds to distinguish it from the *lex* which was given after sin.

Luther's Genesis lectures, which he would have been preparing at the time of the disputations, shed some light on this usage. We learn here that the reason he insists on calling the command *lex* is to guard against a *schwärmerish* interpretation of Genesis 2: 16-17 which provides a basis for the denial of original sin.³⁹

³⁶We have already made this point ourselves several times in our analyses in ch. 3 and will take it up again below in connection with our discussion of the problem of the *tertius usus legis*.

³⁷ Luther says that when we speak of the law we are not talking about a *lex vacua*, such as it is for angels (and we could add, righteous Adam too), for they do not know any law and are without the law, but we are talking about the law as *lex accusans, reos agens et exactrix* (39 I, 434, 1-4 [2 AD, Arg. 3]). An example of a *lex vacua* is the command to tell a tree to grow!

³⁸Schloemann, *Gesetz*, 52, n. 156. He also criticizes Heckel, *Lex charitatis*, 56, for holding that the *Urstand* was governed by the divine *Naturgesetz*. Schloemann, 15, n. 41, concedes that no one will object to saying that for Luther the primal *Gottesverhältnis* was an undisturbed and *ungesetzliches Rechtsverhältnis*, so long as as the term *Recht* here is quite neutral and means nothing more than *richtige Verhaltensweise*, and does not slip back into the scholastic doctrine of the *lex aeterna*.

The fanatics argued that since there was no law in paradise, Adam's disobedience is not sin because Paul states that where there is no law there is no transgression (Rom. 4: 15).⁴⁰ Furthermore, they cited Paul as saying that the law was not given to the righteous (1 Tim. 1: 9). Luther counters by pointing out that all this means is that the law given to the unrighteous is not the same law as that which was given to righteous Adam. Conversely, when a law is given to righteous Adam, it follows that this is a different law from the one which was given later to the unrighteous. Notwithstanding that, however, in other places in the commentary Luther can refer to the divine command as the *verbum Dei*, and on at least one occasion expressly state that for Adam this word was gospel and law. While this may be a pointer to the fact that he may well understand the divine command in paradise as being an as-yet unseparated word of God, the context in which he equates the primal command with gospel and law (note the order) is an explanation that the command is really God's mandate for the institution of the *externus cultus et opus obedientia externum erga Deum*. Consequently, Luther's conviction that the divine command here is the Lord's mandate and institution of the external cultus of the Old Testament would account for why here he suddenly refers to the *mandatum* (Luther often uses this word and the verb *praecipere*) as *verbum*

³⁹WA 42, 80, 1-83, 31 (Vorlesungen über 1. Mose, 1535-45). Luther points out that even though Adam was perfect God still gave him a command not to eat of the tree of the knowledge of good and evil in order to fortify him against temptation. In other words, being given a command is not inconsistent with his state of innocence. We could draw a parallel here to the preaching of parenesis to the saints. Because apostasy is always a live possibility the saints must be urged to remain faithful and to renounce temptation.

⁴⁰We have seen that the antinomians used these texts in the same way.

Dei against which the *Schwärmer* of every ages oppose their own *verbum*, and secondly, why he then equates this *verbum Dei* with *evangelium et lex*.⁴¹

The Law-Gospel Dialectic

Following Adam's fall into sin, God's law (command), which in paradise was pure gift and embodied the love that informed the relationship between God and man, became an expression of his wrath and judgment. It demands holiness, righteousness, and obedience from sinful human beings who are now incapable of loving God with their whole heart and their neighbor as themselves, and who therefore fall under God's wrath, judgment, and condemnation. And yet he still preserves them by his grace. God's word, which *ante lapsum*, was still one undivided word, now becomes two words: a word of law and a word of judgment. His word of law expresses his just demand and righteous judgment on sinners; his word of grace expresses his mercy and compassion in his promise and gift of forgiveness. The office of the law is to accuse and kill; the office of the gospel is to make alive.⁴² These two words, law and gospel, exist in antithetical tension and will continue to do so until the end of the world. God's law, as sum-

⁴¹Ibid., 110, 18-20: *Hoc verbum erat Adae Evangelium et lex, erat eius cultus, erat servitus et obedientia, quam poterat Deo in ista innocentia praestare.* Luther holds that Satan's temptation was not simply to eat the fruit of the forbidden tree, but to draw Adam and Eve away from the word. And after he has deprived them of the word and thereby of their trust in God, he makes them believe his lie. For Luther, this temptation to believe Satan's word instead of God's word is the most diabolic of all, because faith lives only from God's words, detached from those words it dies, and this is then the unbelief which is the source of all sins. Once Satan had brought about this unbelief in Adam and Eve, the rest was easy.

⁴²WA 39 I, 363, 19-20 (! AD, Praef.). The gospel properly defined is the promise concerning Christ (387, 2-4 [1 AD, Arg. 16]).

med up in the first commandment, demands faith in God and love to the neighbor, but the law is not only a legal statute, it is also and especially a power (indeed, a hostile power), which joins forces with our other enemies: sin, death, and the devil, to become a tyrannical monster, which threatens to destroy us utterly. Only one could withstand and conquer the dread fury of this combined attack: Jesus Christ our blessed savior, who, as Luther says in one of his chorales, turned away God's wrath for ever, and rescued us from the evil foe.⁴³ By faith in him we already share his victory over these tyrants—including the law, even though insofar as we remain sinners we are still vulnerable to attack, and Satan will not cease to harass us unless we keep our feet tucked up under the mantel of Christ's righteousness,⁴⁴ so to speak, and stay under the protective wings of our hen.⁴⁵

The strict antithesis of law and gospel then is the result of the fall. God's word, which in paradise was one, now becomes two: a word of law and word of gospel and it will remain that, also for the Christian as sinner, until the *eschaton* when sin will be destroyed and the law will have nothing more to accuse. When Luther speaks about the opposition between law and gospel, his statements are decidedly eschatological, for at least two reasons: 1) they are oriented to the *eschaton*, the primal state being mentioned merely by way of contrast; 2) law and gospel belong to this aeon; they have their genesis outside the gates of Eden and

⁴³"*Jesus Christus, unser Heiland, der von uns den Gotteszorn wandt*" (Evangelisches Gesangbuch, no. 215).

⁴⁴WA 39 I, 482, 16-17 (2 AD, Arg. 27).

⁴⁵WA 39 I, 521, 7-11 (3 AD, Arg. 10).

will cease at the threshold of the *futura vita*.⁴⁶ Hence, the law-gospel dialectic is ultimately resolved eschatologically.⁴⁷

The above is nothing more than an outline of the contours of Luther's thinking on the law-gospel antithesis. Since it is not imperative for our purposes to trace out all the details of this article, the above summary will suffice. Other details will be added as we go along.

The Uses of the Law

Before we can properly discuss the relationship between law and gospel we need to consider briefly the double use (*usus*) of the law, which is characteristic of Luther's theology.⁴⁸ Although in his mature years he only ever speaks *ex-*

⁴⁶WA 39 I, 364, 9-365, 6 (1 AD, Arg. 1); 374, 1-375, 12 (1 AD, Arg. 7); 379, 16-380, 8 (1 AD, Arg. 12).

⁴⁷This is generally recognized; cf. Albrecht Peters, *Gesetz und Evangelium* (Gütersloh: Gütersloher Verlagshaus Gerd Mohn, 1981), 30-38; Werner Elert, "Gesetz und Evangelium," in *Zwischen Gnade und Ungnade: Abwandlungen des Themas Gesetz und Evangelium* (Munich: Evangelischer Presserverband für Bayern, 1948), 132-169, is probably the one who has stressed most strongly the real radical dialectic between law and gospel vis-à-vis Karl Barth's emphasis on the unity of gospel and law in the one word of God. Elert's term, *realdialektischer Gegensatz*, expresses the core of his position. It designates a dialectical opposition in the very content of law and gospel [*res*] and not just in terminology [*verba*]. The antithesis is substantive and not just formal. Karl Barth's position is set out most clearly in his famous essay, "Evangelium und Gesetz," in *Theologische Existenz heute*, 50, 3d ed.; neue Folge (Munich: Christian Kaiser Verlag, 1961). If the law-gospel dialectic is eschatological, this effectively precludes the notion of an abiding *lex aeterna* which slips through the net of the law-gospel distinction.

⁴⁸For the *usus legis* in Luther generally, see Gerhard Ebeling, "Zur Lehre vom triplex usus legis in der reformatorischen Theologie," in *Wort und Glaube*, 3d. ed. (Tübingen: J. C. B. Mohr [Paul Siebeck], 1967), 50-68. He notes the striking fact that while the term *usus legis* appears so prominently in his *Galaterbriefvorlesung* of 1531/35, when we come to the Antinomian Disputations,

pressis verbis of a *duplex usus legis*, some scholars claim that he implicitly teaches a *tertius usus legis* (or even a multiplex use). The question of the third use will be taken up later. Although the term *duplex usus legis* emerges only once in the disputations,⁴⁹ there is no question that Luther here speaks of a twofold use of the **one** law rather than making distinctions within the law itself as he did in his early period when he was still under the influence of Augustine.⁵⁰ In other words, for the mature Luther (that is, post 1525), the gospel is not understood as being on a continuum with the law, as the *nova lex* which completes and fulfills the *vetus lex*. Nor is the gospel seen as merely the radical spiritualization of the

which are so closely related to his Galatians Commentary both in time and subject-matter, it suddenly recedes into the background (61).

⁴⁹WA 39 I, 441, 2-3 (2 AD, Arg. 6); cf. however, 460, 21 (2 AD, Arg. 14); 483, 14-16 (2 AD, Arg. 28); for a discussion of the peculiar *triplex usus legis* mentioned in the conclusion to the Second Disputation (485, 16-24), see our analysis in ch. 3. For a listing of the various *usus* which Luther mentions in his great *Galaterbriefvorlesung* of 1531, see Ebeling, "Triplex usus legis," 60.

⁵⁰Schloeman, *Gesetz*, 24-27, has demonstrated this by tracking the development of Luther's interpretation of 1 Timothy 1: 8 and the allusions to this passage, step by step. He shows (contra Haikola, *Usus Legis*, 106-109, 143, 151) that over the course of time, the *usus proprius* (*theologicus, spiritualis*) acquired a different, narrower meaning. Whereas earlier it had both a negative side (exposing and convicting sin) and a positive side (*usus rectus, legitimus* etc.) covering the way in which the Christian uses the law (what was later called the *tertius usus legis*), in his mature period this *Doppelheit* within the concept of the *usus spiritualis* or *theologicus* drops away, and the true, legitimate use of the law more and more clearly comes to be used only in connection with the unrighteous or the *caro* of the Christian. The doctrine of the double use of the one law comes to fruition above all in Luther's *Galaterbriefvorlesung* of 1531. On the historical development of the term *duplex usus legis*, see Hayo Gerdes, *Luthers Streit mit den Schwärmern um das rechte Verständnis des Gesetzes Mose* (Göttingen: Verlagsanstalt, 1955), 63. He shows that after Luther discovered that evangelical meaning of *iustitia Dei*, he began to understand *Recht* and *Gesetz* radically *coram Deo* but then the *Schwärmerstreit* forced him to distinguish a twofold use of the law, one (*theologicus*) understood *coram Deo*, the other (*politicus*) understood *coram hominibus*.

law, the higher *lex spiritualis* in comparison with the lower *lex carnalis*. On the contrary, Luther does not differentiate between laws, whether lower and higher or old and new, but he contrasts two righteousnesses, the heavenly (*coram Deo*) and the earthly (*coram hominibus*) with one law.⁵¹

In describing the uses of the law as we find them in Luther, we will avail ourselves of the terminology of the classical Lutheran dogmaticians in their division of the law because this allows us to make important distinctions as well as to relate Luther's ideas to the later *modus loquendi*.⁵² The first use (*usus politicus seu*

⁵¹At first it seems as if Luther in his *responsio* in WA 39 I, 457-461 (2 AD, Arg. 14) supports the idea that the gospel is the *lex spiritualis*. The *argumentum* that he refutes states that the law cannot condemn the righteousness based on the law because otherwise the law would end up condemning itself. He counters that by arguing that the law can indeed condemn itself if understood spiritually, as interpreted by Christ and Paul. However, even here Luther does not understand the gospel as the *lex spiritualis*. That rather is the assumption lying behind the antinomian argument that he is refuting. The distinction he makes is rather that between the *usus politicus* and the *usus theologicus*. The later, which is the proper use of the law, unmaskes the works-righteousness fostered by the law's civil use in preparation for the gift of the true and heavenly righteousness in the gospel. Jesus uses the law in the same way in his Sermon on the Mount. Consistent with this is Luther's conviction that anything that unmaskes and convicts sin, even if it is words of Christ, is law. The gospel in its *opus proprium* does not convict sin but forgives sin. An interesting parallel to this is the argument that since the law commands faith in Christ, the law also condemns unbelief in Christ, not the gospel (WA 39 I, 384-386 [1 AD, Arg. 15]).

⁵²Francis Pieper, *Christian Dogmatics*, vol. 2 (St. Louis: Concordia Publishing House, 1953), 238, cites Nitzsch-Stephan, *Dogmatik*, 509, in explanation of the how the uses of the law were divided by the classical Lutheran dogmaticians. Most followed the FC with its threefold use, some preferred to speak of a fourfold *usus* of the law: 1) an *usus politicus seu civilis*; 2) an *usus elencticus*; 3) an *usus paedagogicus*; and 4) an *usus didacticus seu normaticus*. Often numbers two and three are combined. Where they are distinguished, the *usus elencticus* signifies the *peccati manifestatio et redargutio* (the exposure and refutation of sin), whereas the *usus paedagogicus* represents the *compulsus indirectus ad Christum*, on the basis of Gal. 3: 23-24. Both the *usus elencticus* and the *usus paedagogicus* then

civilis), is purely civil:⁵³ Its purpose is to restrain wickedness and to maintain order in society. The second and chief use of the law for Luther (*usus theologicus seu spiritualiter*) is the one where the law terrifies and frightens the conscience in order to drive the penitent to Christ (Gal. 3: 24).⁵⁴ The distinction between these

make up the *usus theologicus* or the second use of the law. The term *tertius usus legis* is usually identified with the *usus didacticus seu normaticus*. Luther, as we have observed in the last chapter, does not use this terminology. However, his *duplex usus* would correspond to the *usus civilis* and the *usus theologicus*. One reason why this subdivision within the *usus theologicus* is helpful is because it enables us to distinguish between the *usus elencticus* and the *usus paedagogicus*. As we have seen, the former corresponds the *lex accusans*; however, the latter is already oriented to Christ and presupposes the gospel. This makes it clear that the law by itself does not lead to Christ, but does so only when Christ takes it in hand. Luther has repeatedly said that the law by itself leads to despair. Only through the agency of Christ and the Spirit does the law become a true *paedagogicus ad Christum*, rather than a *latro*.

⁵³Schloemann, *Gesetz*, 99, n. 305, points out that it really only comes out in his controversy with Agricola that Luther understands the law of Moses not only as worldly legislation, but also especially as a preaching of the law for Israel in its special situation. Gerdes, *Luthers Streit*, considers the *lex Mosi* too one-sidedly as only *lex civilis*. This aspect of the law in Luther's thinking has developed since the *Schwärmerstreit*.

⁵⁴See WA 39 I, 459, 30-460, 24 (B) (2 AD, Arg. 14). Schloemann, *Gesetz*, 114, notes that the *usus politicus* and the *usus theologicus* have the same office. The difference is that in one case the law has nothing more than an external impact, while in the other it "hits home" and really penetrates the heart and conscience. Furthermore, Schloemann, 115-119, points out that the natural law and the two-fold *usus* have one and the same office. The *Strafamt* and *Zornesamt* of the law, which is latent, but always present, in the natural law, as expressed in the *usus civilis*, comes to expression in the *usus theologicus*, resulting in *Anfechtung*, and in extreme cases, can even result in the experience of the full *sensus legis*. No matter how the *Strafamt* of the law (which belongs to the very nature of the law as it is experienced by sinful human beings) is encountered, whether in the *usus politicus* or *usus spiritualis*, it can only be overcome by the gospel: *Quando loquimur de lege, loquimur de proprio effectu legis, quid ipsa tota in hac corrupta natura possit efficere seu praestare. Iam experimur omnes, eam aliud nihil posse efficere, quam desperationem* (WA 39 I, 445, 5-7 [2 AD, Arg. 8]). This passage goes on to speak about the limit of the law and the role of the *paedagogus*, which will be taken up below.

two *usus legis* corresponds to Luther's important distinction between the two righteousneses: *iustitia activa* or the political (civil) righteousness *coram hominibus*, on the one hand, and *iustitia passiva*, or the Christian (theological) righteousness, on the other, which is the only righteousness that avails *coram Deo*, because it is given by God himself as a gift, *propter Christum per fidem*.⁵⁵ This distinction between the two kinds of righteousness has its counterpart in Luther's distinction between law and gospel and is certainly common in the disputations. Although from the theological standpoint the *usus politicus* and the *usus theologicus* have to be sharply distinguished, yet in the preaching of the law they are most closely interwoven, insofar as it is the preacher's aim that the law should be understood at the same time in both its *usus politicus* and its *usus theologicus*. It is not as if each is meant for a separate category of persons, although Luther does distinguish between two groups of people, the *duri* and the *pui*, when it comes to preaching the law.⁵⁶

Luther's view of the law differs radically from that of the antinomians, who expressly reject the notion of a *lex condemnatrix* (the spiritual use of the law)⁵⁷ precisely because, in their opinion, the *lex praedicata*, does nothing but ac-

⁵⁵Luther sets out this distinction in his 1535 Preface to his *Galaterbriefvorlesung* (1531); see AE 26, 4-12.

⁵⁶WA 39 I, 399, 4-6 (1 AD, Arg. 21); 513, 4-6 (3 AD, Arg. 5). See also Ebeling, "Triplex usus legis," 67. Luther does, however, distinguish between two groups, as we will see later, the *duri* and the *pui*, but specifically for the purpose of explaining how the law is to be preached differently to the one than to the other.

⁵⁷WA 39 I, 343, 16-20 (Positiones antinomicae, Th. 16, 17). Furthermore, the antinomians classified Luther's statements about the *Strafamt* of the law from his great *Galaterbriefvorlesung* as "impure" (344, 20-23), and, on the other hand, a passage from the *Jesajakommentar* (WA 25, 249-50, 1527/30), where it says that the *lex* and *conscientia* are to be separated from each other as far as the

cuse and condemn. Therefore, the only use of the law that they are willing to concede is the civil use, where the law functions in a positive, non-condemning way. Luther opposes this doctrine at two points: First of all, he argues, as we have seen, that the law is fundamentally one, and that it is a fallacy to believe that by moving the law out of the church into the *Rathaus*, one has in any sense removed it.⁵⁸ Secondly, he contends that one has not really understood the law at all in its proper sense if it is not understood in the way Jesus interpreted it in his sermon in Matthew 5. He lumps the antinomians together with the Jews, Turks, and papists because—and here they show themselves to be hypocrites—they think that they can satisfy the law with works, like Paul did before his conversion. Yet they see only the veiled face of Moses (cf. 2 Cor. 3: 15-16), that is, they interpret the law only *de facto*,⁵⁹ in the sense of a mere external fulfillment,⁶⁰ but they do not experience the *vis legis*, which is accompanied by terror and death,⁶¹ as when one looks at the unveiled face of Moses and takes cognizance of Christ's interpretation of the law in the Sermon on the Mount.⁶²

heaven is from the earth: *Item alliganda est (scil. lex) ad corpus et exteriora membra, ut moderentur exteriora officia. Hic legis usus et proprius usus est*, was approved as "pure" (39 I, 344, 11-13).

⁵⁸Cf. WA 39 I, 456, 18-457, 1 (2 AD, Arg. 13), where Luther argues that you cannot remove the law *materialiter* simply by removing the letters LEX.

⁵⁹WA 39 I, 570, 2-9 (3 AD, Arg. 35/8).

⁶⁰WA 39 I, 459, 30-460, 24 (B) (2 AD, Arg. 14).

⁶¹WA 39 I, 483, 16-19 (2 AD, Arg. 28); cf. 401, 13-14 (1 AD, Arg. 24).

⁶²WA 570, 9-12 (3 AD, Arg. 35/8).

The *usus legis* merely represents two functions of the same law, and in each case the law is the instrument of God's wrath and punishment, even though we experience this far more explicitly in the preaching of the law than in the natural law and its manifestation in the *lex civilis*. Therefore, for Luther, even though the civil use of the law may appear to be positive, outside of faith the law is predominately negative and condemning. However, the difference between the antinomians and Luther is not that the former connect the *usus politicus* with Galatians 3: 24 at all, but that they apply this text exclusively to the *usus politicus* and therefore call it *usus paedagogicus* as well. For Luther both the *usus civilis* and the *usus theologicus* are included in Galatians 3: 24 insofar as it is the same law that is at work in *coercere delicta* as in *ostendere peccata*.⁶³ However, he will never equate the *usus politicus* with the *usus paedagogicus*.⁶⁴ As will be shown below, Luther rather ties the *usus paedagogicus* to the *usus theologicus* and thus sees the law in this *usus* as being oriented to Christ (with the proviso naturally: *ubi et quando visum est Deo*). A true theology of the law understands the law as interpreted by Jesus in the Sermon on the Mount, thus *spiritualiter*, as that which accuses, terrifies, kills, and damns.⁶⁵ Luther employs a second argument to oppose the antinomian

⁶³WA 39 I, 358, 28-29 (ATh VI, Th. 15): *Nec politica aut naturalis lex est quidquam, nisi sit damnans et terrens peccatores* (Rom. 3; 1 Peter 2). See on this, Ebeling, "Triplex usus legis," 67.

⁶⁴See the discussion of this in our analysis of the *conclusio* to the Second Disputation (WA 39 I, 485, 16-24). Schloemann, *Gesetz*, 123, n. 385, opines that Agricola and Melancthon are united in one point, and that is in their tendency to play down the *Strafamt* of the law. Neither of them sees that every demand of the law, even if it is intended to be quite neutral or is abolished in the gospel, still has some element to it that accuses spiritually.

⁶⁵WA 39 I, 410, 4-6 (1 AD, Arg. 31). This is not the place to discuss Luther's exegesis of the Sermon. Suffice it to point out that the Formula of

rejection of the *duplex usus legis*, in particular the *lex condemnatrix*, in favor of a *duplex revelatio evangelii*, where the gospel not only forgives but also condemns and drives to repentance. He says that the whatever condemns sin and preaches wrath is the law, even if it should happen with the words of the gospel. This important insight will be discussed in the next section.

Leaving aside for the moment the question of who is the subject of the *usus legis*, we recall from our analysis that Luther consistently speaks of two possible outcomes when the law (particularly the *usus theologicus*) is "used," or better, "misused," apart from faith: either *securitas* or *desperatio*.⁶⁶ On the other hand, when the law is used with faith, the penitent is ushered to Christ, and the law remains outside the Christian's conscience.⁶⁷ The former outcome (despair and pride) will result whenever the law is preached unaccompanied by (that is, isolated from) the gospel; the latter (faith) can only result when the law does not act alone but works towards the gospel. We now need to focus more closely on this second use and especially on the important cooperation and interchange between law and gospel.

Concord follows Luther in seeing the Sermon as an illustration of Christ taking the law into his own hands and explaining it spiritually (FC Ep. VI, 8).

⁶⁶If the *sensus legis* has its full effect and is unaccompanied by the gospel, it will lead immediately to despair and hell (note: elsewhere Luther says hell is knowing only the law, for the law is a *doctrina damnans*). The *sensus legis* can never be entirely avoided—except in Christ.

⁶⁷Although the term *conscientia in evangelio—caro in lege* (and variants) occurs chiefly in the *Galaterbriefvorlesung* of 1531 and not in the antinomian disputations, the idea is certainly present (cf. 39 I, 410, 9-16 [1 AD, Arg. 31]; 499, 14-21 [3 AD, Arg. 1]). For a discussion, see Joest, *Gesetz und Freiheit*, 101-109. For more on this question, see our remarks below in the section dealing with the third use of the law.

The key text in this matter is Galatians 3: 24: *Lex paedagogus in Christum*. The fact that the *lex* may become a *paedagogus* already shifts it out of the realm of the law and opens it to the gospel. However, Luther insists that the law cannot become this teacher by itself, but only by the agency of the Holy Spirit.⁶⁸ Left to itself it would become a robber.⁶⁹ Furthermore, there is no guarantee that the law will in fact become a *paedagogus* every time it is preached. The times and seasons for this rest with God alone (cf. *ubi et quando visum est Deo*). On top of that the devil may also interfere with the express purpose of derailing the whole "operation." When that happens, the law, instead of becoming a *paedagogus*, become a *latro*, because it drives the person to despair instead of into the arms of Christ. Here Luther makes a distinction between the evangelical use of the law toward Christ (*paedagogus in Christum*) and the demonic use of the law (*latro ad diabolum*).⁷⁰ The *paedagogus in Christum* is a word of comfort for it points to the end of

⁶⁸WA 39 I, 445, 11-13 (2 AD, Arg. 8). This is the evangelical use of the law as opposed to the demonic use where it drives a person to despair. On the difference between these uses, see 441, 2-443, 4 (2 AD, Arg. 6).

⁶⁹WA 39 I, 446, 3-5 (2 AD, Arg. 8): *Evangelium sua virtute ex latrone paedagogum et rapit illum occisum per legem et reducit ad Christum, id quod non fecit lex.*

⁷⁰WA 39 I, 440, 18-443, 4 (2 AD, Arg. 6). Luther explains the *usus paedagogus* of the law using the example of a child being raised by his tutor until he is ready to receive his inheritance. The *paedagogus* at times has to discipline him harshly, not to kill him, but to return him to the *paterfamilias* a better child. That is how we are to think about the law, says Luther, and not consider it anything other than a tutor until Christ. His advise to those who feel themselves harassed and terrified by the law is instructive: Think of it as good training. And remember, it is a tutor and not a robber: *Si te terret [scil. lex], vexat, bene est et recte fit, sed statim subeat animum tuum: Ecce adest paedagogia* (442, 11). But that is a recognition which can only be made by faith.

the law, and thus points to the proper definition of the law.⁷¹ This is important to note. Although the *usus theologicus* is the chief use of the law for Luther, the exposure and condemnation of sin and the accompanying *terrores conscientiae* are never meant by God to be an end in themselves—and when they are, that is already a perversion of the divinely ordained *usus legis*—but they are meant to lead the crushed (poor) in spirit to faith in Christ, for he is the τέλος of the law.⁷² It is surely significant that Luther calls the *paedagogus in Christum* (which is really the *usus paedagogicus* of later orthodoxy) the *propriissima et iucundissima legis definitio*. That for him then is more than a use, it is already a definition of the law in that it tells us not only about how the law functions, but what it does. But as we shall see below, the law only takes on this pedagogical role when it is taken into the service of the gospel. Here we stand at the threshold of that important *transitus* from law to gospel, which we will have to say more about later.

Luther never tires of emphasizing that although sinful human beings will always experience the law as a *lex accusatrix et condemnatrix*, this is not because the law itself is inherently bad but because fallen man is sinful. Indeed, Paul expressly says that the law is holy and good (Rom. 7: 7) and Luther says that it does not demand anything impossible. Rather, it is sin that makes the *praecepta impossibilia*.⁷³ Since the fall we cannot hear this holy law of God without fear and trembling. Our sin makes the law what it did not have to be, the *ostensio peccati*,

⁷¹Ibid., 441, 11-15: The *paedagogus in Christum* is *verbum solatii et propriissima et iucundissima legis definitio et magnam affert mihi consolationem et fiduciam*.

⁷²WA 39 I, 440, 6-15 (2 AD, Arg. 5).

⁷³WA 39 I, 515, 16-17 (3 AD, Arg. 7).

which thereby becomes the *revelatio irae Dei*.⁷⁴ The law shows us what we were, how we are, and what we will become.⁷⁵ The law exposes our sin and accuses us, but it cannot improve us. Indeed, it only succeeds in making us worse! For far from preventing sin, the law only provokes and increases sin all the more (Rom. 5: 13). Left to itself, it can do no more than drive to despair.⁷⁶ These are the consequences of the demonstrative or ostensive function of the law, but the reason that it has these effects is to be found, not in the law, but in sinful human beings themselves.

A discussion of the *usus legis* would be incomplete without asking who is the subject of this *uti*? God as the author of the law? Or man, to whom the law applies? Gerhard Ebeling is convinced that Luther's answer would be God,⁷⁷ for to make a human being the subject would be tantamount to making the law *necessaria ad iustificationem*.⁷⁸ Like man, the law is also only the *causa materia*, not the *causa efficiens* of justification. Luther insists that the law, in its *usus theologicus*, cannot itself lead us to Christ. Only Christ or the Holy Spirit can turn the law

⁷⁴WA 39 I, 348, 27-28 (ATh II, Th. 19).

⁷⁵WA 45, 147, 17-20 (Eine schöne Predigt von dem Gesetz und Evangelium [Matt. 22], 1537): *Christus will solche Lere [of the fulfillment of the law, as in Matt. 19: 17; Luke 10: 28; Gal. 5: 19-23] bei den Christen erhalten haben, daß sie wissen, was sie gewesen sind, was sie noch schuldig sind und was sie wider werden sollen, daß sie nicht jnn dem schlam bleiben, darinn sie jtz sind, Denn wo sie darinn blieben, müssten sie verloren sein.*

⁷⁶WA 39 I, 445, 5-10 (2 AD, Arg. 8).

⁷⁷Ebeling, "Triplex usus legis," 64.

⁷⁸WA 39 I, 447, 3-448, 7 (2 AD, Arg. 8).

into a *paedagogus* and prevent it from being a *latro* or a *diabolus*.⁷⁹ If, on the other hand, Satan were *lege uti*, it would no longer be an *usus legis* but an *abusus legis*, for its end would be *desperatio* not *fides*. To that extent faith could also be considered the subject of the *uti lege*, for only faith rules out *finalis praesumptio* and *finalis dubitatio*, but faith is never independent of Christ.⁸⁰ For the right *usus legis*, in contrast to a demonic, will not allow the law to become either a means to justification or an objection to it, but will turn it into a *paedagogus in Christum*.⁸¹ If the triune God is the real subject of the *uti lege*, it follows then that while pastors must distinguish between law and gospel, and not preach the one as the other, they themselves cannot determine how people will hear the law; they leave that to God who uses his words as he deems fit.⁸²

⁷⁹WA 39 I, 446, 22-23 (2 AD, Arg. 8) (B): *Evangelium facit ex lege paedagogum in Christum, non fit ab ipsa lege per sese*; cf. 445, 12-13. We will return to this.

⁸⁰WA 39 I, 428, 19-429, 1 (2 AD, Arg. 2).

⁸¹Ebeling, "Tplex usus legis," 66.

⁸²Haikola, *Usus legis*, 129-32, thinks that the real distinction between the different *usus legis*, as between law and gospel itself, depends on the hearers themselves. He maintains that the distinction made by the preacher is only of theoretical interest, for it happens only in the word. The word of the preacher can never anticipate the use of the word as such. The decisive distinction between the uses of the law, just as between law and gospel, depends on the use of the word by the hearer. At first blush this might seem as if Haikola is saying that the distinction between law and gospel is a purely human decision. However, he offers the following clarification (p. 133):

Wenn man nun recht verstehen will, wie Luther zwischen den verschiedenen Gebrauchsweisen unterscheidet, muss man erstens berücksichtigen, wie der Prediger in Worten klärt, zu welcher Wirkung das Gesetz rein theoretisch bestimmt ist, und gleichzeitig zweitens, welchen Gebrauch die verschiedenen Subjekte: Gott (Christus, der Heilige Geist), Satan und Mensch vom Gesetz machen (emphasis original). Ulrich Asendorf, *Die Theologie Martin Luthers nach seinen Predigten* (Göttingen: Vandenhoeck &

In this section we have seen Luther answer several arguments for the abolition of the law raised by his opponents. They may be summarized as follows: 1) The antinomians claim that the law increases sin. Luther, on the other hand, argues that the law does not increase sin in the sense that it causes it, but only in the sense that it exposes it, for the law is not the cause of sin, but we are. b) Luther also maintains that law should in fact be praised for causing sin rather than condemned, because in this way it humbles us and puts us in a position where we want nothing else than to receive the gifts that Christ gives us in the gospel.⁸³ 2) The antinomians hold that the bad (preaching the law) should not be done in the name of the good. Luther, on the other hand, insists that God, like a good doctor, uses the law first to show us our disease before he gives us the remedy of the gospel. If the law drives us to despair, it is only to save us, not to kill us.⁸⁴ 3) The antinomians contend that the law diminishes sin and thus makes for righteousness (Gal. 3: 24). Luther however maintains that *paedagogus* is not a reference to the external discipline of the law. Although the law terrifies the con-

Ruprecht, 1988), 337, n. 70, cites the above passage with approval and thinks that Haikola is right in emphasizing the relational use of the law in Luther. The purpose for the citation is merely to show that some scholars posit multiple subjects. In our opinion, Satan's use of the law is not an *usus* but an *abusus*, and secondly, we do not believe that faith uses the law but merely receives the divine *usus paedagogus*; unbelief, on the other, will inevitably misuse the law by seeking to use it for justification. Therefore, God as author of the law remains the only proper subject of the *uti lege*.

⁸³WA 39 I, 377, 9-378, 2 (1 AD, Arg. 10).

⁸⁴WA 39 I, 425, 8-430, 11 (2 AD, Arg. 2); cf. 530, 5-532, 7 (3 AD, Arg. 17); 581, 1-582, 5 (3 AD, Arg. 43/16): The law leads to despair of ourselves, not of God.

science, its purpose is not to drive to despair but (through the gospel) to open the way to Christ.⁸⁵

Law, Gospel and Repentance

Although Luther always insists that law and gospel must be carefully distinguished, in his struggle against the antinomians he is forced to emphasize just as strongly that law and gospel belong together and must never be isolated. In this part of our chapter, we will consider the different ways in which Luther argues this, particularly with reference to the preaching of repentance. We will conclude by examining the significance of the sequence law-gospel and the implications of the antinomian error that only one of them has a place in preaching.

Law and Repentance

The question of the cause of repentance was one of the key issues at the center of the antinomian controversy in the 1520s and 1530s. At its most basic level, Luther insisted that repentance was inseparably linked to the law, while the antinomians claimed that repentance was to be found only in Christ, and that faith takes the place of the power of the law to produce repentance and also the continuing significance of repentance for the Christian life. Luther too, of course, knows that Christ can teach repentance and make us into people who are *contriti* and *pauperes*. But Luther emphasizes that he does this through the interpretation of the law.⁸⁶ This is an important point and betrays a much profounder under-

⁸⁵WA 39 I, 440, 18-443, 4 (2 AD, Arg. 6).

⁸⁶WA 39 I, 533, 5 (3 AD, Arg. 18); 425, 1-2 (2 AD, Arg. 1): Christ preaches and interprets the law.

standing of the law than we find in the antinomians. Even though the words come from Christ himself or from the gospel, if they lead to sorrow and repentance, they are words of law.⁸⁷ Although Christ can preach the law with all severity, this is not his *propriissimum officium*, but rather *evangelizare pauperibus, hoc est, annunciare remissionem peccatorum et sanare contritos corde*.⁸⁸ Luther almost approaches a definition of the law here when he identifies law with whatever functions as law, that is, accuses consciences, even if it be the gospel.⁸⁹ Here he reveals a

⁸⁷Luther is also fond of pointing out that Christ does not say: Repent according to the gospel, but he says: Repent, and believe the gospel (WA 39 I, 533, 11-14 [3 AD, Arg. 18]).

⁸⁸*Ibid.*, 533, 9-9.

⁸⁹Luther's functional understanding of the law is taken over by the *Formula of Concord*. Thus Luther, in a sermon on the gospel for the fifth Sunday after Trinity (WA 15, 228) is quoted as saying: Everything that preaches about our sin and the wrath of God, no matter how or when it happens, is the proclamation of the law (BSLK 955, 12). Again, Luther is quoted (WA 39 I, 34825-28 [ATh II, Th. 18, 19]), as saying, *wider die Gesetzstürmer* (= *contra antinomios*): everything that rebukes sin is and belongs to the law, the proper function (*Amt = officium*) of which is to condemn sin and lead to a knowledge of sin (Rom. 3: 20; 7: 7); again: the *proprium legis officium* is to expose (*arguere*; Ger. *strafen*) sin and to give instruction about good works (BSLK, 957, 17, 18). James Nestingen, "Luther: The Death and Resurrection of Moses," in *Dialog* 22 (1983): 277, suggests that Luther's Nominalism enabled him to move from a structural view of the law [*lex aeterna*] to a more functional definition [*lex = officium*]. "Structurally defined, the law is understood statically, in terms of a world order built into the creation or a set of eternal moral requirements prescribing relationships with God and the neighbor. Functionally defined, the law is understood not so much in terms of the structures of things, or of what it says or requires, but rather in terms of what it does." However, a purely existentialist interpretation of the law, such as we have in Gerhard Ebeling, "Erwägungen zur Lehre vom Gesetz," in *Wort und Glaube*, 3d ed., 255-293, esp. 290-95, where the content of the law is not equated with the Decalogue, cannot be supported in Luther. The law does have content and this forms the basis of its judgment. It is one thing to be terrified by a rustling leaf because one has a guilty conscience. But we only know for certain that we are guilty *coram Deo* on the basis of the Decalogue. What becomes of statements like Gal. 3:

functional understanding of the law, which does not tie it to its authorship (Old Testament, New Testament, Moses, Christ, Decalogue, Sermon on the Mount, parenesis) but understands it on the basis of what it does.⁹⁰ Here law is not in the first instance equated with content (*Inhalt*) but with effect (*Amt*). Luther says that although the antinomians themselves still preach admonitions and give directives for how to live, and thus make use of the law, it is clear that already the vocable *lex* frightens them. However, when Luther now says what the law is, he describes it in a remarkably neutral way. Irrespective of whether a given word is adjudged to be law or gospel as it stands written on a page, the law is whatever performs the duties of the law and causes the *sensus legis*. Therefore, law and gospel must be distinguished not merely on the level of grammar but on the basis of effect. That means that even though *poenitentia* and *lex* are different words both according to grammar and considered *materialiter seu τεχνικῶς*, factually speaking [*quoad rem*] it is the same thing to preach repentance and to preach the law. The law is the revelation of wrath, because repentance, at least insofar as it is the recognition of sin, and the revelation of wrath are the effects of the law.⁹¹

24 (the law is our *paedagogus* to Christ) and Rom. 10: 4 (Christ is the *telos* of the law), and consequently of the whole Pauline doctrine of the law, if the law is no longer, as Ebeling maintains, to be equated with the Mosaic law?

⁹⁰Cf. WA 39 I, 534, 17-535, 2 (3 AD, Arg. 18). Schloemann, *Gesetz*, 128, n. 392, is probably right in his remark that Rudolf Hermann, *Zum Streit um die Überwindung des Gesetzes: Erörterungen zu Luthers Antinomierthesen* (Weimar: Hermann Böhlau Nachfolge, 1958), 19-20, goes too far when he holds that it is not the author, authority, and "signature" that are constitutive of the law, but function. It would seem to us that if one focuses on the function of the law to the exclusion (or virtual exclusion) of its content, as in existentialist theology, there is no factual basis for the law's accusation and judgment, and that everything then is made to depend on the feeling of terror and the pressure of conscience (Hermann: *Druck auf das Gewissen*) engendered by the law in its totality.

Luther takes this insight a step further and argues that the law, sin, wrath, and death are inseparable.⁹² This in turns becomes a very powerful argument in Luther's hands for the permanence of the law in this life. For to deny the existence of the law is tantamount to denying the reality of death. The antinomians might deny sin (or, as we will see later, at least it poses no threat to them because it is forgiven), but death they cannot deny, for the law is the power of sin, and death follows in the wake of sin. This exegetical argument concerning the inseparability of law, sin, wrath and death further undermines the antinomian view that the preaching of the law should be abolished from the church and not taught because it is unnecessary.⁹³ Luther's riposte to that is: necessary or not, the law is inescapable for it is part of creation and Christians themselves still have remnants of sin.

We have seen that Luther rejects the antinomian claim that repentance arises *ex evangelio* and insists that, on the contrary, it arises *ex lege*. However, this is not to say that he denies that repentance can occur *ex evangelio* or that the gospel belongs to repentance.⁹⁴ Rather, as we saw, his point is that even if repen-

⁹¹WA 39 I, 415, 13-18 (1 AD, Arg. 36); cf. 348, 25-33 (ATh II, Th. 18-21), esp. Th. 20: *Lex et ostensio peccati, seu revelatio irae, sunt termini convertibiles velut homo, et risibile vel rationale.*

⁹²This is the main theme of the second *Thesenreihe* (WA 39 I, 347-350); see also the sixth *Thesenreihe* (39 I, 358).

⁹³Cf. WA 39 I, 583, 2-17 (3 AD, Arg. 45/18), where Luther argues that the law and sin are inseparable: Abraham was sinner, hence, he had to have the law.

⁹⁴Indeed, in WA 39 I, 572, 15-575, 2 (3 AD, Arg. 36/9), he admits that at first he himself used to teach repentance *ex amore iustitiae*, that is, *ex evangelio*, because at the time people had been exceedingly crushed by the papacy and had been brought to the brink of despair, in fact were already *in medio inferni*, and that

tance does arise from the preaching of the gospel, it is not really caused by the gospel, but by the gospel functioning as the law. The favorite way the antinomians have of speaking about repentance is to say that it arises *ex violatione filii* instead of the *ex violatione legis*.⁹⁵ As we saw in the analysis, Luther does not allow them to play the Son off against the law in this fashion, for he contends that since sin has been revealed through the law, and the Son has been given to fulfill the law (and he gives the Spirit to fulfill it), the real *violatio filii* is not to believe in him. But this at the same time amounts to a *violatio legis*, for the first commandment of the Decalogue requires nothing more than faith in Christ.⁹⁶ Furthermore, since the law enjoins faith, it is the law and not Christ (certainly not in his *opus proprium*) that condemns unbelief.⁹⁷ In having the cross call us to repen-

unless he had begun to haul them out immediately with the gospel, they would have utterly perished. However, when the antinomians claim simply to be following him in preaching only gospel, Luther contends that they fail to understand the circumstances which made that necessary at the beginning of the Reformation. The situation in Wittenberg in the 1530s was radically different than at the end of the 1510s and in the early 1520s. We will comment further on that when we deal with his law-gospel pattern. For now, it is enough to note that Luther says that if repentance is to be taught or begun *amore iustitiae*, this can only happen in those who are *afflicti et contriti* (10-11).

⁹⁵We saw this already in first thesis of the *positiones antinomicae* (WA 39 I, 342, 9-10), where *ex Decalogo*, or *ex lege Mosi* was used for *ex violatione legis*.

⁹⁶In the final analysis *violatio filii* and *violatio legis* are one and the same sin against the law because, as we have already seen, the law is one. Admittedly, in polemical contexts Luther can sometimes speak of a double sin against the law and against Christ, but he does so only to show that they are one and the same. Thus, we agree with Schloemann, *Gesetz*, 108, n. 337, that the *violatio Christi* can just as well be defined as sin against the one law, since all sin against the law is always *incredulitas in Christum* (WA 39 I, 384-386 [2 AD, Arg. 15]; 399-404 [1 AD, Args. 22, 23, 24, 26]).

⁹⁷For Luther's answer to the antinomian argument that repentance is not *ex lege* but *ex violatione filii*, see WA 39 I, 384-386 (1 AD, Arg. 15).

tance, the antinomians seize on one of the central insights of the early Luther which however even the later Luther does not deny (though he does caution its use). Luther reproaches them for making a foolish self-contradiction: by using the *violatio filii* instead of the *violatio legis*, the cross exercises the function of the law, and thereby become a terrifying accusation. They seek to bring the law back in the form of the *decalogus* and establish it as a terrifying accusation on the basis of the cross of Christ. On the one hand, the Decalogue thereby loses its character as instruction; on the other, the cross is in danger of being changed from the gospel into a new law.⁹⁸

But there is another reason, besides theology, which accounts for Luther's opposition to the idea of preaching repentance *ex evangelio* rather than *ex lege*. It has to do with the pastoral care of people plagued by doubt and *Anfechtung*. In a decisive argument in this connection he recalls the suicide of Dr. Krause in Halle ten years earlier. This man, a senior official of the well-known Archbishop Albrecht, had received the Lord's Supper in both kinds when the Reformation first began to take hold in Halle; admittedly, the archbishop was out of town. When he returned and opposed the attempted reforms Krause stood back and denied the gospel. The fact that others willingly accepted suffering and banishment, among other things, on account of the evangelical faith not only shamed him, but drove him to such despair that he could no longer take comfort from the gospel and ended up taking his own life on All Saints' Day, 1527.⁹⁹

⁹⁸Thus, Albrecht Peters, *Gesetz und Evangelium*, 46.

⁹⁹WA TR 1, 278, 16-42 [No. 590], 1533.

In Luther's opinion, the antinomians are ill equipped to deal with such a situation in a pastoral way, even though both agreed that nothing but faith in Christ can help. But unless one properly distinguishes between law and gospel precisely at this critical point, Christ is deprived of his *opus proprium* as the savior of all the Krauses of this world, and instead becomes a merciless judge. Luther seems to be of the opinion that nobody at the time had been a true *Seelsorger* to Krause; there was no confession and absolution, no proper distinction between law and gospel; no one had spoken the proper word to him.¹⁰⁰ To distinguish between law and gospel in Luther's sense means not to torment oneself before God over something that one has done or not done. That is what the devil loves to dispute with us over, and as soon as we enter into dialog with him he binds our conscience under the law. This is not the time to remind the *Angefochtene* of the goodness and loving kindness of God, for that may well be heard merely as condemning law, thus driving him deeper into despair. Only when there has been confession of sins *coram Deo*, is the way open for a person to receive the forgiveness of sin. This is classically illustrated by the story of David and Nathan story (2 Sam. 12: 13), which Luther refers to several times. First, David confesses his sins (law); then Nathan, speaking *in loco Dei*, pronounces the abso-

¹⁰⁰According to previously cited *Tischrede*, such a word in Luther's opinion would have been: "*Si fecisti, so ist's gethan.*" In spite of the "*getan*" the devil does not have his soul. "*Quia vber das facere, ist noch das credere*" (WA TR 1, 277, 3-5). Ultimately it does not depend on what we have done or left undone. Luther stresses the gravity of such *Anfechtung*: Gott allows it to happen that "*offt so auf die Heften kommen, das einer nit mehr kan*" (Ibid., 16-17). He also shows a profound grasp of the insidious cunning of the old evil foe, for Satan can take the gospel and stand it on its head so that it becomes law. Thus Satan: "*Sed Deus dicit te, quia legem non feceris, esse damnatum; respondeo: Dixit etiam, ut vivam*" (Ibid., 10-11). Only the person who can properly distinguish between law and gospel *in tentatione*, can quote scripture against scripture, the gospel against the law.

lution (gospel). Only when a person has confessed his sins, received the absolution, and has been admonished to take his eyes off his sin and fix them firmly on Christ and his words of forgiveness, is his conscience freed from the law. Failure to distinguish law and gospel here opens the door to Satan, who turns the gospel into a law just as quickly as he transfigures himself into an angel of light, or worst of all, appears before us as Christ himself.¹⁰¹ The poverty of antinomianism, which becomes clearly apparent at just at this point, is its inability to offer genuine comfort to souls that are deeply troubled for it is unable to speak a clear and unqualified word of gospel, unmixed with law. Indeed, the very claim of the antinomians to have a non-condemning law, by allowing the gospel to do the work of the law, proves to be their own undoing. Precisely because for them the gospel, the word of forgiveness, can never be spoken without people at the same time hearing the voice of the law summoning them to repentance, it can never be heard as pure gift, without any demands whatever. In such a case, the sheer goodness and loving kindness of God, which is meant to lead one to repentance, is unable to rescue the penitent and lead him from contrition to faith in the *beneficia Christi*. In the end he is smothered by the grace of God and plunges into despair.

The antinomians, of course, for their part, would no doubt turn Luther's reproach back on himself and accuse him of making a law out of the gospel, and

¹⁰¹Rudolf Hermann, *Zum Streit*, 25 n. 8, suggests that even though Luther in the disputations never actually says that the devil turns the gospel into the law, as he states in his *Tischrede*, the idea is there in substance. We concur, and would go on to argue that it is just because Luther sees this as one of the grave dangers of antinomianism that he warns his hearers against opening a door to Satan by failing to distinguish the gospel from the law. The other danger is libertinism, where the freedom of the gospel is used as a pretext for license. In both cases the gospel is lost.

that in two ways: 1) by demanding that the gospel cannot be heard as gospel unless the law has first exposed our sin and put us at the mercy of God; 2) by claiming that law is also to be found in the *beneficia Christi* (understood as a motive of repentance), for as we saw earlier, Luther willingly grants, in agreement with Paul, that the goodness and kindness of God can lead to repentance (Rom. 2: 4). But for him, this is a case of the gospel doing the law's work, its *opus alienum* and not its *opus proprium*, which is always pure gift, comfort, forgiveness, received by faith. For the antinomians, however, the *beneficia Christi* function in a dual capacity: first they comfort, but then they can also cause fear. Because by denying the law they cannot distinguish between law and gospel, they have to make a new distinction within the gospel, that is, between the gospel as *Bußpredigt*, on the one hand, and as the proclamation and gift of forgiveness, on the other. From Luther's standpoint, this means that the law is forced into the gospel and thus destroys it. He admits that sin can be exposed either through law or gospel, for we are not all called to Christ in the same way, but he insists that when this happens through the gospel, it is not really the gospel that does it, whose *opus proprium* is to forgive, but the law.¹⁰² In antinomian teaching, the comfort of the gospel becomes a means to an end: the end being repentance, instead of repentance itself serving as a means to the gospel. The result is that God's ultimate word in the gospel loses out to his penultimate word in the law.

An analogy that Luther sometimes uses in describing the role of the law in connection with salvation is to compare God to a doctor, who cannot heal a disease before he first diagnoses the problem and informs the patient. Law and gospel then are related to each other as diagnosis and cure (*remedium*). In line with

¹⁰²WA 39 I, 425, 2-5 (2 AD, Arg. 1).

Jesus' words that those who are well have no need of a physician, but those who are sick, the proclamation of the forgiveness of sins (the office of the gospel) presupposes that people know that they are sinners.¹⁰³ One could not even recognize Christ's work as proclaimed by the gospel if the law had not first exposed the sin. In other words, the gospel cannot be proclaimed in any other way except in contrast to the law. To do otherwise would be no different from a doctor first prescribing a treatment before doing a diagnosis. Therefore, even to know one's sin is already a *magnum beneficium*, but only because the remedy is applied afterwards in the gospel.¹⁰⁴ By itself the law would only bring death, but followed by the gospel it prepares for the gift of life. This example, which underscores the impossibility of having Christ without the law, further strengthens Luther's contention against the antinomians, who claim that if one has Christ one does not need the law. But now we need to turn our attention to the important transition that occurs when one moves from contrition to repentance, from sorrow to faith, and to inquire into the nature of the transition from law to gospel.

Luther has insisted from the beginning that repentance, strictly speaking, consists of two parts: first, *dolor de peccato*, and then *propositio melioris vitae*.¹⁰⁵

¹⁰³WA 39 I, 348, 40-42 (Ath, II, Th. 25); 424, 6-19 (2 AD, Arg. 1); 535, 14-15 (3 AD, Arg. 18). Cf. 416, 10-11 (1 AD, Arg. 37): To preach forgiveness is nothing else than to indicate and show the presence of sin.

¹⁰⁴WA 39 I, 517, 3-11 (3 AD, Arg. 7).

¹⁰⁵WA 39 I, 345, 16-17 (Ath I, Th. 1). Cf. CA 12: *Nun ist wahre rechte Buß eigentlich nichts anderes dann Reue und Leid oder Schrecken haben über die Sünde und doch daneben glauben an das Evangelium und Absolution, daß die Sünde vergeben und durch Christum Gnad erworben sei, welcher Glaub wiederum das Herz tröstet und zufrieden machet. Darnach soll auch Besserung folgen, und daß man von Sünden lasse . . .* (BSLK, 66-67).

The *dolor* is *ex lege* but the *propositum bonum* is *ex evangelio*.¹⁰⁶ Both law and gospel have a role to play here, for although Luther stresses, *contra antinomios*, that repentance arises from the law and not the gospel, he does not mean to imply that the gospel plays no part at all. In fact he can even say that the gospel or Christ, and not the law, is the principal part of repentance.¹⁰⁷ And the reason why the gospel (or faith) is the chief part of repentance is because without it the law could not lead to life, but would only kill and drive to despair. But under the power of the gospel, the killing of the law is not a mere killing, but a killing of the *vetus homo* in the service of life. Then it can truly be said of the law: *occidendo vivificat*. But the law does not have life in itself nor the power to give life, it can only kill,¹⁰⁸ but when faith is kindled, this killing is then a preparation for the gospel. To say it again, the law can only lead to life because and insofar as the gospel comes and thus for Christ's sake the sin exposed and convicted by the law is not imputed to the believer *coram Deo*. Only when the law is used with faith does it become a *paedagogus in Christum*, and not a *latro*, who wants only to kidnap and kill. Therefore, to give more precision to our definition, we may say that repentance is not strictly *ex lege*, but rather arises from the preaching of both

¹⁰⁶Ibid., 345, 22-23 (Th. 4).

¹⁰⁷WA 39 I, 471, 16-772, 2 (2 AD, Arg. 18): *Christus autem est prima et principalis pars. Dolor potest esse prima, sed non principalis, efficiens causa est omnium optima et prima*. This is his reply to the opponents who say that the law is necessary (and hence justifies) as the efficient cause of repentance. Luther, in his Smalcald Articles, says [Part 3: *Von der Buße*] that where the law exercises its office alone, without the addition of the gospel, there is only death and hell, and a person must despair like Saul and Judas [BSLK, 437].

¹⁰⁸WA 39 I, 446, 3-5 (2 AD, Arg. 8): *Evangelium sua virtute ex latrone paedagogum et rapit illum occisum per legem et reducit ad Christum, id quod non fecit lex*.

law and gospel.¹⁰⁹ And although Luther will admit that repentance can also arise from preaching the gospel first,¹¹⁰ even if for *seelsorgerlich* reasons he does not recommend it, nevertheless it always remains a movement from law to gospel, and not vice versa, as the antinomians teach.

The exact location of the origin of repentance is not the important thing, whether in the picture of Christ or the Ten Commandments, as long as the remorse it engenders is understood as a function of the law (diagnosis of problem/preparation) and not as part of the gospel (treatment/restoration). The important thing is rather getting beyond the temptation to morbid introspection, self-accusation, and finally despair, where, as we have seen before, the law becomes a devil and kidnaps us from Christ instead of a teacher who leads us to Christ.¹¹¹ But how can we be certain of making the transition from the *terrores*

¹⁰⁹WA 39 I, 414, 11-13 (1 AD, Arg. 35). The thesis of S. Kjeldgaard-Pedersen, *Gesetz, Evangelium und Busse: Theologieggeschichtliche Studien zum Verhältnis zwischen dem jungen Johann Agricola (Eisleben) und Martin Luther* (Leiden: E. J. Brill, 1983), is that if we say both law and gospel are necessary for repentance, we mean that the law only reaches its goal where the gospel prevails and is heard. Another way of putting it is to say that the law only reaches its goal if its fulfillment is given, as done in Christ. However, we need to remember that this is a statement made from the standpoint of faith, for the law only reaches its proper goal of leading people to Christ if it is pulled along by the gospel.

¹¹⁰As we have already seen, the fact that a person is led to repentance *ex cruce seu passione Christi* does not imply that the law is thoroughly useless or is to be removed. In WA 39 I, 407, 1-15 (1 AD, Arg. 38) Luther simply acknowledges the fact that people come to Christ either *ex cognitione legis* or *ex cognitione crucis Christi*. He holds that whether you come by the law or the rhetoric of the gospel [*Evangelii rhetorica*] is immaterial, the end result is the same. Luther explains what he means by the rhetoric of the gospel. Unlike the law which simply proceeds *accusando, damnando, arguendo* etc, the gospel compels [*compellit*] you to repent with its alluring words [*blandissime*] and entices [*pellicit*] you *arte quadam seu rhetorica ad agendam poenitentiam*. Cf. 400, 15-402, 7 (1 AD, Arg. 24).

conscientiae to faith? What warrant do we have of this? The uncomfoting truth is that we can produce no guarantees. If there were, we would have God in our power and would be able to manipulate him with the right formulas. All depends on Christ and his Spirit, for he is Lord of both law and gospel. The shattered conscience cannot put itself together any more than a man with broken legs can stand up and walk. Repentance and faith are both gifts of God. Repentance is not a precondition for faith in the sense that it is a human accomplishment, yet there can be no faith without repentance. Repentance, which strictly speaking includes faith, is God's work in us and not our work. It is not a psychological state which we reach through the law for such an anthropocentric view would open the door to synergism. Rather, repentance is produced in us by God working through law and gospel.

We should note here in passing that Luther distinguishes the Spirit's work in the law from that in the gospel. In response to the antinomian claim that the law by itself cannot expose and convict sin, but that this happens only by the power of the Holy Spirit, Luther distinguishes between the Spirit in his divine nature as the author of the law and the gospel-Spirit as gift through Christ (the *Spiritus proprie dictus*). This forms a counterpart to his distinction between the *Deus nudus* and the *Deus incarnatus*, or again between Christ's *opus alienum* and his *opus proprium* (although these terms do not occur in the disputations).¹¹² The crucial point here is that where the Spirit exposes sins and moves the heart through the law, he is not doing the same as when he works faith through the

¹¹¹This is what Hermann, *Zur Streit*, 28, calls the *Übergangsproblem*.

¹¹²This is discussed in WA 39 I, 369, 19-371, 16 (1 AD, Arg. 4) and 388, 23-391, 20 (1 AD, Arg. 17).

gospel. These two works of the Spirit are as radically different as law and gospel. By means of this argument Luther refutes the argument of his opponents that the law is unable to produce the *terrores conscientiae* without the aid of the Spirit and thus is useless.

Luther's Law – Gospel "Pattern"

We saw earlier that Luther can talk about the law before the fall as a *lex iucunda*, which Adam delights in like the angels. Since he is without sin the law has nothing to accuse. Although Luther still calls it law, it is in effect no law at all but is more like the gospel in the sense of God's good gift. However, all that changes after the fall. Because Adam rejects the gift of this law, it now accuses and condemns him. No longer a friend, it becomes his fiercest enemy, exposes his sin, and becomes an agent of death. It points to life but is unable to deliver life. Luther echoes Paul in stressing over and over again that the fault is not with the law but sin. But God in his mercy does not leave sinful human beings in the grip of death and under everlasting condemnation. He now speaks another word, a word of life which destroys death, a word of forgiveness which wipes out the guilt of sin, a word of pardon which overturn the condemnation of the law. This other word, which God speaks after the fall, is the gospel, and it stands in direct antithesis to the law. Inasmuch as Christians are both saints and sinners at the same time, they live out their life in the tension field of this twofold word of law and gospel. Each must be carefully distinguished from the other, not for the sake of the law but for the sake of the gospel. Since the law is a *datum* of this world and belongs to the structure of creation, it cannot be lost nor can it be escaped. As Luther says, it is *schon da*. The gospel, on the other hand, as God's *novum*, a word which comes only from him, which does not belong to this world,

but is spoken definitively in Jesus Christ. When law and gospel are not carefully distinguished, the gospel is lost and becomes a new law.¹¹³ However, over against the antinomian heresy, according to which the law has no place in the church, Luther must also emphasize the inseparability of law and gospel. Those who want to pull law and gospel apart, holding onto the gospel while letting the law go, need to be reminded that if the law is lost the gospel will be lost too. How exactly he argues that will be considered in more detail in the final part of this chapter.

In the first Disputation against the Antinomians Luther spells out his *methodus*: First, the law must be preached to expose and convict sins that people may then receive the promise of the gospel.¹¹⁴ And in the *Praefatio* he says that the best way to teach doctrine and to keep it pure is to follow this method: divide Christian doctrine into two parts, law and gospel.¹¹⁵ When this is not done, the

¹¹³Hence Luther says that the ability to be able to distinguish between law and gospel is for Luther the mark of the skilled minister and true theologian (WA 39 I, 466, 12-13 [2 AD, Arg. 15]).

¹¹⁴WA 39 I, 345-347, esp. Th. 25-39 (ATh I); 362, 15-363, 20 (1 AD, Praef.). On the *ordo rei*, see 347, 1-6 (ATh I, Th. 28-30). The order is Death (Adam = law) first, then life (Christ = gospel). This is an important argument based on *experientia*. When Luther says Adam comes first, then Christ, he is not denying Christ's preexistence, but is explaining the order of law and gospel which in turn mirrors the order of salvation history (cf. Rom. 5). Cf. 347, 5-6 (Th. 30): Therefore, Adam is to be taught first (i. e. sin and death), then he who is the form of the coming Christ [*Quare prior docendus est Adam (id est, peccatum et mors), qui forma est futuri Christi postea docendi*]. Note how Adam here functions in a dual capacity, both as the progenitor of the fallen world (by Adam sin entered the world), as well as the type of the coming Christ. See too 358, 1-4 (Th. 1, 2), 358, 14-15 (Th. 8), where law and death are correlated. The significance of this method will be discussed later.

¹¹⁵WA 39 I, 361, 1-4 (1 AD, Praef.).

error also results in the loss of the gospel. The antinomian view, that the gospel must be preached before the law, is predicated on the belief that it is the law that exposes sin and shows the need for redemption. However, this turns the gospel into a law.¹¹⁶ The antinomians defended their gospel-only preaching by appealing to historical precedent. Luther himself at the beginning of the Reformation did not preach the law but only the gospel, that is, he preached repentance *amore iustitiae* or *ex evangelio*.¹¹⁷ However, he says that for the antinomians to emulate

¹¹⁶See 1 AD, Args. 3, 16, 17, 22-24, 26-28, 32, 35-37; 2 AD, Args. 1, 14, 15, 28; 3 AD, Args. 18, 33/6, 34/7, 35/8, 36/9, 40/13, 43/15. The opposite view, held by the papists, that observance of the law is necessary for salvation, turns the law into the gospel by making it the way of salvation. See 39 I, 448, 10 (2 AD, Arg. 9): *Lex Dei est sermo vivus et institutus ad vitam. Ergo lex vivificat* (cf. Heb. 4: 12; Lev. 18: 5). See also 224, 7-12 (PT, Arg. 13); 227, 2-9 (PT, Arg. 14); cf. the *argumentum* and Luther's *responsio* in 408, 5-409, 24 (1 AD, Arg. 30); 440, 18-443, 4 (2 AD, Arg. 6). Both positions stem from the same basic failure to properly distinguish law from gospel. Luther fears that after his death this distinction will be lost (WA 39 I, 507, 12-15 [3 AD, Arg. 3]).

¹¹⁷As we saw above, Luther freely admits this (see WA 39 I, 572, 15-573, 5 [3 AD, Arg. 36/9]). It is probably misleading to say that at this early period Luther simply preached the gospel and that it was only later in the 1520s that he began to preach the law also, and hence to distinguish between law and gospel. In our opinion, it would be more correct to hold that Luther's early preaching of the gospel is a direct outcome of his law-gospel distinction, and accordingly a correct application of his maxim: preach grace to the *afflicti et contriti*, but not to the *securi, otiosi, scortatores, adulteri et blasphemii* (574, 8-10). The distinction between preaching law and gospel corresponds, in Luther, to his conviction that there are only two types of people in the world: *pauperes, infirmi, pii vel qui desiderant pii esse, et divites seu sani, hoc est, impii et securi nebulones* (574, 11-13). He gives sage advice to future pastors: People in all ages therefore remain the same, so that it is against this background that you learn how properly to distinguish law from gospel, in order that you do not teach everybody everything indiscriminately (574, 13-15). Thus, in keeping with the above, it has been pointed out by H. Ivarsson, *Prdikans uppgift* (Lund, 1956), 158ff., cited by Schloemann, *Gesetz*, 113; the Swedish is inaccessible) that Luther's basic homiletical rule of thumb is as follows: 1) Where there is no *Anfechtung* (experience of sin and the law) at all,

that method today when things have changed so drastically is utterly perverse. People are no longer living in fear and terror as they were in the early days of the Reformation. Here Luther recalls that they were so burdened by the law in those days that they were filled with panic even at the rustling of a leaf falling from a tree, while the pope or the face of a priest caused the whole of Olympus to shake! He charges that "our antinomians" want to preach sermons belonging to a time when people were contrite at an time when people were secure [*conciones saeculi contritorum in saeculo securorum*].¹¹⁸ Preaching only the gospel however would result in grave spiritual repercussions: the *securi per se* would become even more secure so that in the end they would fall from grace completely.

However, the problem of antinomianism has serious pastoral consequences for both classes of people (according to Luther's division): Not only are the *securi* made more secure, with the risk of falling from grace, but at the opposite end, the *afflicti et contriti* are driven to despair. We have seen from our discussion of Dr. Krause's suicide how the antinomians, by turning the gospel into law in such a way that it falls to the gospel first to forgive sin and then to convict, are quite ill-equipped to comfort troubled *Angst*-ridden souls with the certainty of the gospel, which as God's final and definitive word for faith, stands over against the accusation of the law and silences it *propter Christum*. But why should that be the case? We will allow Dr. Luther to be our teacher. In one of his responses he especially addresses those in the audience who would eventually become *doctores* of the church, and advises them what to do when one day someone comes to

no gospel is to be preached either; however, 2) where *Anfechtung* already predominates, the law must not be preached on any account.

¹¹⁸WA 39 I, 574, 5-6 (3 AD, Arg. 36/9).

them with a deeply troubled conscience, unable to find peace from the constant assaults of Satan. He warns that in such a case it is unnecessary to sharpen the law any further for such people are already troubled by the law and sin.¹¹⁹ Rather, he says, begin like this:¹²⁰ Dear brother (sister), you are sad and burdened by the law and God's wrath. That is good and necessary. But, on the other hand, it is also God's will that you do not remain tormented but are comforted and cheered. Each of these two is the command and will of God: to believe that because of sin you are under penalty of eternal condemnation, and, on the other hand, to believe that God does not want you to despair of his divine mercy toward you. In the midst of your terrors he wants you to learn to flee to his divine mercy promised in Christ, even if you see nothing but sin and death, for God wants to create life out of death, and righteousness out of sin. Luther advises his students that as pastors they need to be on the lookout for people (especially young people, for we are not all tempted equally by Satan) who have been gripped by the devil, and who should be comforted in a similar way: Dear brother (sister), because Satan harasses you like this, he is bringing about his own end, and this is the way it must be in order that your triumph in the end may be the more glorious. But they will say: God hates me, he has forgotten about me and does not want me. Luther says that the pastor should reply: On the contrary, he does want you and commands you through my mouth and that of St. Paul's to put your hope in him and believe that Christ died and was raised for you, and

¹¹⁹Luther says that it is Satan who always sharpens the law [*supra modum exasperat*] against the *iustificati* (WA 39 I, 474, 11-14 [2 AD, Arg. 21]).

¹²⁰The following is our paraphrase and summary of WA 39 I, 427, 18-429, 1 (2 AD, Arg. 2).

that by his death God's wrath has been appeased and that the Father has been reconciled to you. He goes on to say that the pastor must make it clear that this must be believed in spite of what one feels. To doubt this and to go on despairing is not pleasing to God (here Luther rejects all contritionism and anthropocentric attempts to atone for sin through one's own suffering), but is indeed a deliberate sin against the first commandment, which demands that you believe that he is your God, and not your enemy, not the devil, not death, not sin. Luther reminds those aspiring to be pastors and teachers that at this point faith must simply be urged because *finalis praesumptio* and *finalis dubitatio* are each a sin against the Holy Spirit, for where forgiveness is not sought it cannot be received.

The pastoral proclamation of the law to the *contristati et perterrefacti* does not really entail preaching the law in the sense of the *usus theologicus*, but rather aims at clarifying to them that what they are experiencing is the *sensus legis*, and that this is not intended by God as an end in itself but as a prelude and preparation for the comfort of the gospel. Even though, as we said, this is not a proper preaching of the law, because these people have already been crushed by the weight of the law, it is an important preparatory step that conforms to the basic direction of preaching from law to gospel, and interprets to those suffering the *terrores conscientiae* that what they are feeling is indeed the impact of God's law, and for good reason, but that that is only meant to be the door to the gospel. Here the pastor is to be like John the Baptist (to use Luther's image) who points to Christ, the end of the law; he must admonish the conscience-stricken penitent to be bold and tell the law: You have reached your limit. You have no authority to

go any further, now back off!¹²¹ Here the pastor is not only preparing room for the entry of the gospel, but he is teaching his people how to distinguish law from gospel themselves. This indirect proclamation of the law to the troubled in conscience is an important preliminary step to the preaching of the gospel for it identifies and locates the work and effect of the law and thus facilitates a concrete specific, *in situ* preaching of the gospel. Furthermore, this indirect proclamation of the law to the *pui in tentatione*, does not contravene Luther's pastoral advise not to preach the law to those who are troubled by the *sensus legis* (*Anfechtung*), nor does it jump the proclamation of the law all together, because wherever the law is not explicated, interpreted, and applied, the gospel is that much weakened or even lost entirely. Even though as we saw earlier it is impossible to escape the effect of the law altogether because our entire earthly life is connected to the web of the *lex naturalis*, people do not understand that what they are experiencing is indeed God's law, and that its purpose finally is to lead them to Christ in whom the law finds its fulfillment and end. When the pastor fails to explain this to the penitent, he is like the careless doctor who overlooks the diagnosis and simply writes the prescription, with the result that the gospel becomes like a generic panacea unable to target the disease, and is thus robbed of its power to deliver the sinner from the grip of the law and its attendant effects. Therefore, not to preach the law, even if only indirectly, does not magnify the gospel, but on the contrary, diminishes it.

We note in passing that Luther's proposed *methodus*, which recommends that the law be preached before the gospel, does not mean that in every sermon the law must first be preached in all its severity as if there were no gospel, and

¹²¹WA 39 I, 454, 19-455, 8 (2 AD, Arg. 13); 445, 13-446, 5 (2 AD, Arg. 8).

then after people are sufficiently frightened or crushed, end with the gospel. To understand Luther's law-gospel *ordo* in such a rigid, schematic way is ultimately to misunderstand it, not least because it fails to take account of the fact that the gospel can also function as law. He intended this method as a theological statement in order to clarify the relationship of law and gospel; it is not meant to be a homiletical rule that is slavishly followed in every sermon.¹²² It means that the gospel cannot be heard as the gospel of the savior unless the law is first heard (even if only indirectly in the case of the justified) reminding us that we are still sinners. On the other hand, Luther also says that the law must not be preached to the justified in a way that frightens them but must be softened and preached in the form of exhortation. What this means will be explained in the section on Faith and the Law.

We see from the foregoing the vast gulf that separates Luther from the antinomians when it comes to ministering pastorally to people who are tormented by *Anfechtungen*. The latter, because they teach that the gospel contains both a word of comfort and a word of accusation, and because the basic thrust is always from gospel to law, cannot help those who feel they are unworthy of God, that their sins are too great, that they are not contrite enough, or that they cannot forgive themselves! Since, for the antinomians, the selfsame word that forgives also condemns, the penitent has no recourse to a higher court or greater authority. He is left turned in on himself, mired in guilt and remorse. Only the pastor

¹²²Gerhard Heintze, *Luthers Predigt von Gesetz und Evangelium* (Munich: n.p., 1958) turns Luther's law-gospel *ordo* into a rigid *orthodoxes Lehrschema* which must always be followed in strict succession, and then criticizes him for not following his own principle in his sermons. For a critique, see Schloemann, *Gesetz*, 37-41.

who can distinguish between law and gospel can point such a person beyond his fear and doubt to Christ, who as the *agnus Dei* bore all our sin, and for whom whom no sin is too great to be forgiven. Only the pastor who tells the penitent that everything depends on what God has done for him in Christ and not what he has done or not done, only the pastor who tells him that his dear Lord wants him, indeed commands him, to believe that he is forgiven, and that to listen to his conscience rather than to the voice of Christ is nothing less than an act of unbelief, only that pastor is properly distinguishing law and gospel and can be used by the Lord to bring comfort to the broken in spirit. The gospel loses its character as absolution if it burdens people before or afterwards with new demands instead of freeing them.

The Transition from Law to Gospel in Repentance

We have already said that the law, which *post lapsum* is no longer a *lex iu-cunda* but a marauding power, our enemy in fact, can only serve as *paedagogus* after it has been indentured to Christ. For not until it has been subdued, indeed, overcome by Christ, so that it no longer serves death but life, no longer despair but faith—or more precisely, now that death is the way to life, and despair of self the way to faith—can it be a good *paedagogus* and lead its charge faithfully to Christ. This is the crucial transition that the law cannot make by itself, but only when it is taken over by Christ (or his Spirit) and is in his service. However, the crossover from sorrow to faith can only happen when the person who has been crushed and accused by the law acknowledges the veracity of the accusation and that it is not just the judgment of the law but in fact corresponds to the judgment of God himself. In agreeing with the verdict of the law, or, what amounts to the same thing, confessing with the psalmist that God is justified in his judgment (Ps.

51: 4), we gain the victory over the law for it can no longer hold us, its work is done, and it must release us into the charge of the gospel. If this confession is not wrung from us but cheerfully made, this is only possible because it we have heard the liberating news of the gospel and now know that God does not want the death of the sinner but that he turn from his sin and live. This confession of sin can only be made in the light of the gospel. The law can produce fear, terror, and remorse (as well as hatred and hostility toward God when unaccompanied by the gospel), but only the gospel can elicit from a person a genuine confession of sins.

Therefore, the gospel seems to function in a dual capacity at this point of transition. First, it performs its *opus alienum* by confirming the judgment of the law, then it carries out its *opus proprium* by bestowing on the penitent sinner the gift of forgiveness and all the other gifts of Christ that are bound up with salvation. In other words, the fact that the gospel is for sinners, and only for sinners, means that if I am forgiven then I am a sinner.¹²³ Confession of sins is the re-

¹²³This point has been emphasized by James Nestingen, "Preaching Repentance," in *Lutheran Quarterly* NF 3 (1989): 259-262. He goes so far as to say that when the gospel enters the law's realm it, in effect, "overlaps" it. He points out that Luther spoke in just this way in his *Commentary on Hebrews* where he discussed God's alien and strange work (AE 29, 135). "So the Spirit through the gospel takes hold of the law and without intermixing them, joins them to make them both function in the very same words" (260). He cites the first commandment as an example of both law and gospel: the gospel bestowing what the law demands. And he finds another instance of the overlap between law and gospel in the words, "Zacchaeus, I am coming to your house today" (Luke 19: 5). He also acknowledges that it is only under the power of the gospel that repentance can come to its true end: faith. "When the gospel enters, it overlaps the law, confirming its requirement and accusation by bringing the law to its true end in Christ" (261). We, for our part, prefer to talk about the law being pulled along by the gospel in order to avoid any suggestion that the "overlap" between law and gos-

verse side of forgiveness. There can be no forgiveness if there is no sin to forgive, no cure if there is no disease to cure. Therefore, while the gospel, properly speaking, is not demand but pure gift, the very reception of the gospel implies that I am a sinner.¹²⁴ This is the recognition the penitent will come to as a result of God's twofold way of acting through law and gospel, each working in its own way doing only what it can do, and yet neither being able to complete its work without the other. Both work here in the closest possible way, and yet there is no confusion or bridge between them. The work of the law prepares us for the work of the gospel. But that final transition cannot be effected without the gospel taking the law in tow. Nevertheless, when the gospel is preached following the law in a way that first confirms the judgment of the law, it is not yet doing its own proper work but is first completing the work of the law by bringing it to its τέλος.

Although the presence of the gospel and its acceptance already implies that I am a sinner. It would be wrong to say that the gospel announces: You are a sinner, but you are forgiven; or even the milder form: As a sinner you are forgiven, for that might suggest that the *proprium* of the gospel is something more than gift of absolution.¹²⁵ Nonetheless, if I am forgiven, the implication is that I

pel amounts to a bridge between them, even if it is projected from the side of the gospel.

¹²⁴Luther says in 1 AD, Arg. 19 that when Christ commands repentance he shows that people are sinners and transgressors of the law, and that they cannot avoid the condemnation of the law in any other way than by believing the gospel message that Christ has satisfied the law (WA 39 I, 393, 12-15).

¹²⁵Luther expressly says in 1 AD, Arg. 16 that the gospel does not convict sin but shows that law convicts sins (WA 39 I, 388, 14-15). However, in 1 AD, Arg. 37 he says that to preach forgiveness is to indicate and show the presence of sin, and that fulfillment cannot be understood unless the law is understood, and hence forgiveness of sins cannot be understood unless it is first known what sin,

am a sinner, and that really only becomes clear after forgiveness. This is no concession to the antinomians, for they begin with the gospel and end with the law.¹²⁶ We are suggesting however that the movement from law to gospel may be followed by a backward look at our former plight in the light of the gospel. Although we may have confessed our sins before absolution, we could not fully comprehend the gravity of our lost condition before viewing it retrospectively in the light of the gospel. The recognition of the magnitude of my sin *coram Deo* is only possible only through faith. This is not a move back to the law for faith in Christ has freed us from the law, for this retrospective view can only be had from a vantage point outside the law, in the light of the gospel. However, we may not simply dismiss the law at this point as if, having played its part in bringing us to faith in Christ, it is now redundant. The truth rather is that the law now takes on a new role for Christians *qua sancti*, no longer that of *lex condemnatrix* but as teacher and companion, guiding our feet in the way of truth. It is the law that can be praised by the psalmist as that which is a lamp to our feet as a light to our path (Ps. 119: 105). But this law that the psalmist loved (Ps. 119: 97) is not the *lex proprie dicta*, which is the *lex implenda*, but rather the *lex impleta*. However, once we talk about the *lex impleta*, we are really talking more about the gospel than the law, for the *lex impleta* is the *lex iucunda*, whose fulfillment is given us in Christ

and that can only be known through the law (416, 10-14). Thus Luther says that the gospel both presupposes and shows the presence of sin.

¹²⁶One cannot establish a "law" as to how exactly God will use law and gospel to bring about faith. It may be that the gospel (in the broad sense) first agrees with the law in telling us that we are sinners, and then it forgives us; in the antinomian view, it first forgives us and then tells us that we are sinners. Thus for Luther the thrust or overall movement is always from law to gospel, whereas for the antinomians it is always from gospel to law.

per fidem. This is consistent with the fact that the law that is delighted in by the psalmist is the $\eta\lambda\omicron\gamma\omicron$, which is certainly not law in the sense in which Luther understands *lex*, but is often equivalent to God's word (that is, law and gospel), and in many places to the gospel itself. It is for this reason that we have our reservations as to whether the the term *tertius usus legis* is best way of describing the Christian $\eta\lambda\omicron\gamma\omicron$ which accompanies the saints on their pilgrimage to heaven. Further discussion however will have to be deferred until a later section.

Fulfillment and Abrogation of the Law

One of the most common statements made in the disputations is that Christ fulfilled the law; in fact the term "fulfiller of the law" becomes almost a christological title.¹²⁷ However, Luther also knows that Christ's fulfillment went far beyond the demands of the law; he did not just fulfill the law measure for measure, but he did so $\acute{\upsilon}\pi\epsilon\rho\pi\epsilon\rho\iota\sigma\epsilon\acute{\upsilon}\omega$.¹²⁸ There is no exact correspondence between the law's demands and Christ's fulfillment, otherwise the law finally would be served by Christ instead of serving Christ.¹²⁹ The fulfilment is never

¹²⁷See, for example, WA 39 I, 367, 9 (1 AD, Arg. 2); 392, 11 (1 AD, Arg. 18); 393, 5-6 (1 AD, Arg. 19). The titles *mediator*, *salvator*, and *impletor legis* coincide.

¹²⁸WA 39 I, 367, 2-3 (1 AD, Arg. 2): *is [scil. agnus Dei] praestitit abunde, quod lex requirebat*. One could almost apply the words of Luke 6: 38 to Jesus' fulfillment of the law. Luther is often careful in his formulations to stress the superabundance of Christ's fulfillment. This infinite "over-fulfillment" of the law by Christ is also noted by Ragnar Bring, *Gesetz und Evangelium und der dritte Gebrauch des Gesetzes in der lutherischen Theologie* (Helsinki: Akateeminen Kirjakauppa, 1943). The law does not set a limit to the gospel which happens when they are regarded as commensurate.

¹²⁹Cf. WA 39 I, 353, 39-40 (ATh IV, Th. 34): *Vult [scil. lex] enim ab initio peccati per Adam perpetrati, usque quo per Christum victorem impleatur doceri, nosci, et regnare*. This passage is also interesting because it ascribes to the law (before it is

law and turning it into a *paedagogus* to himself. However, our concern here is with the fulfillment and abrogation of the law.

Unlike the antinomians, who know only of a *simplex abrogatio legis* (the year one), Luther consistently speaks of a *duplex abrogatio legis*, first in Christ and in us through faith, the second in us fully and *realiter* at our death. For now it has been abolished for us only insofar as we are saints and righteous *imputative*, on the other hand, insofar as we are still sinners, the law also remains in force for our *caro*.¹³⁴ However, this is simply the reverse of the double fulfillment of the law: the first (*primum*) and principal fulfillment being Christ's, which is imputed to us through faith; the second (*deinde/insuper*) fulfillment being that which takes place and must take place (here Luther uses the gerundive at times) in us through the agency of the Holy Spirit. The former is the perfect fulfillment wrought by Christ, which is imputed to us through faith, the latter is the inchoative fulfillment, which has already begun in us *expurgative*¹³⁵ by the power of the Spirit

¹³⁴Variations on this formulation are sprinkled throughout the disputations, for example, WA 39 I, 379, 16-380, 8 (1 AD, Arg. 12).

¹³⁵Hermann, *Zum Streit*, 30 n. 10 points out that *imputative* and *formaliter* are scholastic terms and that therefore there is always some risk involved in taking words like this across and fitting them into a different conceptual schema. Here the danger could be that the imputation of Christ's righteousness may seem more preliminary and unreal than the final, *proper formaliter* fulfillment at the resurrection. However, this would amount to following the Augustinian distinction between the *res* and *res signata*. In this case the *res* would be the *imputative* corresponding to Augustine's *gratia inspirationis*, while the *res signata* the *formaliter* corresponding to the *gratia remissionis*. According to this scheme of things the imputed *iustitia* or *remissio* etc. would be lower, less real, and less important than its higher, more real, spiritual counterpart in the process of salvation to which it merely points. That however is manifestly not how Luther understands these terms. He has taken them into the service of the gospel so that they have been cleansed of any of the above connotations. Nevertheless, Hermann wonders whether Luther does not enter a danger zone when in

through the means of grace, and which will be brought to completion *formaliter* at the resurrection on the last day.¹³⁶ We hope to show later that it is just in connection with the fulfillment of the law in us *expurgative* by the Spirit that the law plays its normative role. For here the law remains the rule and norm [*Maßstab* and *Richtschnur*] for the battle against sin.

This twofold fulfillment and abrogation of the law along with the double cessation of sin is an important aspect of Luther's doctrine of the law. Because the antinomians do not accept that Christians are *simul iusti et peccatores*, they claim, on the basis of Romans 6: 14, where Paul says that we are not under law but under grace, that the law has been abrogated entirely.¹³⁷ Luther agrees, but with this important qualification: The law has been abrogated only for faith, not for the $\sigma\acute{\alpha}\rho\kappa\acute{\iota}$. Since the antinomians reject the Pauline teaching that the baptized are at one and the same time (*simul*) saints and sinners, and are subject to the

connection with the *abrogatio legis*, following on from this line of thinking, he posits that the law ceases first [*primum*] through forgiveness, and that on top of that [*insuper*] God gives the Holy Spirit that we may begin to fulfill it already here. *Insuper/deinde* is then to be understood in the sense of "along with that," and not "pulled forward from above," as we have it in the Augustinian way of thinking.

¹³⁶WA 39 I, 383, 5-13 (1 AD, Arg. 14); 444, 4-6 (2 AD, Arg. 7) et passim. Another way of expressing the double fulfillment of the law is to say that it is fulfilled by both faith and love: first by faith through the imputation of Christ's own fulfillment, and then by love as the law is fulfilled by us and in us through the power of the Holy Spirit (cf. Rom. 13: 10).

¹³⁷WA 39 I, 373, 15-18 (1 AD, Arg. 7). WA 39 I, 356, 27-32 (ATh V, Th. 46-48): The antinomians think that sin has been removed *formaliter et philosophice seu iuridice* (Th. 46), whereas Luther maintains that it has been removed *relative*, not *formaliter aut substantialiter* (Th. 48); cf. 355, 34-40 (ATh V, Th. 29-32): Luther says that to think that the law has been removed is as ludicrous as *in vacuo theatro ludos fingere et spectare* (Th. 32). This tells against the perfectionist thinking of the antinomians which results from their false realized eschatology.

battle between the σάρξ and the πνεῦμα (Gal. 5: 17; cf. Rom. 7: 13-25), they are unable to understand properly what Paul means when he says that the *p̄ii* are not under law but under grace.¹³⁸ Galatians 5: 18 spells it out even more clearly: εἰ δὲ πνεύματι ἄγεσθε, οὐκ ἐστὲ ὑπὸ νόμον. Conversely, those not led by the Spirit are under the law. As we will see below, that also includes Christians insofar as they are still σάρξ. Luther encapsulates this antithesis in a remarkable statement: *Quatenus ergo lex impleta est, eatenus sublata. In Christo est impleta perfecte, in nobis non, quia hoc firma fide non credimus.*¹³⁹ At first glance it appears from the context as if Luther is talking about two stages,¹⁴⁰ one preliminary and the other final: The first corresponding to the forgiveness of sins on the basis of Christ's imputation, the second to the gift of the Spirit and what he works in us with that fulfillment.¹⁴¹ However, we know already from the way Luther ties justification and sanctification together, that we would be going against his sense if we were to interpret the statement in question in such a way as to pull these two apart and turn them into two stages, thus separating the Spirit from the gift of forgiveness. In fact, sanctification is nothing more than the Spirit's application of forgiveness to the life of the baptized. On the one hand, sanctification never advances to the

¹³⁸For a discussion of the differences which Ebeling sees between Paul and Luther in their understanding of the *abrogatio legis*, see, *Erwägungen zur Lehre vom Gesetz*, 281-293.

¹³⁹WA 39 I, 380, 6-8 (1 AD, Arg. 12).

¹⁴⁰The clue is the *insuper* (380, 5), which is usually accompanied by its counterpart *primum*, but not here. These terms will be discussed below.

¹⁴¹Ibid., 380, 5: *Insuper dat Spiritum sanctum, ut incipiamus hic implere.*

point where we are not in need of forgiveness; on the other, the Spirit is already given fully with forgiveness.

We have seen that Luther's understanding of Christ's fulfillment of the law, which is a central soteriological tenet of his theology, is sloped in such a way that Christ does not end up becoming the servant of the law, but that in fulfilling the law he overcame it as *lex accusatrix et exactrix* and takes it into his service so that the *lex impleta* is now no longer an enemy of the *sancti* but a teacher and guide. The law is abolished insofar as it condemns us, hence the law as *revelatio irae Dei*. It is now newly grounded in Christ through his action and is fulfillible by us and in us through the Spirit. In that sense he gives us the *lex* back as *iucunda*, but since sin still clings to us our joy in the law is not yet full.¹⁴² In the *futura vita* love for God will no longer be commanded because it will be a present reality, and the *decalogus*, while it will remain forever as God's will, will not be present as *lex* but as *res*, for what it demands here will be present there *realiter*.¹⁴³ Luther's logic is worth pondering here. It is as if he delivers a grand *tour de force* when he asserts, *contra antinomios*, that the law does not even cease in heaven, but then quickly qualifies it by saying that in heaven it will not exist as *lex* (because there will be nothing to demand or condemn) but only as *res*.¹⁴⁴ It is as if Luther

¹⁴²WA 39 I, 374, 14-16 (1 AD, Arg. 7): *Sic legis exactio est illis, qui extra Christum sunt, tristis, odiosa, impossibilis. Econtra iis, qui sub Christo sunt, incipit fieri iucunda, possibilis in primitiis, tamen non decimis.*

¹⁴³WA 39 I, 413, 17-18 (1 AD, Arg. 34). Cf. the note above on what Luther means by the *decalogus ist aeternus*.

¹⁴⁴There is an echo of this idea in Luther's second *Thesenreihe* where he says that in the *futura vita*, that which the law demands here, namely, the *creatura nova*, will continue as a fulfilled reality. Therefore—and this is the part most relevant to our discussion—the law will never be abolished [*tolleri*] in all eternity, but

distinguishes between the content and the form of the law. Here on earth, *post lapsum*, the law can take no other form than that of *lex accusatrix et exactrix et condemnatrix*, even though now by faith we already begin to experience the *lex as iucunda* (= *iucunditas legis*) as Adam did in the earthly paradise and as we will do so fully in the heavenly paradise. However, because for sinners form and content are inseparable, we can only confess the goodness of the law as a gift of faith. In this life however the demanding and accusing law has been abolished for faith, but not yet for the *caro* on account of the remnant of sin. Therefore, on the one hand, the law is fulfilled and, on the other, it is not yet fulfilled, but is being fulfilled: *Sub Christo igitur lex est in fieri esse, non in facto esse.*¹⁴⁵ This, as we have

will go on being fulfilled in the damned or already fulfilled in the blessed [*vel implenda in damnatis, vel impleta in beatis*] (WA 39 I, 350, 1-4 [Th. 46, 47]). Since in heaven the *pri* will be without sin the *lex impleta* will not even be experienced as *lex* but only as *res*. Here the content of the law, which in its sum and essence is love, will also be its structure, for love will characterize the relationship between God and the saints in heaven forever. On the other hand, for the *impri*, whose sin remains unforgiven, the law will never cease being the accusing, demanding and condemning *lex implenda*. Since the curse of the law is banished only in Christ, the *damnati*, who have chosen to remain forever apart from Christ, will be forced to exist forever under the *maledictum legis*. Therefore, the law remains forever, either in the form of blessing for the *beati*, where it ceases as *lex* altogether and becomes entirely *res* (synonymous with love), or in the form of curse (the full *sensus legis*) for the *damnati*, where it must necessarily be experienced as nothing but *lex* (synonymous with wrath).

It is important to note that Luther's statements about the perpetuity of the law offer no support for the scholastic doctrine of the *lex aeterna* which was commented on above. This is expressly excluded by the qualifications he adds at both ends: the law in the earthly paradise was not a true *lex* and in the heavenly paradise it will remain only as *res*. Luther's assertions about the "eternity" of the law are probably best understood as a bold attempt on his part to counter the antinomian assertions that the law was purely temporary. In our opinion, the argument is weak theologically even though logically it is quite compelling. This may be an instance of where he allows himself to be overly influenced by his opponents, at least partially.

¹⁴⁵WA 39 I, 374, 11-12 (1 AD, Arg. 7).

seen, is the reverse of the *duplex abolitio legis*: To the extent that it is fulfilled it is abolished; but to the extent that we are still sinners it remains.¹⁴⁶ For those outside of Christ the law remains loathesome and impossible; for those under Christ it begins to become delightful and partly possible. Luther therefore concludes: The law should be taught to Christians, not *propter fidem*, for in faith the Christian's spirit is subject to no law (cf. Gal. 5: 1), but *propter carnem*, for the flesh resists the Spirit in the saints.¹⁴⁷

In the light of the above, we see that when we speak of the *impletio legis* we must say two things: one from the standpoint of the gospel, the other from the standpoint of the law. On the one hand, Christ is the τέλος of the law in the twofold sense of its fulfillment and end (Rom. 10: 4). Indeed, for faith Christ is the end of the law both as an historical fact as well as *privatim* again and again for individual believers.¹⁴⁸ Christ was and always will be the end of the *lex accusans*

¹⁴⁶WA 39 I, 380, 6-8 (1 AD, Arg. 12): *Quatenus ergo lex impleta est, eatenus sublata. In Christo est impleta perfecte, in nobis non, quia hoc firma fide non credimus.*

¹⁴⁷Ibid., 374, 16-18.

¹⁴⁸WA 39 I, 367, 13-14 (1 AD, Arg. 2): *Ideo tempore Ioannis cessaverunt lex et prophetiae, quo Christus apparuit. Sic privatim fit cum quolibet homine.* Ebeling, *Erwägungen zur Lehre vom Gesetz*, 269-71 notes that whereas Paul sees the *tempus legis* and *tempus evangelii* in strictly historical sequence, Luther interprets this in a dialectic way, in the sense of law and gospel, rather than seeing the two as mutually exclusive, representing two eras: then and now, old and new. In other words, Ebeling suggests (and he is here only repeating what New Testament scholars have generally observed, although not always properly understanding Luther) that in Luther law and gospel are stripped of the concrete historical references which they bear in Paul and are made into hard and fast general basic concepts of theology, so that they find a more universal application than in Paul. Ebeling is right in observing (p. 288) that Luther found justification for extending the Pauline notion of the law on the basis of Rom. 2: 14-16, where the apostle

for faith. And whenever the *lex* accuses the *pui* and tries to enter the conscience, John the *monstrator agni* will continue to point them to Christ, the *agnus Dei*, who in his office as both *victima et victor*, willingly submitted to the law and overcame it. When Christ comes the law must be told not to overstep its limits,¹⁴⁹ for he is the end of the law for faith, first *imputative* and then also *formaliter et expurgative*.¹⁵⁰ On the other hand, insofar as a remnant of sin adheres to our flesh, the law must remain, for Christians need the law as a *monitor* on account of the continual battle waged by the flesh against the Spirit.¹⁵¹ However, it is one thing to say that the law must remain *quoad carnem*, it is an all together different thing to posit that the law also remains for faith. It is the difference between the *lex impleta* and the *lex implenda*. Luther insists that only the former is to be preached to the saints, for the conscience must not be burdened by any demands made by the law. The *lex impleta* is given to faith and to preach that is to preach gospel not law. On the other hand, Luther often says that it is not enough that Christ has fulfilled the law, it must also be fulfilled in us (which Luther will often qualify by adding: through the Spirit). This is the *lex implenda* which is to be preached to the

speaks of the law written on the hearts of all people. Three steps are involved in the universal interpretation and application of the of Old Testament law. First, the traditional doctrine of the *lex naturalis*; secondly, the reduction of the *lex Mosi* (as a result of the *abrogatio legis* that took place in Christ) to the *lex moralis* of the Decalogue; and thirdly, the identification of the *lex naturalis* and the *Decalogue*.

¹⁴⁹WA 39 I, 445, 13-16 (2 AD, Arg. 8): *Sic quando agitur de lege, agitur de natura et vi et effectu legis, quid ipsa per sese possit, sed cum docetur lex, succedit seu subintrat Evangelium: Audi, inquiring, o lex, vide, ne extra tuas regiones aur saepta transilias.* Cf. 39 I, 478, 20-479, 6 (2 AD, Arg. 25), where Christ says to the law: *Ecce me, qui facio pro illis, quod exigit, desine* (479, 5-6).

¹⁵⁰WA 39 I, 434, 1-435, 13 (2 AD, Arg. 3).

¹⁵¹WA 39 I, 432, 14-433, 1 (2 AD, Arg. 3).

old Adam, that is, to Christians insofar as they are still sinners. But we will see later, that this needs to be done carefully, lest the law overstep its bounds and attempts to enter the conscience. This whole matter is very closely related to the problem of the *tertius usus legis*, and will need to be taken up again in that context.

Faith and the Law

In this part we will focus on the abiding role that the law plays in the *vita christiana* and why Luther is so insistent that it must continue to be taught in the church. The discussion will be couched within the framework of justification and sanctification which we shall discuss below before turning our attention to the main topic of this part: the preaching of parenesis, the place of good works, and the problem of the so-called *tertius usus legis*. Whatever else is discussed will be tangential rather than central.

Justification and Sanctification

This section will be kept very short for our intention is not to explicate Luther's doctrines of justification and sanctification for themselves, but only to make such comments as are necessary to provide a framework within which to develop our discussion of the role of the law in the Christian life. Some of the following points have already been made earlier in this chapter but they will be briefly repeated, not just for the sake of completeness, but to show how Luther consistently applies his key emphases to various doctrines.

Critical to the understanding of justification and sanctification in Luther is the recognition that these two doctrines, representing two ways in which God acts in the life of the Christian, are different and must therefore be distinguished,

and yet they are of a piece and must not be pulled apart. Justification, while logically prior to sanctification and independent of it, never occurs without it. Although Luther will often distinguish between these two doctrines in the disputations with terms such as *primum-deinde/insuper*, the *primum* does not signal a temporal but logical sequence between them. On the other hand, the *deinde or insuper*, which balances the *primum*, indicates the inseparability of justification and sanctification in Luther's mind.¹⁵² If this sequential formulation occurs in the disputations more noticeably and more consistently than anywhere else, it may well be a polemic against the antinomians who hold that the law has been terminated in Christ and is no longer existent. However, it would not be in keeping with Luther's emphasis if we were to maintain that the reason that he so consistently stresses the second member of this formulaic expression (introduced by the *deinde/insuper*) is to remind the antinomians that it is not enough to teach that Christ has fulfilled the law for us vicariously, for his fulfillment is also to go on in us, albeit only as worked by the Holy Spirit.¹⁵³ Although some of Luther's formulations might suggest the interpretation that we are the ones who fulfill the law in sanctification with the help of the Spirit, more often than not he makes it

¹⁵²See WA 39 I, 380, 2-5 (1 AD, Arg. 12); 395, 20-24 (1 AD, Arg. 21). This is connected also to the end of the law; thus, 434, 1-10 (2 AD, Arg. 3): the law ceases *per Christum, primo imputative* (through non-imputation and pardon) . . . *deinde expurgative* (when *per spiritum* we begin to hate sin and do good works). Justification and sanctification can no more be pulled apart than law and gospel without losing the gospel.

¹⁵³Hermann, *Zum Streit*, 32, does not think that this formulation represents a second step following that of *remissio* and *imputatio*, but rather indicates that the Holy Spirit, who is given, does not overfly the law. This then would have a polemical overtone: The Spirit esteems it highly enough by effecting the beginning of its fulfillment also in us here on earth [*ut incipiamus hic implere*], while in the *futura vita* we will be like Christ the fulfiller (WA 39 I, 380, 5-6).

clear that it is the Spirit (alternatively, the *Christus in nobis*) who fulfills it in us (which of course happens through the Means of Grace, even though he may not say that in so many words). We can hinder the fulfillment of the law in us, however we ourselves cannot fulfill it, but only live in and from the *lex impleta* given to us in faith.

For Luther sanctification is simply the Spirit's application to the baptized of the gifts received *totaliter* and *gratis* in justification, *propter Christum per fidem*. There is a radical break between early and late Luther just at this point. In early Luther, following Augustine, justification is sanctification. The core difference between Augustine and the mature Luther is that for Augustine justification is the renewal or gradual transformation of the believer into the image of Christ, while for Luther it is the forgiveness of sins and the imputation of divine righteousness for Christ's sake. Both see justification as consisting of forgiveness and renewal. Whereas Augustine understands justification primarily as renewal or transformation, Luther does not see renewal as a part of justification but as its fruit.¹⁵⁴ Hence, the former conceives of it as a process that occurs within us (*in nobis*), the latter as an act which God accomplishes for us (*pro nobis*) outside us (*extra nos*). When justification is understood progressively and transformatively, Christians are partly righteous and partly sinners [*partim iusti, partim peccatores*]. On the other hand, when it is understood forensically and imputatively, Christians are at one and the same time totally righteous [*totus iusti*], *propter fidem*, and totally sinners, [*totus peccatores*], *propter carnem*. That is, to use the classical ex-

¹⁵⁴Justification in Luther is used in two ways: 1) *stricte dicta*, it denotes God's forensic declaration when he declares us righteous; 2) *late dicta*, it includes regeneration and renewal, stretching from the imputation of righteousness (justification) to our becoming righteous (the end of sanctification).

pression, they are *simul iusti et peccatores*.¹⁵⁵ As we have already seen, the big difference between Luther and the antinomians in respect to the doctrine of sanctification is precisely the *simul*. Another difference between Augustine and Luther: according to Augustine, salvation results from the fulfillment of the law made possible by the power of grace; for Luther, on the other hand, the law can only begin to be fulfilled after we have first been justified and received Christ's perfect fulfillment through faith. Consequently, each has a different view of the law: for Augustine, the law drives people to Christ to seek power to fulfill the law in love and humble obedience; for Luther, the law points people to Christ to receive from him his own perfect fulfillment of the law; their own fulfillment of the law through love to the neighbor will follow as a fruit of faith.

If Luther holds that the Christian is always *simul iustus et peccator* and that justification and sanctification cannot be pulled apart without losing both, can he also speak of growth or progress in sanctification? There are many passages in Luther which would reject that notion altogether.¹⁵⁶ Sanctification is simply to believe the divine imputation and with it the *totus peccator*. Our holiness is never ours but Christ's, just as our righteousness is always a *iustitia aliena*. On the other hand, there are also many passages in Luther which suggest that the Christian life is not lived on a flat continuum but that it oscillates continually between the *iustus* and the *peccator*.¹⁵⁷ He can even say that a Christian is *partim sanctus, par-*

¹⁵⁵This has been amply documented by Uuras Saarnivaara, *Luther Discovers the Gospel: New Light Upon Luther's Way from Medieval Catholicism to Evangelical Faith* (St. Louis: Concordia Publishing House, 1951), 9-18.

¹⁵⁶See Joest, *Gesetz und Freiheit*, 57-60.

tim peccator.¹⁵⁸ However, we must be cognizant of the fact that when we find such expressions in the mature Luther, although the terminology is the same as that of early Luther (hence Augustinian), it is freighted differently, for justification, though still inseparable from sanctification, is now distinguished from it in that God imputes righteousness to faith *in toto*. However, this righteousness, while given whole and without fractions *imputative*, is only the first fruits of the Spirit [*primitias spiritus*] and not yet the tithes [*decimas spiritus*].¹⁵⁹ First [*primum*], the law is fulfilled for us *imputative* through faith, but then [*deinde*] it is also fulfilled in us *expurgative et formaliter* by the power of the Spirit as we begin *ex animo* to hate all those things that offend the Spirit.¹⁶⁰ Again, when Luther says that sin is removed *formaliter et expurgative*, because from day to day I more and more [*magis ac magis*] cleanse and mortify the sin that inheres in my flesh, he is not saying anything that contradicts the forgiveness given *in toto* in justification, as is evident from the context.¹⁶¹ We should hasten to point out that although he

¹⁵⁷Joest, *Ibid*, 62, diagrammatizes this where the zigzag line, representing the transitus of the Christian life, oscillates between two lines representing the *totus peccator* and the *totus iustus*.

¹⁵⁸WA 39 I, 542, 5-6, 18-19 (3 AD, Arg. 21).

¹⁵⁹The *Begriffspaar primitias spiritus - decimas spiritus* does not occur in the antinomian disputations, simply contrasting pair *primitias - decimias* (WA 39 I, 374, 16 [1 AD, Arg. 7]). The idea is also implicit in the use of the *primum-deinde* or *insuper* schema to describe the *duplex abrogatio legis* or the twofold fulfillment of the law (see next section for passages). However, the terms do occur in Luther's 1535 *Galaterbriefvorlesung*: WA 40 I, 364, 12-18; 408, 12-14. They also occur in his 1519 *Galaterbriefkommentar*, but there they witness to the progressive nature of justification which will only be complete with the *decimas spiritus*.

¹⁶⁰WA 39 I, 395, 22-24 (1 AD, Arg. 21).

¹⁶¹WA 39 I, 432, 7-9 (2 AD, Arg. 3): *Atque hoc modo formaliter et expurgative tollitur peccatum, quia hic de die in diem magis ac magis expurgo et mortifico*

speaks of himself here as the subject of the verbs, there is no doubt in the light of other passages that he fully recognizes that the real *factor* is Christ and the Spirit.

The secret to understanding the relationship between the *totus* and the *partim* is to see them as two ways of speaking about justification: it is *totus coram Deo* and *partim coram mundo*. There is no conflict between the *simul* and the *partim*, once the divine imputation has destroyed all thinking based on the *Aristotelicum dogma* that practise makes perfect, and that the way to become holy is by practising to live a holy life. Luther, on the other hand, says that first God makes us holy, then we live a holy life. He stands Aristotle on his head. So too the only way correctly to interpret what Luther means by growth or progress in sanctification is to reverse all human ideas of progress, and to understand it eschatologically. Progress then is not our upward movement to the goal, but the goal's movement down to and into us *per Spiritum sanctum*. The bestowal of the *iustitia imputativa propter Christum per fidem* initiates the great battle between the *Spiritus* and the *caro* which takes place in all the baptized and of which they also are a part. It is this activity of the Christ and his Spirit dwelling in us by faith and the imputed righteousness that gradually drives out sin and overcomes the resistance of the flesh and begins to make us *in re (partim)* what we already are *in fide* and will be *in spe (totus)*. Complete sanctification is always the same as justification, never more or less. Sanctification is not the goal but the life of good works. "The way is not from the partial to the whole, but from the whole to the

peccatum adhuc haerens in carne mea The more the battle against sin is engaged, the more sin recedes expurgative et formaliter. When Luther says this he is not saying that we gradually become less and less sinful and need correspondingly less forgiveness. Rather, it means that the more sin is expelled by the Spirit through the means of grace, the more we will be ruled by the Spirit instead of the flesh.

partial. The movement is not up but down. "The good works that result are not building blocks in the progress of the Christian; they are the fruit of the whole, the 'good tree.'"¹⁶² In other words, any progress in the Christian life is not a human achievement, but nothing more than the fruit of the Holy Spirit. Luther makes this clear when he says that the *iustitia legis* is first fulfilled in us by imputation—and now the important point—then also *formaliter*, yet not by us but by the grace of God who sent his Son in the flesh.¹⁶³ Again, Christ fulfilled the whole law for us, he did it all [*totum*]; we, on the other hand, can only keep it in part [*ex parte*], and even then not by our own strength but by the power of the Holy Spirit.¹⁶⁴

Faith always issues in good works. They are produced *sponte et hilariter* by the indwelling Spirit.¹⁶⁵ The works are a mark of a faith, yet the works them-

¹⁶²Thus, Gerhard O. Forde, "Eleventh Locus: Christian Life: 3. Justification and This World," in *Christian Dogmatics*, vol. 2, ed. Carl E. Braaten and Robert W. Jenson (Philadelphia: Fortress Press, 1984), 435. Sanctification is so often wrongly identified with good works instead of seen as their presupposition. Forde follows Joest fairly closely and also reproduces his diagrams. Although he does not distinguish between early and late Luther, at least he interprets his early writings in the light of the his later ones. Hence, he rightly sees no conflict between the *simul* and the *partim*, even though he can cite Luther's early *Römerbriefvorlesung* alongside his 1531/35 *Galaterbriefvorlesung* without seeing any conflict.

¹⁶³WA 39 I, 383, 8-10 (1 AD, Arg. 14).

¹⁶⁴WA 39 I, 468, 10-469, 3 (2 AD, Arg. 16).

¹⁶⁵The terms *sponte et hilariter* do not occur in the disputations, yet they accurately mirror Luther's thinking about works. Joest, *Gesetz und Freiheit*, 109-113, shows that when the law is used as parenthesis, there is no limitation placed on the *hilariter* and *spontaneitas* of faith. Luther also uses the term the delightful term *quellende Liebe* (again outside the disputations) to describe how God's love fills us to overflowing so that the love we show to the neighbor is not really our love at all but God's love working through us. That such love (= good works) is spontaneous is without question. On the term *quellende Liebe*, see Hans Joachim

selves are good only because they are done in faith and are forgiven. Where there are no works there is no faith, although we can never use our good works to prove or measure our faith.¹⁶⁶ Luther has to remind the antinomians of this by stressing the twofold fulfillment and abrogation of the law, first in Christ then in us, for they know only a *simplex abrogatio* and thus know nothing about the *simul* and the *partim* of the Christian life in which the *spiritus* is engaged in continual battle with the *caro*. They reject the teaching that the *pii* are *simul iusti et peccatores* on the grounds that it is a logical impossibility: *Contraria non possunt esse partes eiusdem*.¹⁶⁷ Luther sees their denial of sin (which amounts to a false realized eschatology) with its attendant *securitas* as an open door to Satan. When the watchmen are asleep the city falls into the hands of the enemy without a fight.

Iwand, *Nachgelassene Werke*, ed. Helmut Gollwitzer et al., vol. 5: *Luthers Theologie*, ed. Johann Haar (Munich: Chr. Kaiser Verlag, 1974), 141-47.

¹⁶⁶It is the temptation of the Protestant pietists, particularly of the Reformed mold, to use their works to measure their faith. But this is finally to misuse them and to lose them. As soon as we begin to contemplate our good works they cease to be good. It is not by chance that Jesus warned his disciples to beware of practising their piety in front of people in order to be seen by them, for in so doing they will miss out on their reward in heaven (Matt. 6: 1).

¹⁶⁷WA 39 I, 375, 15 (1 AD, Arg. 8). Luther's *responsio* to this *argumentum* could easily be interpreted in an Augustinian *partim iustus-partim peccator* direction if it were not for other clear passages which would contradict that. Thus, for example: *Cum sanitas perfecta est, morbus excluditur. Sed fide nondum perfecte sumus sani, sed sanandi. Samaritanus coepit sanare eum, qui in latrones ceciderat. Ideoque morbus nondum est plane sanatus, sed subinde molestat nos* (376, 5-8). It would seem as though Luther here has forgotten the total aspect in favor of the partial. Gerd Rosenberger, "Gesetz und Evangelium in Luthers Antinomerdisputationen" (Unpublished Dissertation; Mainz, 1958), 59-65, rightly questions Joest's attempt to interpret the relationship between the *totus* and the *partim* in terms of complementarity and thinks that he is in danger of surrendering the *totus iustus-totus peccator* aspect of justification, which Luther always upholds, in trying to make sense of the *partim-partim* aspect.

Therefore, as we will see later, one of the key tasks of preaching parenthesis in the church is to summon the saints to watchfulness and to join the battle against sin, the flesh and Satan. This like good works is also a fruit of faith.

Preaching Law to the Baptized

Not only does Luther say that the law has been fulfilled and overcome, but following Paul he also says that faith confirms or upholds the law (Rom. 3: 31: νόμον οὖν καταργοῦμεν διὰ τῆς πίστεως; μὴ γένοιτο· ἀλλὰ νόμον ἱστάνομεν).¹⁶⁸ But what does Luther mean by that? Surely nothing more than the fact that faith acknowledges that the law, by exposing our sin and putting us under judgment, blocks all attempts on our part to justify ourselves ἐξ ἔργων (Eph. 2:9). To put it positively, faith confesses that we are freely justified χωρὶς ἔργων νόμου (Rom. 3: 28), that is, without the help of the law. However, Luther, following Paul, does not deny that the law does have a God-given role in preparing us for the gospel, although it plays no role in justification itself. In other words, as he has often argued, the law is not the *causa efficiens* of justification. Furthermore, he also makes it clear that the law plays a role after justification, that is, in the *vita christiana*, which differs from that before justification. However, as we have already indicated, the term *tertius usus legis* is not the most helpful way of describing this. In a later section will suggest other ways of speaking about the role of the law in the Christian life which may be more faithful to Luther.

¹⁶⁸WA 39 I, 466, 18-21 (2 AD, Arg. 15): Luther cites this passage to show that the skilled pastor must be able to rightly divide the word of God. The *feroces et impii* need a hammer, whereas the *pii* are to be told that *Christum implesse legem* and that they are forgiven. Here of course, as we have seen before, what applies to the *ferox et impius* also applies to the Christian *quoad carnem*.

We have already pointed out that when Luther speaks of faith and the law he says two things. On the one hand, the law has been abolished by Christ who is the end of the law; on the other hand, the law cannot be abolished in this life and must continue to be taught in the church, both on account of the *impii*, on the one hand, and of the *pui*, on the other, who still have to fight the remnant of sin in the flesh. In a moment we will look more carefully at the role the law plays in the battle against the *caro* in the *vita christiana*. But first we need to take this distinction between the abrogation and non-abrogation of the law a step further. It is not enough to say that Luther merely teaches that the law must be retained because sin is not yet destroyed in our flesh. He also knows a positive function of the law for faith since he knows that faith already experiences in part that joy and delight in the law which our first parents experienced in the earthly paradise in full measure, and which we too will one day experience perfectly in the paradise of heaven when there will no longer be any sin to mar our joy.¹⁶⁹ However, perhaps we can push this still a step further and say that our final joy in heaven will not even be in the *lex impleta* but the *lex impletor*, Jesus himself. Important as it is to recognize Luther's awareness that the *lex* in paradise is patterned after the gospel (in the sense of gift) and not the law, and that faith both restores protologically and anticipates eschatologically the *lex iucunda*, which finds its ultimate expression and fulfillment in Jesus Christ, in whom all things hold together (Col. 1: 17), Luther himself never talks about the unity of law and gospel, in either the

¹⁶⁹But, as we have seen, although Luther maintains that the law will continue on for all eternity, in heaven it will no longer be as *lex* but as *res*, so that when faith gives way to sight, our joy and delight will not be in the law as *lex* but as *res*, in other words, not in the *lex* as such (which for Luther is *stricte dicta* the *lex accusatrix et exactrix*, that is, the *lex implenda*) but in the fulfilled *lex*, the *lex impleta*.

earthly or heavenly paradise, as do some of his modern interpreters,¹⁷⁰ nor does he say that the antithesis of law and gospel finds its unity in Jesus Christ.¹⁷¹ He is content simply to say that Adam's experience of the law in paradise is altogether different from our experience of the law outside of paradise on account of sin, but that faith knows it to be God's good gift and can even now anticipate the joy of its fulfillment in heaven. As we have already noted, when Luther speaks about the gospel fulfilling the law and the restoration of all things, it is never just a restoration, but a totally new thing which is brought to pass, which while it might be like the old is infinitely greater and entirely surpasses it.¹⁷² And just as we

¹⁷⁰For instance, Paul Althaus, *The Theology of Martin Luther*, 2d ed., trans. Robert C. Schultz (Philadelphia: Fortress Press, 1966) [the 2d. German ed. was unavailable to the writer], 266: "The opposition between law and gospel in the life of sinful man is only a transitional stage between their original unity and their paradoxical Christian unity in the Christian life. This paradoxical Christian unity consists in the fact that the Christian has not fulfilled God's law and stands under its accusation and condemnation; yet he believes the gospel in spite of it and thus in the midst of his sinful existence fulfills God's First Commandment." This is certainly not the way Luther speaks. It is surprising that Althaus at this point does not even refer to the *lex implenda* and the *lex impleta*. Another modern Luther interpreter who betrays a Barthian influence by the way in which he speaks about the functional unity of law and gospel is Wilfred Joest; see *Gesetz und Freiheit*, 197-98. See our comments on this in the section on the Problem of the *Tertius Usus Legis*. Still a further example of this tendency to want to build a bridge between law and gospel is to be found in the Th. Harnack; see his *Luthers Theologie*, esp. 444-461. He distinguishes between the *Wesen* and *Amt* of the law and sees the *Wesen* as essentially one with the gospel. Rather than saying that in its essence the law is ultimately one with the gospel, it is more faithful to Luther, in our opinion, to speak about the way the law functions evangelically once it is pulled into the service of the gospel.

¹⁷¹Contra Peters, *Gesetz und Evangelium*, 318.

¹⁷²WA 39 I, 354, 11-14 (ATh. IV, Th. 40, 41). Luther includes the *lex* here in the restoration of all things, which means especially the *lex iucunda* of paradise, so that Adam may be just as he was, and even better.

have seen that the *lex* of the earthly paradise is really no *lex* at all, so too it will be restored in the heavenly paradise not as *lex* but as *res*, where we too will be like Christ the fulfiller, and where the fulfillment will be beyond measure.¹⁷³

Is there however another way in which we can talk positively about the law in the Christian life? We discovered from our analysis in chapter three that Luther preaches the law to Christians in two ways. The first is the milder parenetic appeal to lead a life worthy of the gospel. It encourages the *pii* to pray for strength to overcome temptation, to be good soldiers of Christ, and to fight against sin in the power of the Holy Spirit. The second way of preaching the law is stringent by comparison because it is addressed to those who have lapsed from the faith or who are impenitent. It warns them of the dire consequences of *securitas*, where the danger of losing salvation is the greatest precisely because the *securi* think that it cannot be lost.¹⁷⁴ Now we need to ask how these two ways are related to each other and whether preaching parenesis (admonition, exhortation, warning and encouragement) is a preaching of law to the baptized, or whether, as Wilfried Joest contends, it is a preaching of comfort, indeed ultimately even the gospel itself. In other words, is parenesis equivalent to the *tertius usus legis*, is it the application of the gospel (*usus practicus evangelii*) or is it something else? This question will begin to be answered here but will be carried over and discussed further in the next section where we deal with apostolic parenesis. The second question that now arises is whether Luther knows of a normative or didactic use

¹⁷³WA 39 I, 380, 6 (1 AD, Arg. 12).

¹⁷⁴See our summary in connection with our analysis of 3 AD, Arg. 13. The question of the nature and function of parenesis vis-à-vis the third use of the law was also discussed in connection with the Arguments 4, 5, 40/13, and 45/18 of the Third Disputation.

of the law (to use the terminology of the later dogmaticians) and if so in what sense? These two questions are closely related.

Let us take the last question first. Luther certainly does not use the term (*usus*) *normativus* in the disputations, but is there evidence that he understands the law as rule and norm? In our opinion, Luther recognizes the normative authority of the law on account of its divine authorship, but does not see it in the first instance as a rule and standard for instruction in the Christian life. Rather, it seems that more often than not he uses the law in parenetic contexts in connection with the fight against the flesh because it marks out the lines of battle by exposing sin. This, we hold, is how Luther speaks about the normative authority of the law. That is to say, using the later terms, it seems as if Luther connects the *usus normativus seu didacticus* with the *usus theologicus* rather than positing it as an independent *tertius usus legis*. To be confronted by the normative authority of the law is to know that one's life is judged by it and found wanting. This naturally is true also of Christians *quoad carnem*, but then they immediately appeal to Christ's fulfillment given through faith. Now according to our reading of Luther these things are all closely connected: being taught God's will by the Spirit through the law, confessing our sin and our failure to do his will, and then looking to Christ for forgiveness. The prayer "teach me your way, O Lord," which finds its answer in scripture, always goes hand in hand with the prayer, "God, be merciful to me a sinner." Therefore, we would contend that the *usus didacticus* does not occur in isolation, but that insofar as we are sinners, we will also be reminded of our failure to do God's will ourselves and thus of our utter dependence on Christ our

savior.¹⁷⁵

Furthermore, we would contend that it is not Luther's customary practise to say that the law teaches faith to do good works; rather, more often than not he stresses that faith does good works because faith can do no other.¹⁷⁶ However,

¹⁷⁵Paul Althaus, *The Theology of Martin Luther*, cites WA 39 I, 542, 16-17 (3 AD, Arg. 21): . . . *sed utitur [evangelium] officio legis, insectari et arguere vitia et instituere vitam, quomodo iam novi homines sancti novam vitam ingredi debeant*, to show that Luther knows of a function of the law (cf. *tertius usus*) that governs the life of the saints. That is right as far as it goes but it does not go far enough. A more careful reading of the passage reveals that Luther is speaking here about the *opus alienum* of the law as it exposes and convicts sin, which is nothing else than the *usus elencticus*, and it is in this context that he further says that the law teaches life [*instituere vitam*], that is, how the saints should live the new life. Our point however is that both functions here belong together. It is precisely on the basis of teaching the saint-sinners what God requires of them that the law convicts them of sin. In other words, we do not see in this passage any reference to two different *usus legis*, but one and the same, namely, the *usus theologicus*. That Luther is not suggesting here that the law teaches Christians qua saints the good works required by God is further borne out by the fact that in this passage he is specifically stressing *contra antinomos* that the law must be taught to Christians, *quia pii partim iusti sunt, partim peccatores* (542, 5-6), and again: *Cum itaque, ut supra diximus, christianus sit vere Thomista vel gemellus, partim sanctus, partim peccator, manent interea lex, peccata et mors* (542, 17-19).

¹⁷⁶Rosenberger, *Gesetz und Evangelium*, 82-95, admits that prior to the antinomian disputations Luther hardly ever speaks of the law as a *Lebensnorm* but rather sees as its function the exposure of sin and exclusion of all attempts to make oneself righteous *coram Deo*. He is convinced that in Luther's earlier writings from the *Sermon von den guten Werken* (1520) up to and including his *Galaterbriefvorlesung* (1531), he consistently says that good works flow automatically [*sponte*] from faith and do not need to be coerced. He concludes, especially with reference to Luther's great Galatians commentary, that the law as such has no *weisende* task for the Christian life. He sums up Luther's view by citing WA 40 II, 146, 20-21: *Quidquid autem de bonis operibus Theologicis dicitur, simpliciter soli fidei tribuitur. The lex therefore has only das Amt des Transitus, and from this point of view those who dispute the "Lutheran" character of the tertius usus legis are correct* (95). (As we mentioned in chapter 1 however, Rosenberger himself upholds the integrity of the third use.) Although he himself does not point this out, Luther continues to hold to his earlier line also in the disputations, or to be more precise, in the

this does not exclude the fact that the law, in service to the gospel, stirs Christians up to love and to good works and teaches them what good works are, since they may well be deceived by the flesh into choosing to do those works which are ultimately self-serving rather than neighbor-serving. If even righteous Adam needed the warning of God to resist temptation, how much more do Christians, on account of the sinful flesh, need the warnings, reproof and instruction of the law, as well as the promises and consolation of the gospel, to do the will of God in this life.¹⁷⁷

God uses the law in a normative way to show us our sin and to call us to resist it in the power of the Spirit. However, when it comes to the actual fight, the same holds true as in the case of Gideon's battle against the Midianites, where the Lord did the fighting and Gideon (at his behest) simply claimed victory. In the same way, we do not really fight sin at all, or better, we cannot win the battle against sin ourselves, but the Lord does that for us through his word and Spirit. That happens when God's law exposes our sin by telling us what God demands of us and when we in repentance confess that we have not done it. However, as we have already seen, when the law works under the control of the gospel, it does not show us this demand in order that we might fulfill it ourselves but

Thesenreihen; thus see WA 39 I, 354, 1-6 (ATh IV, Th. 35-37): 35. *Sola vero fides in Christo iustificat, sola implet legem, sola facit opera bona sine lege.* 36. *Sola enim accipit remissionem peccatorum et sponte facit opera bona per charitatem.* 37. *Verum est post iustificationem sponte sequi bona opera sine lege scilicet iuvante nec iam extorquente.* That, we would submit, is Luther's settled position: *bona opera arise sponte ex fide* and without the coercion of the law. The fact that this is found in his *Thesenreihe*, which comes from his own hand, and not just in a *Nachschrift* of the disputation, makes it all the more compelling. Could it be that Rosenberger did not wish to cite this because it runs counter to his thesis?

¹⁷⁷See WA 39 I, 372, 14-373, 12 (1 AD, Arg. 6); 472, 5-15 (2 AD, Arg. 19) et passim.

rather that we might be pointed to Christ as the fulfiller of the law *pro nobis*. Therefore, the law that is preached to Christians is the *lex impleta* and not the *lex implenda*. In other words, Christ gives us his fulfillment as we follow him in faith; he does not ask us to strike out on our own thinking that, since he has fulfilled the law, we now must follow his example and strive to fulfill it too with the help of the Holy Spirit.¹⁷⁸

On the basis of the foregoing we may conclude that the normative or didactic use of the law is closely connected to the *usus theologicus* since it marks out the battlefield for the ongoing war against the flesh and the onslaughts of Satan. Therefore, for this reason alone, we would suggest that the isolation of this *usus* (to take them as one) in a *tertius usus*, disconnected from the *usus theologicus*, does not do full justice to Luther's understanding of the didactic function of the law in the Christian life. The other reservations we might have

¹⁷⁸It is often wrongly thought that the redemption won by Christ enables us now to fulfill the law ourselves with the help of his grace. This is Augustinianism and Luther would have none of it. First, Christians can never fulfill the law, not even with the aid of God's grace. We can only receive Christ's fulfillment of the law as a gift, whence it ceases to be a burden and becomes a delight. Clearly, the flesh still needs to be cajoled and the *lex exactrix* has more than enough muscle to attend to that, but Luther would insist that it dare not be allowed to put me under its yoke and rob my conscience of that peace and certainty which I have through the gospel. Secondly, the theological presuppositions lying behind Augustine's way of thinking is such that it subverts the gospel and ends up yoking it to the law instead of having the gospel press the law into its own service. The result is catastrophic: The law as *lex spiritualis* remains ultimate, and the gospel penultimate. As we have attempted to point out earlier, we need to be very circumspect in our *modus loquendi* about Christ's fulfillment of the law. There is a law-way of speaking about this which goes back to Augustine, and which turns the gospel into a *nova lex*; and there is a gospel-way of expressing it which Luther discovered when he broke with Augustine and began speaking about the radical antithesis between law and gospel instead of their inner unity.

over against the concept of a third use of the law will be mentioned when we discuss this topic in a later section.

Luther makes it clear that the godly, who still have to battle sin in the *caro*, may need to be admonished and convicted [*moneri et argui*] by the law lest they fall asleep in their *securitas*. But again, the purpose of this parenthesis is not to teach Christians how to lead a God-pleasing life, but to summon them to *pugna et militia* against the remnant of sin and the great many temptations which are common to every age. This comes out in the example Luther cites the of the *christianus robustus adolescens* who is sorely tempted by a *formosa puella aut mulier*.¹⁷⁹ In spite of the fact that he is *baptizatus et iustificatus*, he is so inflamed by passion that the only thing that restrains him is the threat of disgrace and the fear of punishment. That is a good example of how the law must restrain the *caro*. But Luther says there is another side to this story: If I am a Christian, my heart and the Holy Spirit will cry out: Get behind me, Satan, and I will at once enter into a spirited dialog with *domina caro*: be quiet, stop your urgings, I will not let you rouse me to unchastity, adultery, or other shameful deeds against God. I will wait till God gives me a woman of my own to love. For her sake I will leave this woman for her husband and children. And now Luther makes a remarkable statement: Words like these do not come from a human being but from Christ and the Holy Spirit who say to my the heart: Leave this little girl in peace; I will give you someone else in due time. What is so amazing is that Luther makes no mention of the law till later. It is Christ and the Spirit who sustain the *adolescens* in his battle against the flesh. Even though he is almost overcome by his sexual urges, he nevertheless heeds the Spirit, resists the flesh, and prays that he may not enter

¹⁷⁹WA 39 I, 500, 16-501, 11 (3 AD, Arg. 2).

into temptation. Only now does Luther say that he stands firm, keeping the word and the law of God which says: Do not covet, and heeding the Holy Spirit, who admonishes him regarding the will of God [*obediens verbo et legi Dei . . . et Spiritu sancto admonenti eum de hac voluntate Dei et non succumbit*], and not succumbing. Following the example, Luther compares Christians with the ungodly who know no battle against sin,¹⁸⁰ whereas Christians resist temptation because they know the law and are aware of the sin in their flesh. But if ever the godly are in the midst of grave temptation (and here he is talking First Table not Second Table) and they begin to doubt whether they are pleasing to God, Luther says that they must tell Satan that he is a liar and get rid of him by reciting all the great gospel promises in scripture.¹⁸¹

We have taken the liberty of citing this example at length because it is instructive to see exactly how in Luther's view the baptized are resourced for the battle against the flesh. Although we will discuss this later, it is worth noting here already that in the midst of his temptation *adolescens* is not delivered by the law, but is bouyed up by the Christ and the Spirit. At the same time, however, Luther can say that in standing firm he heeds the commandment not to covet (obviously we can assume here a *pars pro toto*), and yet even then he says that it is the Spirit who admonishes him.

Such is the ongoing struggle of the spirit against the flesh which marks the life of every baptized person which Paul reflects on in Romans 7 and in Galatians 5. The law and faith each plays its part in the fight against temptation: The

¹⁸⁰WA 39 I, 501, 11-22 (3 AD, Arg. 2).

¹⁸¹WA 39 I, 500, 9-502, 12 (3 AD, Arg. 2).

threats of the law are necessary to subdue the flesh, but yet the reason finally why the Christian does not give in to temptation can be no better expressed than with the words uttered by Joseph when he was tempted by Potiphar's wife: How can I do this great wickedness and sin against God (Gen. 39: 9). That is how faith speaks. Luther says that in such cases the Christian stands firm *obediens verbo et legi Dei . . . et Spiritu sancto admonenti eum de hac voluntate Dei*. Again, if Christians are tempted by avarice, for instance, they will not cheat and deceive even if they have the chance because they know the law and understand that temptations will come so long as they have the sinful flesh, which they must fight against day and night.¹⁸² Where sin threatens to get the upper hand the law must be preached. But to what end? To expose the sin hindering faith, to call people to fight against the desires of the flesh, and to stir people up to love and good works (Heb. 10: 24). First, the sin must be named and exposed as contrary to the will of God, then an appeal is made to confess this as sin and thus to defeat it, which is simply living in one's Baptism. However, this appeal to resist sin and conquer it in the name of Christ, no less than the exhortation to good works, is not strictly a preaching of the law but of grace. In other words, the appeal and exhortation (= parenesis) is based in the gospel and not in the law; to that extent Werner Elert is quite correct when he distinguishes between imperatives of grace and imperatives of the law. We will say more about the relation between parenesis and the gospel later.

Luther sums up the connection between the law and spiritual warfare when he says that the saints themselves also need the law as a kind of instructor [*quasi monitore quodam*]

¹⁸²Ibid., 501, 9-18.

between the spirit and the flesh, only that in the *sancti et credentes* this is not imputed *propter Christum*. Because he fights against sin it is not allowed to rule in the saints. It is surely significant that Luther links *monitor* with *bellum*. The *monitor* is one who warns and instructs.¹⁸³ In parenthesis these two functions are closely interconnected.¹⁸⁴ And the instruction here is in spiritual warfare, that is, in the S/spirit's battle against the flesh. The law teaches us from scripture how to be a good soldier (*ars militiae*). Here faith can profit from the teaching of the law. It does not need to be told to do good works for it does them spontaneously. But it does need to be instructed in the ways of the enemy and in the art of warfare; it needs to be shown where its defences are weak, and to be roused to battle. However, insofar as we are still sinners [*in quantum peccatores*], complacent and indifferent to the dangers surrounding us, we must not only be instructed in the art of warfare but also admonished to join battle against the flesh and to give it no opportunity to get us in its grip. Even though the *pii* have died to sin and are free from sin, and thus free from the law, they need the law in this life to rouse them to battle lest they be deceived by the father of lies into letting down their defenses and thus become helpless in the face of the seductive temptations of the evil one. What is needed here is not just knowledge of God's will. That has been clearly written down in the Decalogue and inscribed on the mind of all Christians by the

¹⁸³WA 39 I, 432, 14-433, 1 (2 AD, Arg. 3).

¹⁸⁴The pastor needs to warn and exhort his people to put on the πανοπλία τοῦ θεοῦ (Eph. 6: 10-18) and especially to take in their hand the *gladius spiritus* (= ῥῆμα θεοῦ) in the battle against the flesh. He needs to encourage them to use their Baptism as a bulwark against Satan (that is, to remind oneself that I am baptized, that my name is linked with the triune God, and that Christ has promised that I am his and he is mine and that he will let no evil befall me), to keep alert at all times, and to pray for strength to overcome temptation.

Spirit. What is needed is to know how to live as Christians in evil days (cf. Eph. 5: 15-20). Thus the apostle Paul has to remind his readers, in keeping with our Lord's own admonition, to watch at all times, to wake from sleep, and to cast off the ἔργα τοῦ σκούτου and put on the ὄπλα τοῦ φωτός. He calls them to live εὐσχημόνως and not to make any πρόνοια σαρκός (Rom. 13: 11-14). One of the great dangers posed by the antinomian teaching is that people were being persuaded that sin is harmless because it has been forgiven. Hence, Luther finds himself warning them against *securitas* and indifference to spiritual warfare lest they become drowsy, fall asleep [*oscitantes et segnescentes*] and finally perish.¹⁸⁵

Therefore, God uses the discipline of the law to train us to be prepared for the attacks of Satan by dying daily to sin and finding our refuge and strength alone in Christ, who has already defeated Satan at Calvary and will destroy him once and for all on the last day. On the other hand, insofar as we are righteous [*in quantum iusti*] the law has been completely abolished because sin has been abolished. That is the message that the baptized need to hear whenever they are struggling against sin and temptation and feel as if they are fighting a losing battle. Then the gospel must be sounded loud and clear: It is not your battle, Christ has already won it, he has defeated the foe for you, and invites you to enter into his victory. It is like Gideon's battle against the Midianites, where the Lord did the fighting and Gideon simply claimed the victory in the Lord's name. On the other hand, insofar as we are still sinners [*in quantum peccatores*] the old Adam needs to be killed and coerced by the law [*lex implenda*] so that it does not hinder

¹⁸⁵WA 39 I, 510, 8-17 (3 AD, Arg. 4); cf. 513, 5-7 (3 AD, Arg. 5): the *pri* need to be taught the law in order to admonish and encourage them to stay and fight the battle, lest they themselves be overcome.

the saints from doing good works. These then are the two poles of Luther's law-gospel dialectic, and the pastor must know which word is to be spoken to which people at the proper time.

Therefore, he says that the saints are both under the law and not under the law [*sub lege et sine lege*].¹⁸⁶ In other words, even when the law is reminding us that we are sinners, urging us to battle, and warning us of the grave dangers of crossing the line and straying into enemy territory, we still need to be vigilant in distinguishing law from gospel. For even if we admit that the Decalogue marks out the boundaries within which faith will freely exercise itself in good works, it can easily happen that the law wants to restrain, direct and control faith even within this prescribed area and thus to rob it of its untrammelled freedom and make it answerable to the law. When that happens the freedom of faith has been transmuted into the obedience of faith, and faith, instead of being in control of the law becomes controlled by it.¹⁸⁷ It is at this point that one must protest with Luther that we will forget the law and make new decalogues, as Jesus and the

¹⁸⁶WA 39 I, 552, 11-12 (3 AD, Arg. 26): *In quantum iustus, sublata est lex, in quantum peccatores, manet lex*. The baptized cannot live under law and gospel simultaneously for then they would be in doubt as to whether the law applies to them or the gospel. Hence, it is better to say that Christians live under the gospel but that the law must still be applied to the old Adam.

¹⁸⁷No matter which way one looks at the idea of the obedience of faith it will always be susceptible to a Barthian interpretation. The term is not used by Luther. What exactly Paul means by ὑπακοή πίστεως (Rom. 1: 5) is an exegetical quandry. Here no less than elsewhere, exegesis is influenced by one's dogmatics. In our opinion however the dogmatic question here is the more decisive. Barth's understanding of faith as obedience does not rest on this passage. By the same token, our rejection of the definition of faith as obedience is made independent of the exegesis of this text. To call faith obedience presupposes the Barthian schema of gospel-law where faith (which is a corelative of the gospel) is finally brought within the compass of the law and serves the law rather than being served by it.

apostles did, which are clearer than Moses just as the face of Christ is clearer than the face of Moses.¹⁸⁸ We mention this here only to make the point that whenever the law is instructing Christians, whether in summoning them to fight sin or stirring them up to do good works, it must never be allowed to enter the chamber of the conscience and dictate to faith, so long as faith is wed to Christ, for then the law has ceased being servant and is vying with Christ to become master. If this interpretation is correct, and we are convinced it is, it calls for a reappraisal of the *usus normativus* or *usus didacticus* and the way it functions in relation to the *usus elencticus* and the *usus paedagogicus*.

There are three key terms which must be discussed in connection with preaching the law to the baptized. They are *mitigata*, *mollienda*, and *praerogativa*. We will look briefly at each of these terms in context and then draw some conclusions.¹⁸⁹ The first two occur within the same *argumentum*: Luther says that the law has already been considerably softened through justification so that it ought not terrify the justified [*Lex est iam valde mitigata per iustificationem, quam habemus*

¹⁸⁸WA 39 I, 47, 27-30 (Thesen de fide, 1535; Th. 53, 54). Although these theses predate the antinomian disputations, they agree with what we have heard Luther say about the Decalogue. Note especially Th. 56: *Quanto magis Paulus aut perfectus Christianus plenus spiritu potest decalogum quendam ordinare et de omnibus rectissime iudicare*. Statements like these must be understood in context and can never simply be asserted by themselves in isolation. To do so would be to make the same error in the opposite direction as that which these assertions want to counterbalance. However, Luther will insist that Christians can make their own decalogues—and even better than Moses—in order to defend the freedom of the gospel against those who want to put the *novus homo* under the law. This, as we will see, is the ever present danger inherent in a so-called third use of the law, where law and gospel may not be carefully distinguished.

¹⁸⁹For a more detailed discussion of each of the terms the reader is referred back to the analyses in ch. 3.

propter Christum, nec deberet ita terrere iustificatos]. He observes however that Satan himself nevertheless often comes and sharpens the law beyond the limit [*supra modum exasperat*] among the justified.¹⁹⁰ Later he elaborates further on this. On the other hand, he says that the law must be especially sharpened [*acuenda*] for the *impii* as well as the *pui* who allow themselves to be led by the *caro* instead of by the *spiritus* (cf. Gal. 5: 25), while on the other hand, he insists that it must be softened [*mollienda*] for the *pui* and taught just as exhortation [*Itaque lex illis mollienda est et quasi exhortationis loco docenda*].¹⁹¹ He then illustrates this by referring to three parenetic passages from the New Testament: Once you were heathen, but now you have been sprinkled and washed with the blood of Christ (1 Cor. 6: 11; 1 Peter 1: 2). Now, therefore, offer your bodies for obedience to righteousness, put off the desires of the flesh, and do not fashion yourself after this world (cf. Rom. 6: 12-19; 12: 1-2). Be emulators of the good works of righteousness, you are not unrighteous, you are not condemned like Cain and so forth., you have Christ. Finally, Luther says that the *pui* should be admonished and exhorted [*monendi et cohortandi causa*] to stay in the battle and fight, lest they allow themselves to be enticed by the flesh.¹⁹² Therefore, the law is certainly taught to Christians—and now comes the key word—but with some privilege [*cum aliqua praerogativa*],¹⁹³

¹⁹⁰WA 39 I, 474, 8-14 (2 AD, Arg. 21); cf. 349, 39-40 (ATh II, Th. 45): *Lex enim fuit ante Christum, nos quidem accusans, sub Christo autem per remissionem peccatorum placata, et deinceps spiritu implenda*. The law that is to be fulfilled in us is the law that has been "placated" through forgiveness.

¹⁹¹WA 39 I, 475, 1-2 (2 AD, Arg. 21).

¹⁹²Here he cites Micah 6: 8: *Ambulate in sollicitudine cum Deo vestro*.

¹⁹³WA 513, 8-10 (3 AD, Arg. 5).

because they triumph over the desires of the flesh and do not yield to sin, even if they have opportunity.

The words are all closely related and mean much the same thing. In each instance the term wants to highlight the different way in which the law is to be used with the justified [*p̄ii*] in comparison with the unjustified [*imp̄ii*]. As we have already seen, Luther insists that the *p̄ii* must not be burdened by the *lex implenda*, for they already have the *lex impleta* through faith. Hence, for Christians the law is not burdensome or oppressive for it can no longer condemn them since they have by imputation Christ's own fulfillment. This is the $\chi\rho\eta\sigma\tau\acute{o}\varsigma$ ζυγός of Matthew 11: 30, which is light because it is really no yoke at all. The burden has been shouldered and the onus is his, both in terms of weight and responsibility. That is why we can already begin to delight in the law. Not only is it what faith wants to do *ex animo*, but we have the pleasure without the responsibility! To equivocate on that point is to lose the gospel. But this is not yet the answer to the question about the meaning of the *mitigata*. In the light of what we have said so far we can state that it is not the law per se that changes for the justified for inasmuch as they are still sinners by virtue of their fallen nature, they are subject to the *lex accusatrix et exactrix*. However, insofar as *peccatum* in the justified is never *regnans* but always *regnatum*, the law is not to terrify him to give them a bad conscience, but simply to keep them dependent on Christ. Hence, for them the law is always tolerable even when it is directed to their flesh (the only place Luther would direct it) because as soon as guilt pangs or sorrow arises, Christians may appeal at once to the gospel of Christ and his absolution.

This in turn has implications for how the law is to be preached to the justified. In a word: gently [*mollienda*]. It must never disturb their conscience, for

Christ will never share his narrow bed with the law; yet, on the other hand, Luther says that it must be sharpened when it comes to fighting the sinful flesh [*usus theologicus*] and regulating life in the worldly sphere [*usus politicus*].¹⁹⁴ Yet, amazingly, Luther asserts that Christ will not even permit the law free exercise of its authority even in its assigned sphere if it in any way threatens justification by entering the conscience and robbing it of its peace and certainty.¹⁹⁵ This has an important implication for preaching. The law must never be preached alone, but every time it is preached the gospel must be preached alongside it as *remedium*;¹⁹⁶ indeed, law and gospel should not even be separated too long lest the law exceed its bounds and begin to trouble the conscience.¹⁹⁷ Here one must remember Luther's caution that the law is to be taught to Christians *cum aliqua praerogativa*. Thus the law is to be softened [*lex mollienda*] for Christians and

¹⁹⁴WA 39 I, 498, 10-21 (3 AD, Arg. 1). This is an important passage because it shows just how concerned Luther is that the preaching of the law never disturb the conscience, but applies to the civil sphere and our flesh; that is, its place is *extra locum iustificationis*, never *in loco iustificationis*. Thus: *Quare lex debet manere et diligenter acui in parte militante, hoc est, quantus hic in carne et hic inter homines vivimus et agimus. . . Ita lex pertinet ad partem militantem, non autem ad triumphantem, hoc est, quando agitur de iustificatione et pace conscientiarum, quia hic sumus in Domino, qui noster sponsus est, nec patitur, ut quisquam in hoc tam angusto lectulo condormiat.*

¹⁹⁵We need to remember here that the Lord also exercises the law in its civil role through the *lex praedicata* of the sermon.

¹⁹⁶WA 39 I, 534, 12-13 (3 AD, Arg. 18); 362, 4-14 (1 AD, Praef.); 372-73 (1 AD, Arg. 6); 397, 12-13 (1 AD, Arg. 21).

¹⁹⁷WA 39 I, 410-411 (1 AD, Arg. 31); esp. 410, 18-19: *Itaque non debent haec duo longe inter se separari, ut fecerunt papistae, sed se invicem comitari*. The whole argument is important for it clearly sets out the limits of the law and warns that if it is permitted to exceed those limits unopposed, the result could be despair.

taught as exhortation or parenesis. On no account is it to be preached to the godly [*p̄ii*] as *lex implenda*, but that is to be reserved only for the ungodly and for the baptized who have fallen into *securitas* and are in grave danger of apostasy. But even then, Luther would say that the law must never be preached alone; it may have to be sharpened, but the gospel must always be preached afterwards, for only the gospel can grant faith.

Apostolic Parenesis

Now we must say something about the nature of apostolic parenesis for this is closely related to the question of the *tertius usus legis* which will be discussed in the next chapter. Perhaps the key concern has to do with the relationship between parenesis and the Decalogue? How does it differ from the Decalogue? Is parenesis just the application of the commandments to the life of Christians in the light of the gospel. The classical summary formula is: Be what you are. You are holy, now live as God's holy people (cf. 1 Cor. 6: 19-20). That is baptismal language; it calls people to live in (and thus to live out!) their baptism. To that extent parenesis is baptismal parenesis.¹⁹⁸ The Decalogue is also set within a "gospel" framework (cf. the prologue in Ex. 20: 2), but has a different basis. The parenesis of the New Testament is grounded in the forgiveness of sins, won at Calvary and bestowed in Baptism. However, it is instructive to note that Paul hardly ever uses the vocable νόμος to describe the will of God for the baptized. Christ is the end of the νόμος for faith (Rom. 10: 4). We need to take notice of the radicality of Paul's rejection of the νόμος as a description of God's will for the

¹⁹⁸While this may not be able to be demonstrated conclusively in every case exegetically, it remains true theologically.

Christian life.¹⁹⁹ Therefore, just on sheer linguistic grounds, let alone theological, there can be no simple identification between parenesis and Decalogue or νόμος.

Parenesis is rooted and grounded in the gospel and points us back to the gospel. The imperative presupposes and is anchored to the indicative.²⁰⁰ There is a sense in which one can talk about gospel imperatives: they are imperatives that have the gospel as their basis. However, to say that the gospel addresses us as both indicative and imperative is problematical, unless one is using gospel in the broad sense.²⁰¹ Paul's customary word for command in the context of the

¹⁹⁹Although Paul critiques the legalistic perversion of the Torah in contemporary Judaism, he does not do so from the standpoint of the Torah but from the new standpoint of faith. Although some modern scholars fault Paul for misunderstanding and perverting the Torah by turning it into something burdensome, this is irrelevant. Paul's critique of the law finally is made in view of Christ and the gospel (cf his autobiographical remarks in Philippians. 3), not from the standpoint of the Torah. It is in the light of God's revelation in Christ (the gospel) that Paul must reassess his former reveltion in the Torah.

²⁰⁰This was recognized also by Luther; see 39 I, 396, 11-13 (1 AD, Arg. 21). However, he also holds that the preacher should employ whatever rhetorical devices are needed to bring people back to repentance. He cites the example of Korah's sons who, when their father was not at all frightened by the threats of the law, resorted to the *ars rhetorica* and with tears in their eyes began to beseech him to turn from his sinful ways. The fact that he could not be moved to repent either by entreaties or tears is a sober reminder that our devices, even God's own law and gospel, can never be used to force the Lord's hand, for he disposes over the word in his own way and in his own time (WA 39 I, 400, 19-402, 7 [1 AD, Arg. 24]; cf. 541, 8-14 [3 AD, Arg. 20]). Luther says in 580, 15-16 (3 AD, Arg. 42/15) that there are four ways that God commonly uses to bring people to repentance: *minae, promissae, beneficia, et plagae*.

²⁰¹See Bartling, "Hermeneutics and Pauline Parenesis," in *A Project in Biblical Hermeneutics*, ed. Richard Jungkuntz (St. Louis: Concordia Publishing House, 1969), 72. He says that the gospel itself in continuous action addresses Christians in both indicative and imperative. He is right however in maintaining that the relationship between indicative and imperative is paradoxical but not

indicative is *παρακαλεῖν*, or the nominal *παρακλήσις*. Although *παρέσις* is the traditional word used to describe the exhortations and commands of the New Testament, *παρακλήσις* is better because the word can include the sense of exhortation, command, warning, admonition, and even--paradoxically--comfort. *Παράκλησις* conveys the sense of assurance. God never commands (or demands) anything that he does not first give. He gives before he requires, he gives what he requires. The term *παρακλήσις* has been especially taken up by Joest. He rightly says that New Testament *παρέσις* is admonition and instruction given to Christians in the name of the gospel.²⁰² Although we cannot follow him all the way here, as we will see later, Joest, instead of speaking about a *tertius usus legis* talks rather about an *usus practicus evangelii* which he in turn identifies with *παρακλήσις*. It is also in keeping with the observation that apostolic *παρέσις* for the most part is positive.²⁰³ Of course, Pauline *παρέσις* can also contain antithetical as in the law-gospel polarity. Here there is no either-or; it is both-and.

²⁰²Joest, *Gesetz und Freiheit*, 13. This is exactly what Paul does (Rom. 12: 1) when he bases his parenetic appeal on the mercy of God. These are evangelical exhortations because they are grounded in the gospel and are heard within the context of the gospel, that is, never apart from faith and justification, so that we hear them as gracious invitations rather than as threatening commands (i.e. as a *lex accusans* which has been fulfilled in Christ and hence has had its sting pulled for faith). However, if ever we depart from the stance of faith (that we are nothing but forgiven sinners in Christ) the delightful and gentle yoke of the *lex impleta* becomes the irksome, heavy burden of the *lex implenda*, which the law as *lex accusatrix et condemnatrix* always is outside of Christ.

²⁰³The overwhelming number of parenetic statements in Romans. 12 (which is the parenetic chapter of the NT) are positive and not negative like the Decalogue. Again there is theological significance here. Bartling, "Hermeneutics," 75, argues that the negative form of the commandments presupposes human brokenness and sin (*vetus homo*), whereas Pauline *παρέσις* presupposes the newness of the justified person *coram Deo* (*novus homo*). Even statements that are

words of warning against the danger of apostasy. Christ is both our *iustificatio* (1 Cor. 1: 30) and *iudex*. Here indeed the law does enter into parenthesis, for works are the basis of the future judgment (1 Cor. 3: 12ff; 6: 9ff et al.).²⁰⁴ That this is law in its native Pauline sense is clear. It is addressed to the *peccator*, or to Christians insofar as they are still flesh (σάρξ; cf. the *simul* in Luther's phrase). It is noteworthy however that even in such instances Paul never introduces the term νόμος into his parenthesis.²⁰⁵ The motive force is still the παράκλησις of the gospel, but now predominately in its connotation as warning. But if the harshest παρά-

negative are either balanced by immediately parallel positive expressions or have such positive counterparts in the context. And even when νόμος is mentioned in Gal. 6: 1 it is paradoxically in a verse that stresses the freedom of the individual to serve the neighbor. Obedience is never simply an ἔργον νόμου even though love can be described as the fulfilling of the law (cf. Rom. 8: 4). To fail to observe this and thus to reinstate the νόμος as a regulative norm in the *vita christiana* (as in the case of the *tertius usus*) is, according to Bartling, to reduce Christian moral pedagogy to a casuistically expanded Decalogue.

²⁰⁴See Joest, *Gesetz und Freiheit*, 155-169, where he asks whether the NT data supports Luther's conception (as he interprets it) whereby he dissolves the *tertius usus* into an *usus elenchticus legis* for faith and an *usus practicus evangelii* from faith? Or is there now a "new law" which is added to the message of justification and which points to a final verdict being made on the basis of faith and works?

²⁰⁵Paul Althaus, *Gebot und Gesetz: Zum Thema "Gesetz und Evangelium"* (Gütersloh: C. Bertelsmann Verlag, 1952), distinguishes between command [*Gebot*] and law [*Gesetz*]: that is, between God's will for us, and the special form of that will as law. For Althaus the *Gebot* of paradise become *Gesetz* after the fall. The *Gebot* is based on God's eternal love. Hence, the *Grundverhältnis* between God and man is not regulated by the law in the sense of the eternal, immutable will of God, but by love. After the fall the νόμος becomes a limited and temporary form of the eternal will, a form which in Jesus Christ has been superceded and abolished, and the *Gesetz* returns to *Gebot*, but now it is not identical to the primal *Gebot* for it must have one feature in common with the *Gesetz*, because we remain sinners: It must express the positive will of God also in the negative form of prohibitions (see esp. pp. 11-12, 24).

κλησις is essentially a warning to persevere in faith, Joest argues that this surely is still *usus practicus evangelii*?²⁰⁶

C. F. W. Walther in his own way would agree that biblical parenesis is not the preaching of the νόμος but is rather παράκλησις. He in fact he goes a step further and warns pastors that they are not rightly distinguishing law from gospel if they try to urge the regenerate to good works by means the commands of the law rather than by the admonitions of the gospel. The examples he cites of such gospel admonitions belong to what we call parenesis. Clearly, then he does not regard parenesis as a preaching of νόμος. Although he does not say that it is gospel, parenesis is very closely related to the gospel. Walther, following Luther, says that preaching the law will only produce hypocrites, for the works that are extracted from people by the law are not good works but works of the law. He maintains that a preacher of the law (and here he would mean a pastor who does not preach the gospel) is like a jailer, because in trying to force obedience from his congregation he only puts them in stocks and fetters them. Preaching the law then is not the way to remedy sluggishness and lukewarmness in a congregation. Only the gospel can "improve" people because only the gospel can breathe new life into dead bones (cf. Ezekiel. 37). Of course, Walther knows that there is time to preach the law (in the sense of the *usus elenchticus*) in order to alarm the *securi* and make them contrite, but only the gospel can change the heart. And where the law is preached it should be followed up immediately with the gospel. The preaching of the gospel dare never be postponed. This, as we have seen, is exactly what Luther says. He holds that the preaching of the law should never be separated too long from the preaching of the gospel. And it is precisely because

²⁰⁶See Joest, *Gesetz und Freiheit*, 78-82; 129-133; 190-200, for summaries.

the gospel is preached along with the law that it is tolerable for the saints since they can immediately appeal against its threats to the gospel. For Walther Paul's words in Romans 12: 1 (and here he simply follows Luther): Παρακαλῶ οὖν ὑμᾶς, ἀδελφοί, διὰ τῶν οἰκτιρμῶν τοῦ θεοῦ . . . is a quintessential example of how to preach to the baptized. Paul's οὖν looks back to his explication of the gospel in the preceding chapters. That is why he can appeal to his readers by the mercy of God. Here Joest is right when he argues that parenesis is not a preaching of the law, for here the baptized are addressed in the name of Christ. Hence parenesis is παράκλησις, here Christ through the mouth of his ordained servant pleads with his people. Here they are coaxed and won over by sweet and gentle words, not by threats and demands (cf. Hosea 2: 14 where Yahweh says that he will allure Israel and take her into the wilderness, and there speak tenderly to her). Wather comments that if people are not melted and dissolved in the fire of heavenly love and grace, how can they be softened and cheered by laws and threats?²⁰⁷

²⁰⁷C. F. W. Walther, The Proper Distinction between Law and Gospel, trans. W. H. T. Dau from German ed. 1897 (St. Louis: Concordia Publishing House, 1929), 381-392 (Thesis 23). He illustrates his points with several citations from Luther. Especially significant is Luther's exposition of Romans 12: 1 where he says:

Paul does not say: I command you; for he is preaching to such as are already Christians and godly by faith, in newness of life. These must not be coerced by means of commandments, but admonished to do willingly what has to be done with the old sinful man in them. For any person who does not do this willingly, simply in answer to kind admonitions, is not a Christian; and any any person who wants to achieve this result by force applied to such as are unwilling is not a Christian preacher or ruler, but a worldly jailer. A preacher of the Law comes down on men with threats and punishments; a preacher of divine grace coaxes and urges men by reminding them of the goodness and mercy which God has shown them. . . (emphasis is not ours; p. 388).

Thus, in parenesis the law functions in an un-law-like way (*usus alienus legis*). Joest's term *usus practicus evangelii* as a substitute for *tertius usus legis* is a laudable attempt to explain the evangelical character of the law in the apostolic parenesis. The one reservation we have with Joest's term is that it signifies that parenesis is the application of the gospel rather than of the law being used in the service of the gospel. Admittedly, faith knows that even παιδεία is salutary and for our σωτηρία so that even warning and rebuke can be gratefully received and is accepted as a evidence of love (Heb. 11: 7-11).

Luther, on the other hand, still insists that exhortation, which belongs to parenesis, is law.²⁰⁸ Thus, he expressly says that Paul's words in Philippians 4: 8-9 are the *doctrina legis*, whereas the antinomians, on the other hand, claim that they are grace. It is important to observe that just prior to Luther's remark about exhortation being a preaching of the law, he points out that the law must be taught to Christians *cum aliqua praerogativa*, since they triumph over sin and do not let it rule them.²⁰⁹ Hence, he makes it clear that the law that is to be preached to the baptized is not the *lex implenda* but the *lex impleta*. However, the *lex impleta* is not law but gospel. It demands nothing but announces that Christ has done and fulfilled everything demanded by the law for us. And yet Luther insists that

This passage pulls together at least key points about parenesis which we have been stressing on the basis of our analysis of the disputations. First, it is based on the gospel and calls us back to the faith; in that sense it is really παράκλησις. Secondly, it exercises an anamnestic function. It reminds us of what God has done for us in Christ and of who and whose we are as baptized children of God.

²⁰⁸WA 39 I, 513, 11-14 (3 AD, Arg. 5): *Nostri Antinomi ita coeci sunt, ut non possint cognoscere doctrinam legis in Paulo vel in his verbis tam manifestis: Quaecunque pudica, iusta etc. sectamini.*

²⁰⁹See our discussion above above on *mitigata* and *praerogativa* etc.

the parenthesis of Phillipians 4: 8-9 (and by extension other passages like it) is not grace but law. How are we to understand this? It is important first of all to remember the context of his statement. He is debating with the antinomians who reject the preaching of the law entirely. And that to him is like opening a window to the devil. It only breeds *securitas* because Christians do not understand the gospel of the *lex impleta* if they have not first heard the stern demand of the *lex implenda*. They cannot believe in Christ as *lex impletor* if they are not told what he has filled.²¹⁰ And when people are no longer made aware of their sin and the law's judgment on sin, they have no need of repentance and forgiveness and so finally even lose Christ, because he belongs only to sinners. It is for sinners that he came, and it is sinners whom he calls. To refuse to recognize oneself as a sinner is to exclude oneself from his company. But if, on the other hand, we do confess that we are sinners we can do so only because the law has

²¹⁰Luther strikes out against the antinomians in his great treatise *Von den Konziliis und Kirchen* (1539), where he chastises them for preaching redemption but not sanctification, that is, the new life in Christ, which he says is akin to granting the premise and denying the conclusion. For there is no such Christ that died for sinners, who then do not, after the forgiveness of sins, desist from sins and lead a new life. Luther says that the antinomians are fine Easter preachers but they are very poor Pentecost preachers, for they do not preach *de sanctificatione et vivificatione Spiritus Sancti*, but solely about the redemption of Jesus Christ, although this same Christ has won redemption so that he might transform us out of the old Adam into new people. Christ not only earned *gratia* for us but also the gift [*donum*] of the Holy Spirit, so that we might have not only the forgiveness of sins but also the cessation of sins (WA 50, 599, 5-17). He blames their error on poor logic. They fail to see that they are preaching Christ without and against the Holy Spirit because they propose to let people continue in their old ways and still pronounce them saved (600, 3-19). Commenting on the *sancta catholica christiana*, he says, *contra antinomios*, that they are called Christian people and have the Holy Spirit, who sanctifies them daily, not only through forgiveness of sin won by Christ on Calvary but also through the abolition, the purging, and the mortification of sins, on the basis of which they are called a holy people (624, 28-625, 2).

taught us that.²¹¹ While the law teaches us that by means of its own proper office, the law's *proprium officium* may also be done through the words of the gospel. Or more precisely, the gospel, although its *proprium officium* is to forgive sins, can also use the office of the law to convict sin and teach life, that is, how God's *sancti* should live the *vita nova*.²¹²

So then, does Luther's statement calling parenesis law contradict Joest's claim that parenesis is *παράκλησις*, and indeed the application of the gospel? Admittedly, although Luther sees parenesis serving the gospel he does not call it gospel or *παράκλησις*. In our opinion, that would be too much of a concession to the antinomians who deny the law altogether and preach only gospel. Even though they preach parenesis, they understand it only in the sense of the *usus civilis*. Luther however nails them on just this point for here he detects a major inconsistency in their theology, if not in their logic. He notes approvingly that they admonish [*admonere*] people to live chaste, godly and holy lives, and to be gentle, kind, humble and sincere. However, according to Luther such exhortations constitute a preaching of the law, and yet the antinomians want to have nothing to do with the law in the church. He finds this to be an intolerable contradiction and counters by declaring that the law is whatever performs the *officium legis*, in a word, whatever exposes sins, whether it be *in Evangelio* or *in*

²¹¹This of course is not to deny that the full magnitude of our sin can only be properly grasped in the light of the gospel as we look back in faith on our former condition.

²¹²WA 39 I, 542, 15-17 (3 AD, Arg. 21): . . . *sed utitur [scil. Evangelium] officio legis, insectari et arguere vitia et instituere vitam, quomodo iam novi homines sancti novam vitam ingredi debeant.*

*Mose*²¹³ The passage that we have in mind here is important because it confirms what we heard Luther saying earlier in connection with Paul's exhortation in Philippians 4. In both cases Luther understands parenesis to be a teaching of the law. Moreover, in view of the double office of the gospel, that is its *opus alienum* as well as its *opus proprium* (as mentioned above), Joest needs to remember that even if we do call parenesis *παράκλησις*, that does not prevent the Lord from using it as an *officium legis*.

We would submit that although parenesis, even rebuke, can be accepted by faith as gift, and hence ultimately as *παράκλησις*, nevertheless, it is the most appropriate way to preach the law to the baptized for here the law is under the control of the gospel. Thus, *παράκλησις* can bring to mind our sin and our failure to let the Christ-light shine through us to others. In reminding us that we are now light in the Lord, and exhorting us: δοκιμάζοντες τί ἐστὶν εὐάρεστον τῷ κυρίῳ, καὶ μὴ συγκοινωνεῖτε τοῖς ἔργοις τοῖς ἀκάρποις τοῦ σκότους, μᾶλλον δὲ καὶ ἐλέγχετε (Eph. 5: 10-11), and in beseeching us in the name of Christ: Μόνον ἀξίως τοῦ εὐαγγελίου τοῦ Χριστοῦ πολιτεύεσθε (Phil 1: 27), the *παράκλησις* also reminds us of the ever present distance between what we are in Christ and what we are in ourselves, and how we have often grieved the Holy Spirit by giving into the desires of the flesh instead of resisting them. This makes us sad. How-

²¹³WA 39 I, 534, 18-535, 6 (3 AD, Arg. 18). In our opinion the phrase *in Evangelio* refers first and foremost not to the gospel as the message of forgiveness, but to the four gospels, which finds its counterpart in *Mose*, representing the law. Luther never uses the word *Evangelia* even when the referent is clearly the literary gospels and not the preached gospel. This passage is important because it shows, contrary to certain opinions, that the antinomians Luther was dealing with were not guilty of libertinism. The problem is theology not ethics, although Luther more than once sees the theological error opening the door to moral laxity and *securitas*, thus giving opportunity to Satan.

ever, to use the language of Paul, for the baptized who live in daily repentance, this λύπη is not τοῦ κόσμου, but κατὰ θεόν, for it does not lead to despair but to μετάνοια (2 Cor. 7: 10).

By calling parenesis law, in our opinion, Luther is doing two things. First, holding the line against the antinomian dismissal of the law. Secondly, he is giving recognition to the fact that parenesis, by its very nature, is not gospel per se, and although it can be heard in a gospel way or received as gift, this never happens without calling to mind the fact that we are sinners and as such are entirely dependent on Christ, who wants to be nothing more than *evangelizator pauperum*. If we were not sinners, we would not need to be reminded to what we should do and how we should live. But the splendid thing about parenesis is that here, because the law is controlled by the gospel, it gently reminds the *sancti* that they are still *peccatores*, which is exactly how Luther says that the law ought to be preached to the saints, without attempting to enter their conscience and rob them of the peace and certainty of the gospel. Therefore, the preaching of parenesis to the baptized, as we see it in the New Testament, is the best way of preaching the law, because it is indirect and retrospective, and to that extent softened *mitigata per iustificationem* because it is working for the gospel and not for itself (*officium proprium = usus elencticus*). Furthermore, because preaching parenesis is not identical with preaching the gospel but indeed, as we have seen, will bring to our remembrance not only that we are saints through Baptism and faith, but also that we are sinners in need of forgiveness, the gospel dare never be assumed, but must also be preached alongside the parenesis so that nobody is

left in any doubt. For only the gospel points us away from ourselves unambiguously to Christ the conqueror of sin and the fulfiller of the law.²¹⁴

In summary, it is in recognition of the fact that the law is also at work in the apostolic *παράκλησις* and not just the gospel, that we prefer to speak of *parenesis* as a preaching of the law in the service of Christ and the gospel rather than as designating it as *παράκλησις* per se and identifying it with the gospel. However, we must now turn our attention more specifically to the problem of the *tertius usus legis*, even though we have already crossed that threshold more than once in our previous discussion.

Problem of the *Tertius Usus Legis*

This discussion is very modest in its aims and does not pretend to be anything like complete. Our intention is not to discuss the topic generally, but to limit it to Luther's antinomian disputations. Therefore, in one sense this section is almost out of place because, as we have already seen, Luther does not teach a third use of the law *expressis verbis*. However, the matter cannot be side-stepped quite so easily if only because the literature forces us to take a position on whether the *tertius usus* is compatible with Luther's theology or whether it is a retrojection from a later period having no organic connection to Luther at all. It

²¹⁴See WA 39 I, 532, 13-539, 2 (3 AD, Arg. 18), where Luther speaks highly of the preaching of repentance to Christians based on the goodness and loving kindness of God (Rom. 2: 4), for Christians in whom the flesh is under the control of the S/spirit do not need the heavy hand of the law to bring them to a recognition of their sins. However, the important thing here, which is not understood by the antinomians, is that when one preaches the goodness and grace of God, one cannot stop there. For since this may also bring to mind our sins, the pastor must clearly preach the gospel, so that people are not left with a troubled conscience or are in any doubt about forgiveness.

should already be obvious from the discussion thus far that we are of the latter persuasion. We must now attempt to set out more comprehensively our reasons for rejecting the thesis that Luther knew a *tertius usus legis* and to offer some thing in its place which we think is more consistent with Luther's own understanding of the *officium legis* in the Christian life. Our analysis of the *conclusio* to the Second Disputation as well as remarks made in other arguments will be assumed.²¹⁵ In order to establish some point of reference for our discussion about the third use of the law, we begin with a brief resumé of the main thrust of Article VI of the *Formula of Concord*, which addresses this very issue. This then will be our definition of the *tertius usus legis*. However, it needs to be remembered from the outset that this article flows out of the later antinomian controversies which occurred after Luther's death and so does not have the first controversy (which we are investigating) within its purview.

The following is a summary of the *status controversiae* as set out in the *Epitome*:²¹⁶ The law has been given for three reasons: 1) to maintain external discipline; 2) to bring people to a knowledge of their sin; and 3) on account of the sin that inheres in the flesh, to give the regenerate a certain rule [*gewisse Regel*] according to which they should pattern and regulate [*anstellen und regieren sollen*] their entire life. The controversy that erupted after Luther's death centered on

²¹⁵See in particular our comments in connection with 3 AD, Args. 4, 5 and especially Arg. 13; see also 3 AD, Arg. 40/13 and 45/18. We saw that the only place that the notion *triplex usus legis* (and thus by implication a *tertius usus legis*) occurs in Luther is in the *conclusio* to the Second Disputation, the authenticity of which has been denied by Elert.

²¹⁶FC Ep. VI, 1 (BSLK, 793, 9-24). A proper study of the *tertius usus* would need to compare the wording of the *Epitome* with the *Solida Declaratio*, as well as the German version of both with the Latin.

the third use, that is, whether the law should be taught to reborn Christians. This usage has come to be known as the *usus didacticus* or the *usus normativus*. Obviously, the issue of a third use was not Luther's question, and so in one sense it is unfair to ask him for an answer. On the other hand, we know that Melanchthon was already using the term *triplex usus legis* in the late 1520s and introduced it into the 1535 edition of his *Loci Communes*, and reaffirmed his position in the 1543 edition.²¹⁷ It is not unreasonable therefore to assume that Luther had his reasons for not following Melanchthon with his *triplex usus legis*, or perhaps more to the point, Melanchthon had his reasons for departing from Luther's *duplex usus legis*. The *Formula of Concord*, in trying to settle the dispute between the Gnesio-Lutherans and the Philippists (which as we saw in chapter 2 dealt with a different issue than that which engaged Luther and Agricola), attempted to steer a middle course between the unevangelical alternatives of antinomianism and legalism. How well it succeeded is not for us to judge here. Our concern is merely to demonstrate that the concept of the *tertius usus legis*, both terminologically and theologically, does not adequately reflect Luther's understanding of the law and its function after justification. However, since we ourselves have undertaken neither a careful investigation of Article VI of the *Formula* nor of the concept generally, we are not in a position to offer a proper evaluation of the third use of the law.

We have already seen that Luther knows of a preaching of the law to the *pii* alongside the gospel even though he does not use the terms *norma et regula*

²¹⁷See Ebeling, *Triplex usus legis*, 50-68, for a carefully documented discussion of the origin of the *usus legis* in general.

[*Regel und Richtschnur*] to describe it as we find it in the *Formula of Concord*.²¹⁸ In both the *vita christiana* is marked by an initial fulfillment of the law in us through the gift of the Spirit, although the reason the law must be taught is formulated differently. Luther makes it clear that the law must only be taught to Christians *in quantum peccatores*, and not *in quantum sancti*, whereas for the *Formula of Concord* leaves it somewhat vague and says only that the law it must be taught as a *norma et regula vitae*.²¹⁹ This means that in Luther the law is not taught in order that *renati* learn to live and walk in the law,²²⁰ nor is it taught as a rule and norm for achieving a godly life and behavior in accord with God's eternal and immutable will.²²¹ Its purpose rather is to warn the faithful, insofar as they are still sinners, not to give way to the flesh or to fall back under the power of sin, but remain steadfast in faith. In other words, it exhorts them to fight against the flesh, to guard against temptation, and it summons them to the good works that are the fruit of faith. We should note here that Luther distinguishes between

²¹⁸FC SD VI, 3 (BSLK, 963, 10-18).

²¹⁹Forde, *Christian Dogmatics*, vol. 2, 460, n. 3, observes that FC VI vacillates on the issue of the third use. "On the one hand, it speaks of a third use of the law to be applied to the regenerate, but then it goes on to say it is necessary because regeneration is incomplete in this life. It is an attempt to have it both ways and thus threatens only to obscure the issue."

²²⁰Cf. FC SD VI, 1 (BSLK, 962, 14-15); the German original has no words corresponding to "learn from the law to." The Latin version renders this: *lege docentur ut in vera pietate vivant et ambulent*. How to interpret the *renati* is a moot point. If we follow Luther the referent would be Christians as *simul iusti et peccatores*. However, in our opinion, the thrust of the FC is such that the authors at this point are probably referring to Christians qua saints. If that is not the case our critique falters.

²²¹FC SD VI, 3 (BSLK, 963, 15-18).

preaching the law (that is, the Decalogue) as *lex accusans*, hence as *lex implenda*, to the *impii* and to the *pii*, insofar as they are still sinners, on the one hand, and preaching the law as exhortation, hence as *lex impleta*, to the *pii* qua saints, on the other. This distinction is not made so clearly by the *Formula of Concord* and therefore contributes to its lack of clarity at some vital points. Furthermore, as we saw in an earlier section, it is our contention that if we are going to talk about a normative or didactic use of the law for Christians in Luther, then it is primarily negative (*usus elenchticus*) rather than positive (*usus didacticus*).²²² That is, the main purpose of the law is not to teach the baptized how to lead a God-pleasing life, but to summon them to the battle against the flesh, expose the remaining pockets of resistance to the spirit, warn them of the danger of apostasy (*usus elenchticus*), and lead back to Christ through repentance (*usus paedagogus*). But God can also use the law in the form of parenesis to stir the saints up to love and good works. However, as we saw above, it is not really the law per se that does this but the

²²²Schloemann, *Gesetz*, 25-26, is emphatic that Luther in 1528 expressly rejects the *tertius usus normativus legis* in his lecture on First Timothy (WA 26, 13, 17-15, 35). He no longer wants to talk of the possibility of a positive and normative *usus spiritualis* in *fides and caritas* for the Christian life, as he had done in the past (documented by Schloemann). Rather, by this stage the *duplex usus legis* has crystallized and he no longer attempts to ascribe the *usus legitimus* to Christians, in the sense of an *usus spiritualis*, but expressly limits it to the *impii* and the *caro*. Furthermore, Schloemann stresses that this is Luther's mature position and that he does not deviate from it for the rest of his life. He insists that any third *officium legis* would lead to a righteousness based on the law and make Christ superfluous. The truth rather is that we are given his fulfillment of the law through faith. Schloemann argues that Luther makes this perfectly clear in WA 26, 17, 2-7. He is surprised that this passage has hardly ever been cited in the debate over the *tertius usus legis*. We cite the passage in its entirety: *peccatores ostendere et arcere sunt 2. officia legis. Sed 3. officium tollere peccata et iustificare, est reservatum huic: Agnus dei non lex tollit peccata christus est qui aufert peccatum et iustificat, ergo secernendum officium legis et christi, ut legis officium in ostendendo malum et bonum, quia indicat, quid faciendum, et convincit peccatum, ut non faciendum.*

law under the control of the gospel and in the service of Christ. For this reason we prefer to call this use of the law in parenthesis the *usus evangelicus* rather than the *usus tertius legis*. Other reasons may become clear presently.

We will attempt to sum up the major differences between Luther's *duplex usus legis* and the idea of the *tertius usus legis*. First, as we have just seen, Luther will not allow us to separate the *usus didacticus* from the *usus elencticus* and the *usus paedagogicus*.²²³ The law still teaches even when it exposes sin, points to Christ, and summons us to battle. As it stirs us up to do good works (the works which faith does *sponte*) it also uncovers the unwillingness of the flesh to be led by the Spirit. On the other hand, when the law in the form of parenthesis reminds us that we are ἐν Χριστῷ through Baptism, and calls us back to faith, it is no longer acting strictly as law but is working under the control of the gospel. Therefore, this parenetic *usus* of the law does not qualify for consideration under the rubric of *tertius usus legis*. Secondly, the role of the law in the Christian life, according to Luther, is inextricably bound up with Christian warfare in that it constantly exposes sin and then, in the form of parenthesis (where the law is pulled into the service of the gospel) summons us to the battlefield and exhorts us always to watch and pray lest we succumb to temptation, expose our flank to

²²³On the one hand, the *transitus* function of the law (*usus paedagogus*) is based on its didactic role. Luther says in WA 39 I, 502, 16-503, 3 (3 AD, Arg. 2) that the law is to be taught and even sharpened [*acuenda diligenter*] on account of the *reliquiae peccatorum* in Christians, and then he cites 1 Tim. 1: 9. On the other hand, the didactic function of the law also includes and points to its *transitus* role. Luther remarks in 512, 10-513, 14 (3 AD, Arg. 5) that even though we desire to live *iuxta legem Dei* as closely as possible (*lex Dei* here would be better rendered word of God than law of God, for it is the *lex impleta* that is in view, not the *lex implenda*), the flesh always gets in the way and impedes us. Here he cites the battle of the saint-sinner in Romans. 7, which the impii know nothing about because in them the *caro* has full reign.

Satan or even be attacked from behind.²²⁴ But again, we need to remember that this war is to be fought in the same way as it was won: by and in Christ. Hence, being summoned to the battlefield constitutes an appeal to faith, and the path to victory is by way of the *recurrere ad baptismum*. However, in this the law is not its own master but serves the gospel as the *usus paedagogus*. In a word, the law is our *paedagogus ad Christum*, which points us in the direction of Christ. This, according to Luther, is the most proper definition of the law.²²⁵ Here again the law is not operating by itself or for itself but is in the employ of the gospel and precisely for that reason does not fit in the category of a *tertius usus legis*. Thirdly, another difference between the *usus didacticus*, and thus the *tertius usus*, and

²²⁴It is precisely their complete ignorance of spiritual warfare occasioned by their defective doctrine of sin that prompts Luther to warn the antinomians that they are easy targets for Satan. In fact he attributes their alleged securitas to their illusion that since all sin has been forgiven, sin is behind us, and Christians can never fall. Furthermore, we would contend that it is only when the teaching of the law is set within the framework described above that it is adequately defended against being turned into moralism or legalism.

²²⁵39 I, 441, 11-15 (2 AD, Arg. 6). To talk more about obedience to the law (or the obedience of faith) than the freedom of the gospel could be a sign that faith is being hobbled by the law instead of being allowed to range freely and to do what faith cannot but do: overflow with love for God and neighbor without the constraint and prodding of the law. The law can be a kill-joy. This is not to say Christians do not need discipline, they do, but once again, the aim of discipline is the same as that of the good *paedagogus*, to escort the hier safely to the *parterfamilias*, who first entrusted him to his care. So too here, the aim of the law's *paedagogia* is to deliver the *pui* safely to Christ, to bring them again to faith. The law is never number one but is always subordinate to Christ, and precisely because the law now serves him we will also gladly receive its discipline and instruction as gift, for in and through its warning and admonishing voice we hear the voice of Christ who wills nothing for us but *salus*. So long as we remain in his care (under the wings of our hen, to use Luther's picture), we need never be afraid of the law for it cannot condemn us (Rom. 8: 1), but we may celebrate it with the same solemnity and exultation as the writer does the Torah in Psalm. 119.

Luther's *duplex usus legis* is that the former ultimately reduces the law-gospel antithesis by giving the law preeminence over the gospel, and therefore does not make it clear that the saints are both under the law (because of the remnant of sin) and not under the law (insofar as they are truly saints). Paul says not only that the νόμος is established by faith (Rom. 3: 31), which we take as a reference to the *lex arguens et accusans*, necessary on account of sin,²²⁶ but he also says that Christ is the end of the νόμος for faith (Rom. 10: 4). However, the *tertius usus legis* is purportedly not a normative use of the law for Christians *in quantum peccatores*, but rather *in quantum sancti*. On the other hand, we have shown that the law applied to the Christians *qua* saints is not the *lex implenda* but the *lex impleta*, which is no law at all, but the gift of Christ's own perfect fulfillment. The "law" then for the *pii* as saints is not a proper law, which for Luther is always *lex exactrix et condemnatrix*, but the law that law which is now pulled into the service of the gospel. Moreover, as we saw, even when the law must be preached to Christians as *lex implenda* on account of the flesh, Luther says that it has been tempered through justification [*valde mitigata per iustificationem*] and should be softened and taught as exhortation [*lex mollienda est et quasi exhortationis loco docenda*], and done so with some privilege [*cum aliqua praerogativa*], for in Christians the *caro* is *regnata* and not *regnans*.²²⁷ These points now need further clarification.

²²⁶According to Luther the *peccator* is the *materia legis*. Hence, following in his steps we can formulate a basic axiom: *Si vis disputare de lege, materiam legis accipe, quae est peccator* (WA 40 I, 535, 1 [Galaterbriefvorlesung, 1521/35]).

²²⁷For references to *mitigata* etc see above. On the difference between *peccata regnata* and *regnans*, see WA 39 I, 506, 1-3 (3 AD, Arg. 3): Paul's sin is *victum ac languidum*, whereas that of the *impius* is *vivum, dominans, triumphans*.

We have said that when Luther talks of the law in the Christian life he describes it more in terms of parenesis than the *usus didacticus*. Does that mean that the law has no didactic role for Christians at all? Certainly not, but we need to explain more clearly what exactly that entails. Luther does not say that the law teaches the *renati* good works. They issue spontaneously from faith. But insofar as they are still sinners, they need to be reminded, encouraged, warned, and stirred up to do good works. But this is not the same as teaching good works. Therefore, if we are going to talk about a didactic function of the law in the life of the baptized, it needs to be developed along the lines of apostolic parenesis. Furthermore, although parenesis is law, it is not really law, just as Luther says that the *lex* in the earthly paradise was not really *lex* at all in the proper sense of the term. Nor, on the other hand, does he say that it is gospel. There is a parallel between the role that the law plays in paradise and its role in the *vita christiana*, but not an identity, for Christians are also sinners. If Adam needed the command to withstand temptation, we need it even more to fight the flesh. However, as we have said before, in the final analysis the battle is done and the victory won, and we are simply invited to claim that victory for ourselves in the name of Christ. That is the evangelical side of parenesis. To say it again, although we contend that Luther calls the exhortations and admonitions of the New Testament law, it is not really law because it is not the *lex implenda*, which demands fulfillment from us, but the *lex impleta*, which Christ gives us in faith and which he then works in us in order to bring us into conformity with himself (cf. Paul's doxology to God as the one κατὰ τὴν δύναμιν τὴν ἐνεργουμένην ἐν ἡμῖν, Eph. 3: 20).

Thus when Paul appeals to the Romans: μεταμορφοῦσθε τῇ ἀνακαινώσει τοῦ νοός (Rom. 12: 2), he can say that because their νοῦς has already been trans-

formed by faith. Again, when he says: Τοῦτο φρονεῖτε ἐν ὑμῖν ὃ καὶ ἐν Χριστῷ Ἰησοῦ (Phil. 2: 5), he can do so because he knows that his readers already have the φρόνησις of Christ through Baptism. Consequently, this parenesis is not a teaching of the law but it calls to mind the gospel, what God has done for us in Christ. It is an appeal to let God have his way with us and to be led by the Spirit and not to hinder his work in us. While it summons us to good works it also calls us to be part of the good work that Christ and the Spirit are working in us and through us for others. Christians are not summoned to do or fulfill the law themselves, but they are invited to live in Christ's fulfillment, to stay under the wings of their "hen" and keep their feet tucked up under the robe of Christ's righteousness, which they received at Baptism. Admittedly, there is also teaching involved in parenesis, but as we have said, it is not the teaching of the law. For in stirring us up to do good works (or to fight against the flesh and to watch and pray) the law may be teaching us, but what is it teaching? It is pointing us back to the gospel, to faith, to Baptism. In sum, apostolic parenesis is not a *tertius usus legis*, for the law here is not demanding obedience but serving faith and the gospel. Therefore, in our opinion, it would be better to speak about faith's use of the law or the gospel's use of the law.

The view that the chief task of the law after justification is to teach the faithful how to lead a godly life circumscribes faith too narrowly by the law and does not take sufficient account of the freedom of faith and the spontaneity of good works.²²⁸ That faith will do the good works prescribed by the Decalogue is

²²⁸It is sometimes said that if one denies the *tertius usus*, or more specifically the *usus didacticus* of the law, it means that the gospel must take on the teaching role of the law by default. However, in the light of our discussion, it is clear that that conclusion is a *non sequitur*. According to our reading of Luther,

a promise of the gospel; the law has no need to sit on faith's shoulder, so to speak, as if to keep a watchful eye on it, but it does need to keep its eye on the flesh to make sure that it does not step out of line. Secondly, when the law's main task is seen to be that of teaching good works the result almost inevitably is to see the good works as the obedience of faith. When the word obedience is used it can only refer to the law since faith makes no demands but simply bursts forth in love and good works in the same way as a spring gushes forth water and a tree produces its fruit in due season. This is Luther's characteristic way of speaking. To talk of good works as the obedience of faith or as that which is taught by the law robs the gospel of its preeminence. For faith the *debere* of the Decalogue become a *posse* through the gospel.

We have said several times that Luther stresses that Christians, *in quantum sancti*, are not to have the *lex implenda* preached to them but only the *lex impleta*. This comes out especially clearly in an argument in the Third Disputation, where the antinomians argue that since Christ has fulfilled the law, it does not have to be fulfilled by us so that the law and all *disciplina* should be abolished.²²⁹ But Luther immediately points to the experience of all Christians as typified by Paul in Romans 7. Sin is still alive and so the law must still be preached. Yet earlier he asserted unequivocally that Christ has fulfilled the law and thus abolished it. Is not Luther contradicting himself here and agreeing with the antinomians? The difference between them becomes clear when Luther says that Christ has indeed

the law retains its teaching role, but it does not teach the *lex implenda* and therefore does not demand obedience from the *ὁ ἔσω ἄνθρωπος* but only from *ὁ ἔξω ἄνθρωπος*, for the conscience of the Christian lies outside the jurisdiction of the law.

²²⁹WA 39 I, 524, 3-528, 2 (3 AD, Arg. 13).

fulfilled the law—but observe what he then adds: Now see that you lead a life that is holy, godly, and pure as is becoming of a Christian [*Sed additum est: Hernach fac, ut sancte, pie et integre vivas, ut decet christianum*]. The implicit subject here is clearly God. The divine monologue continues: Up to this point you have heard: You are forgiven, but now, in order that you do not complain of being altogether abandoned, I will give you my Spirit who will make you a soldier, and he will cry out in your heart against sin with unutterable groans in your heart so that you become what you desire. The heart replies: But I cannot. God responds: Pray, that I may hear you, and I will see to it that you can [*Ora . . . et faciam, ut possis*]. The formulation here is significant for what Luther says here does not equate with the *lex implenda*. We have seen that he says that the law is fulfilled in two ways: First, *imputative*, which is the *lex impleta*, and then also *expurgative et formaliter*, which is the *lex implenda*. But this second is not preached to the conscience but to the flesh. The law must also be fulfilled in us, Luther says, insofar as we are still sinners. But here he makes no mention of that, even though—and this is what makes it all the more remarkable—he is engaged in an argument with the antinomians who deny the truth of the *lex implenda* all together. In the passage we have considered, God is speaking reassuringly to the conscience of the *homo novus* troubled by *Angst* and *Anfechtung*, not to the recalcitrant old Adam. Here then we have an excellent example of Luther carefully distinguishing between law and gospel in preaching to the baptized. This is what we suggest should replace the *tertius usus legis*.

We have already made the point that Luther strongly insists that after justification the task for the law as law in its role as *lex implenda* is to discipline the flesh, and that it must not be permitted to displace the gospel from the con-

science. Christ will brook no opposition from the *lex* when it tries to take over the conscience for there he rules alone as Lord with his glorious gospel of freedom. There he is head of the "household of faith," and the law is welcome only if it comes as servant, but not if it comes seeking to usurp the place that belongs to Christ alone. If the law does try to force an entry, Luther says that faith must turn it away.²³⁰ Faith, as it were, is to say to the law: "If you want to teach my flesh to lead a godly life, that's fine, but see that you don't come accusing my conscience." That is what it means to distinguish properly between law and gospel *in experientia*, and in our opinion, it is just this matter which cannot be adequately addressed by positing that Christians qua *sancti* are subject only to a positive didactic use of the law. Rather, we need to realize that law and gospel must be distinguished just as carefully after justification as before. The teaching role of the law is never without risk because we are still sinners, and hence the law every now and then may very well kick over the traces, so to speak, cease serving the gospel and sail under its own colors. When that happens, faith must put the law in its place—unless of course the Christian himself is the one who has kicked over the traces, in which case he indeed needs to be disciplined by the law. But that distinction can only be made in faith, and yet it is a crucial distinction to make if

²³⁰WA 39 I, 410 (1 AD, Arg. 31). Luther also deals with this matter in his 1532 sermon: "The Distinction Between the Law and the Gospel" (trans. Willard L. Burce from WA 38, 8-42 and St. L 9, 799-811, in, *Concordia Journal* 18 [April, 1992], 153-163). Here he says that when law and gospel are battling head to head in your conscience, it is important that you can separate them rightly and to say: "I am going to have these two words unmingled, with each one shown to its own place, with its own strengths: the law for the Old Adam, the gospel for my timid and terrified conscience." Again: "See to it, he says, that you do not let the law get the upper hand or rule in your conscience and so bring you into judgment, for that would be a denial of the gospel" (p. 162). See also Luther's 1535 Preface to his great *Galatians Commentary* (AE, 26, 11).

the law and the gospel are to be rightly divided. Because of this ambiguity with the law, where a friend can suddenly become an enemy, our confession to the goodness of the law can never be unambiguous this side of heaven, even as our delight in the law is now only in part and not yet complete. Our confession to the goodness of the law as God's gift is possible only in faith, and is always eschatological, in view of that final elimination of the *lex* all together in paradise and where we will have it only as *res*.²³¹

We now sum up our arguments for rejecting the proposal that the *tertius usus legis* is in harmony with Luther's doctrine of the law as expressed in his anti-nomian disputations. 1) There is no evidence of a positive *usus didacticus* of the law which is isolated from the *usus theologicus*. 2) Generally speaking, he does not use the law to teach good works for he insists that faith does good works by its very nature. However, he uses the pattern of apostolic parenesis to stir Christians up to love and good works; he admonishes them to be good soldiers in the battle against sin, to be alert at all times, and to pray that God would deliver them from temptation. 3) Parenesis is not strictly a preaching of the law, nor is it identical with the gospel.²³² Rather, it is the law acting in the service of the gospel or

²³¹Cf. Nestingen, Luther: *The Death and Resurrection of Moses*, 278.

²³²Joest, *Gesetz und Freiheit*, 133, says that as sinners, Christians encounter the command [*Gebot*] as a destroying law [*Gesetz*]: *du sollst, aber du kannst nicht*. However, as believers in Christ they experience this same command as evangelical promise [*Zuspruch*]: *Christus kann - du wirst*. Joest denies that Christians ever encounter the command as a *tertium* between law and gospel, such as: *zwar hat Christus - aber nun mußt auch du*. Nor should the command ever be understood moralistically, as if our salvation depended on our own performance and achievement. Joest says plainly: "*Das Gebot als dem Sünder gesagt ist Gesetz in ganzer Schärfe; das Gebot als dem Glauben an Christus gesagt, als Parainese, ist Paraklese, Zuspruch, Evangelium in vollem Maß*" (emphasis Joest's).

faith's use of the law and hence is not law at all. Insofar as Christians are saints, they are only to be taught the *lex impleta*, which faith receives as gift. But insofar as the baptized are still sinners, they must be taught the *lex implenda*. But this must be done with discretion, for the law must not overstep its bounds and attempt to burden the conscience of the saint with its demands and accusation, for there Christ reigns in untrammelled freedom. 4) Law and gospel must be distinguished just as carefully after justification as before. This is already implicit in the previous point and follows from the fact that the baptized in this life are *simul iusti et peccatores*. This also has implications for the way they assess the law. On the one hand, from the stance of faith, they can delight in it and receive it as God's good gift, which they know even serves a salutary purpose when used as παιδεία. On the other hand, insofar as they are still sinners and need the law preached to their old Adam as *lex implenda*, there is the ever present risk that the law, which faith greets as a friend, can suddenly turn around and become an enemy by seeking to overpower faith and to bring us into captivity. Here Luther says that unless we can properly divide the word in times of *Anfechtung* and temptation, we stand to lose the gospel. Therefore, a teaching of the law to the saints, which is faithful to the gospel (as servant), will always be distinguished and never separated from the gospel.

In the light of the foregoing we would propose that the term evangelical use of the law or faith's use of the law is a more helpful way of speaking about Luther's understanding of the law from the standpoint of faith than that of *tertius usus legis*. This takes cognizance of the fact, as we saw, that Luther in his mature writings does not ascribe a positive use of the law to the *vita christiana* but consistently understands it in the sense of the *duplex usus legis*. The "positive" use

comes out when it is pulled into the service of the gospel, but then it is no longer really law in the strict sense, but it is working toward the same end as the gospel.²³³ Although Luther never says that law and gospel are united for faith, he does say that they now work very closely.²³⁴ On the other hand, insofar as

²³³Joest, *Gesetz und Freiheit*, 197, agrees with Althaus' proposal to use the term command [*Gebot*] to refer to the law in the life of the Christian (and also life in paradise), in order to distinguish the way the law acts before and after faith. The "*Du mußt, damit . . .*" (= *lex implenda*) of the first (before faith) must not be linked together with the: "*Du darfst, weil . . .*" (= *lex impleta*) of the second (after faith) as a different sub-species under the one *Oberbegriff* "*lex*." Given this distinction between a *usus legalis* of the law and a *usus evangelicus* of the command, Joest argues that neither Luther nor scripture opposes the view that every aspect of the Christian life is regulated by God's command. We agree that faith's use of the law should not be put under the *Oberbegriff* "*lex*." as is done with the term *tertius usus legis*. However, Joest's way of solving the problem of how to talk about the law and faith, while an improvement over the notion of *tertius usus*, is still unsatisfactory, for it puts life under the command (even if it is now *Gebot* and not *Gesetz*) instead of under faith.

²³⁴Joest, *Gesetz und Freiheit*, 197-98, says that while before faith *Gesetz* and *Evangelium* are diametrically opposed, and the law functions primarily as *usus elencticus*, after faith the law no longer accuses but guides the Christian, so that in fact the gospel and the law become one, and the *Gebot* is changed from *Gesetz* into an *usus evangelii*. However, he stresses that this is a contingent unity or an *Einswerden* of law and gospel in the Christian life, not a *prinzipielles Einssein*, where the *lex iam impleta*, not the *lex implenda*, becomes the *Zuspruch des Gehorchen-dürfens*. Joest tries to distance himself from Barth by pointing out that what he is proposing is not the same as Barth's idea of the unity of gospel and law. He says that God's real word is not just the unity of gospel and command in the sense of a *usus practicus evangelii*, such as we have in the *vita christiana*, but first and foremost the antithesis of gospel and command, where the command is no gospel at all, but sheer law in the sense of *lex implenda sub necessitate salutis*. It is important to note that Joest does not say that law and gospel are one but that they can become one in the concrete case of the preaching of the gospel for faith. Rosenberger, *Gesetz und Evangelium*, 103, also speaks of the unity of the law and gospel in terms of their content as the demand and fulfillment of the will of God and sees this unity grounded in Jesus Christ. Luther however is "unsystematic," and for good reasons; he never speaks of law and gospel being brought together

Christians still have the old Adam, law and gospel remain antithetical. Furthermore, the way of speaking about the law in the Christian life which we are proposing with the term the gospel's use of the law instead of the term *tertius usus legis* shows that it is truly an *usus evangelicus* and not an *usus legalis*.²³⁵

Finally, if it is true, as some claim, that the idea of the *tertius usus legis* is based on the notion of the *lex aeterna*, this cannot find support in Luther.²³⁶ On the other hand, we must be fair to the proponents of the third use of the law and concede that its validity does not stand or fall on the supposition that it is grounded on the notion of a *lex aeterna*. If however a correlation does exist, then clearly the *tertius usus legis* is, as its name suggests, oriented to the law rather than to the gospel. And whenever that happens there is always the very grave

into any kind of unity, even though he himself says that they work very closely for faith.

²³⁵Faith's use of the law is evangelical because it teaches us nothing other than what Christ wants, nothing other than the fruit of faith which redounds to his glory. Here Christ himself uses the law to teach, admonish and instruct, not to terrify us with its demands (as in the *usus legis spiritualis*) because he has already given us its entire fulfillment *per fidem*. Since its intention is not to accuse the conscience, it is a joy and delight. But when we take our eyes off Christ and look to ourselves, our conscience becomes uncertain. But it is precisely at times like these, when Satan tries to separate us from Christ, that we are most vulnerable to the accusations of the law. By the same token, it is just at these times that we must not give the law a hearing, but must cling to Christ alone by faith.

²³⁶The case for this is put by Gerhard O. Forde, *The Law-Gospel Debate: An Interpretation of Its Historical Development*. Minneapolis: Augsburg Publishing House, 1969. In his latest treatment of the locus on the Christian Life (Christian Dogmatics II, esp. 445-454) he does not use the term *lex aeterna*, nor does he expressly state that the third use of the law is grounded on the aristotelian idea of the *lex aeterna*, he does nonetheless state, in explaining the loss of eschatology in the dogmatic tradition: "Natural law became the structural backbone of the theological system, displacing eschatology" (447).

danger that the gospel will be seen as fulfilling the law in a way that brings it into subservience to it instead of the law being the servant of the gospel.²³⁷

Luther's Answer to Antinomianism

It only remains to pull together the threads of Luther's key arguments against the teaching of the antinomians. There are, as we have seen in chapter 3, many arguments that he employs, however some cardinal ones that run like a red thread through all three disputations. It is our conviction, and we believe that the analysis has borne this out, that if considered in their totality, Luther's arguments against the antinomians have their basis in a deep concern for the integrity of the gospel. We are persuaded that Luther is interested here primarily with doctrine and not ethics, for the antinomianism he is fighting against is not in the first instance libertinism (ethical antinomianism) but the teaching that the law is unnecessary because it is contained in the gospel (doctrinal antinomianism).²³⁸ In other words, Luther saw in antinomianism, once he came to recognize that it

²³⁷See also Robert Kolb, "Not without the satisfaction of God's Righteousness: The Atonement and the Generation Gap between Luther and His Students," in *Die Reformation in Deutschland und Europa*, ed. Hans R. Guggisberg and Gottfried G. Krodel, Sonderband: Archiv für Reformationsgeschichte. (Gütersloh: Gütersloher 1993), 136-156, esp. pp. 153-54. Kolb points out that "in Melanchthon the law has the final say," and "God must somehow account to the law for the liberation of the sinners from sin. For Luther the law is no more than God's tool." See also the first part of this chapter where we suggested that some argue that the third use of the law is predicated on a view of the Christian life that sees it regulated by the *lex aeterna*, and where faith in Christ and the gift of the Spirit merely enable us to fulfill the law. Even if the notion of the *tertius usus legis* does not necessarily require the theological construct of the *lex aeterna*, it is at least very susceptible to this kind of interpretation.

²³⁸This distinction is made by Schloemann, *Gesetz*, 45, n. 129.

was no mere *pugna verborum*,²³⁹ an attack on the very heart of his theology, that is, the gospel, justification, and the person and work of Christ.²⁴⁰

The Law Must be Preached in the Church

We may recall that Luther gives two standard reasons why the law is to be retained and taught in the church. First, on account of the impenitent [the *prae fracti et insensati*] and secondly, because Christians still have the remnant of the flesh. Thus, the law is not preached to Christians *in quantum sancti*, but *in quantum peccatores*. However, there is a third reason why the law must be retained, and that is because it cannot be abolished. The law (and here Luther is thinking especially of the *lex naturalis*) is an inescapable fact of life for it belongs to the very structure of our world and ourselves. These are the three practical reasons that Luther gives for why the law must be retained and taught in the church. But there is also a vital theological reason, and it is that to which we must now turn.

It is clear from the end of the fifth *Thesenreihe* that what is important is not the retention of the law for its own sake but for Christ's sake. Moreover, the antinomian rejection of the law results in a diminution of Christ's atoning suffering and death. For without the law we do not know who Christ is or what

²³⁹As we saw in ch. 2, that was not yet the case in the prelude to our controversy in 1527; see Gustav Hammann, "Nomismus und Antinomismus innerhalb der Wittenberger Theologie von 1524 - 1530" (Unpublished Dissertation, Bonn, 1952), 105.

²⁴⁰WA 39 I, 527, 18-528, 2 (3 AD, Arg. 13): *Non pugno adversus Antinomus ex odio aut invidia, sed ex summa necessitate, quia video, quid futurum sit et secuturum ex eorum dogmate aliquando, videlicet illa tempora extrema, de quibus Christus et divus Petrus conqueruntur*. Clearly, Luther's sees this antinomian heresy as one of the signs of the end.

he has done in fulfilling the law. And if the law does not expose our sin and put us under sentence of judgment, we would never know what law he fulfilled for us when he died in our place. The *pro nobis*, and hence the gospel, would be lost. And then Christ may become no more than a religious teacher and moral example of some *Lebensideal*. The antinomians end up having to put Christ himself in the place left vacant by the law, so that in the final analysis they come out exactly at the place from which they wanted to escape: "The antinomians have become nomists, the super-evangelicals moralists."²⁴¹ And finally, with the silence of the law, people are hopelessly at the mercy of sin and the power of death. Luther therefore asserts that the teaching of the law is necessary in the church and must be retained because without it Christ cannot be retained.²⁴² Since however Luther only wants to retain the law for Christ's sake, what he is saying in effect is that Law and gospel must be taught in the church.²⁴³

It may seem that the most compelling line of argument which Luther pursues in places is that the loss of the law would inevitably mean a loss of Christ, or conversely, that without the law Christ could not be retained.²⁴⁴ However, this is clearly one of those marvelous hyperboles that Luther is not beyond

²⁴¹Thus, Hans Joachim Iwand, *Glaubensgerechtigkeit: Lutherstudien*, 2d ed., ed. Gerhard Sauter (Munich: Chr. Kaiser Verlag, 1991), 64.

²⁴²WA 39 I, 357, 29-34 (ATh V, Th. 66-68). Without the law, says Luther, all you know is that he has fulfilled, not what he has fulfilled.

²⁴³WA 39 I, 383, 26-27 (1 AD, Arg. 14).

²⁴⁴In addition to ATh V, Th. 67-68 noted above, see WA 39 I, 546, 17-19(3 AD, Arg. 23): *Itaque si Christus debet manere salvator, necesse est, me manere peccatorem, morti ac diabolo obnoxium, oportet, ut haec simul maneant ac stent. uno ablato utrumque peribit.*

making from time to time to drive home his point.²⁴⁵ As a piece of rhetoric it is very effective. However, it must not be pressed theologically. For a start, Christ cannot be abolished or lost. Secondly, that way of speaking, if taken seriously, ends up saying the very opposite to that which Luther intended. When the importance of the law is magnified to the point where Christ's own destiny rides on the fate of the law, he is no longer the Lord but in an ironic way has become subject to the law. Clearly, Luther intends none of these things, however, those who want to press such *dicta heroica* need to be aware of the consequences. It would be better theologically to follow Luther's lead in 3 AD, Arg. 23 (see previous note) and say that if Christ is to remain savior we must remain sinners, for Jesus himself testifies that he did not come to call the righteous but sinners. Not only does this underscore the close and vital nexus between law and gospel, but it reminds us that we cannot receive Christ's gift of forgiveness unless he first works in us the recognition that we are sinners, which he does through his holy law. To exclude ourselves at this point from the company of sinners is to put ourselves beyond the reach of the savior who does not want to be found anywhere else than among sinners. And in that sense Luther can say that Christ is lost—lost, that is, as savior to impenitent sinners. Therefore, his bold *dicta heroica*

²⁴⁵This is not Luther's only hyperbolic utterance in the disputations. See WA 39 I, 371, 8-10 (1 AD, Arg. 4): *Nam sic tollendo legem tollent etiam mortem et infernum. Nam si non est lex accusans et condemnans, quorsum opus habeo Christo, qui se pro peccatis meis tradit?* Cf. also Theses de fide (1535) where Luther says that if ever it came to a choice between Christ and the law, the law would have to go, not Christ (47, 23-24 [Th. 51]). This is proof positive that statements like these are to be understood rhetorically, for if this latter were pressed, Luther would end up saying the opposite to what he says in the disputations, namely, that if we lose the law we lose Christ.

make the point most emphatically that the law is an indispensable presupposition to the gospel and belongs to it just as repentance belongs to faith.

Finally then, Luther's stance against antinomianism hinges on the inseparability of Christ and the law. This implies neither a confusion of law and gospel nor a synthesis. We have already seen in connection with repentance that Luther stresses that while law and gospel must always be distinguished, he is equally insistent they must never be pulled apart. This has to be asserted especially *contra antinomios* who want to assign to the gospel the task of exposing and condemning sin and thus leading people to repentance (*duplex revelatio evangelii*). Luther, on the other hand, while not denying that the gospel plays an important role in repentance (indeed it is the *principialis pars*), argues that repentance is not *ex evangelio* but *ex lege*, for whatever preaches wrath and works repentance is law, whether the words themselves are law or gospel. Here he insists that law and gospel belong together and cannot be separated.²⁴⁶ Thus, over against the misunderstanding of the antinomians, who say that Christian proclamation is *eo ipso* a preaching of the gospel and therefore has no need of the law, Luther holds that the law is in fact necessary to preserve the purity of the *officium evangelii* and ensure its proper understanding. While law and gospel are strictly antithetical before justification (the law must be kept out of the article of justification), they belong closely together in sanctification, for under faith the law now serves the

²⁴⁶We have also seen him stress that the law serves the gospel by means of *praeparatio* just as a good doctor first diagnoses the illness and informs the patient before applying the *remedium*. Again, his point is that law and gospel cannot be pulled apart. Simply to apply the remedy before informing the patient of his illness prevents the gospel from doing its *opus proprium* for it cannot forgive sins when there are no sins to forgive. The gospel loses its intelligibility as well as its concreteness if it is not preached against the background of the law. Thus, while the law belongs to the gospel, it must always be distinguished from it.

gospel and no longer opposes it; the former enemy has become a friend, and the law as *lex impleta* is given to faith as a gift. However, since the law in the sense of the *lex implenda* must still be preached to the Christian on account of the sin that clings to the flesh, there is the ever present danger that it might transgress its prescribed limits and try to bind our conscience to its demands.²⁴⁷ Whenever that happens, faith must take a firm stand and cast the law out in the name of Christ. In rightly distinguishing law from gospel faith recognizes that each has its assigned task as well as its limit: the law must not claim to be the gospel, and the gospel should not attempt to take over the role of the law.²⁴⁸ However, while the law may be in the gospel, the gospel can never be in the law. Again, faith knows how to distinguish these for it knows that if the words of the gospel are doing the work of the law then the gospel is not acting according to its *opus proprium* but its *opus alienum*, for its proper work is not to expose sin and convict consciences but to absolve sin, comfort troubled consciences, and give life to the dead and certainty of salvation to repentant sinners. However, these roles can never be reversed. The gospel can never be in the law (contra Barth!) for the law has only one *officium*, and that is to expose sin, accuse and condemn. If the gospel does ever get into the law it becomes pure law. Whatever else the law may do that is positive, such as give instruction, admonition, warning, encouragement etcetera, it does not in and of itself, but under the banner of the gospel.

²⁴⁷Ebeling, *Erwägungen zur Lehre vom Gesetz*, 288, rightly observes that Luther restricts the law in the theological sense to only that which pricks and binds the conscience.

²⁴⁸Cf. Gerhard Ebeling, *Luther: Einführung in sein Denken* (Tübingen: J. C. B. Mohr [Paul Siebeck], 1964), 125-26.

CHAPTER 5

CONCLUSIONS

In the three antinomian disputations of 1537-1538 Luther rejects the basis of the antinomian claim that the law has already been abolished and that therefore it should not be taught in the church. The antinomianism of Luther's day held to the following cardinal doctrines: 1) The referent of νόμος (*lex*) in Paul is the *lex Mosaica*. 2) The *lex elenctica* has been abrogated, sin is no longer reckoned to us (Rom. 5: 13), and the law has only a civil function to perform [*usus civilis = usus paedagogicus*]. 3) Christ has fulfilled the law therefore we are exonerated. Since the law has already been abolished [*simplex abrogatio legis*], there is no already-now ~ not-yet tension in the Christian life, the *pui* are not *in via*, nor are they *simul iusti et peccatores*, but they have already reached the heavenly port and are perfect. 4) Only the gospel is to be taught in the church. As the one word of God, it has a twofold office (*duplex revelatio*): first, to declare the forgiveness of sins, and then in the light of the goodness and mercy of God, to convict sin and to lead the *homo peccator* to repentance. Therefore, repentance is to be taught *ex evangelio* and not *ex lege*, or in the language of the antinomians, *ex violatione filii* and not *ex violatione legis*. Their key texts are: Luke 24: 47; John 16: 8; Rom. 1: 18; 2: 4; Acts 9: 1-6.

Luther's doctrinal position *contra antinomios* as it emerges in the course of the disputation can be summed up in the following points.

1. He deliberately refrains from equating the νόμος with the *lex Mosi* and instead consistently identifies the νόμος with the *lex naturae*, which he in turn identifies with the Decalogue in terms of content. In this way Luther overcomes the antinomian claim that the law has been abrogated. Moreover, by equating the *decalogus* with the *lex naturalis*, which has been inscribed on the minds of all people (*lex insculpta*), he is able to uphold the universality of the law and hence its inescapability due to the fact that it is inextricably rooted in the hearts of all human beings. The law is *schon da*. This is perhaps Luther's most invincible argument against the antinomian insistence that the law has been fulfilled and abolished by Christ and hence is passé. He holds to the unity of all the law and sets it in antithesis to the gospel. Hence, he does not make a distinction within the law between the *lex vetus/lex littera* and the *lex nova/lex spiritualis* for he refuses to bring the gospel under the *Oberbegriff lex* (as in Augustine), but instead sees the gospel as God's great eschatological *novum* which, far from being on a continuum with the law stands in radical opposition to it.

2. Luther also teaches that the gospel abrogates the law, but only for faith, for Christ is the end of the law for justification (Rom. 10: 4). But he also knows with Paul that faith upholds the law (Rom. 3: 31), in the sense that the law as *lex elenchticus* demonstrates our utter sinfulness and inability to justify ourselves, and thus leads us to repentance that we may receive Christ's own righteousness as a gift. Therefore, in place of the antinomian *simplex abrogatio legis* Luther teaches a *duplex abrogatio legis*. The first corresponds to justification whereby the law ceases for us *imputative*; the second corresponds to sanctification so that the law will also cease for us *realiter* at death.

Luther holds to a *duplex usus legis*, not a *duplex revelatio evangelii*. The *usus praecipuus legis* is not the *usus civilis*, as it is with the antinomians, but rather the *usus theologicus* = *usus elencticus* + *usus paedagogicus*. He rejects the notion that *paedagogia* is to be connected exclusively to the *usus civilis* and links it instead to the *usus theologicus* (Gal. 3: 24). The law really only performs its theological task fully when it leads people to Christ, but it can only do that through the Spirit and the gospel. Without this critical transition (which will be summarized below) from law to gospel the law would drive people either to *desperatio* or to *securitas*.

3. Luther also teaches that Christ has fulfilled the law, however he speaks of a *duplex impletio* just as he speaks of a *duplex abrogatio*. Although the law has been fulfilled and hence abrogated for faith *imputative*, he says that, because of the *reliquiae peccatorum* in the flesh, the law must also be fulfilled in us by the Holy Spirit (and Christ), first of all, *expurgative*, in this life through the means of grace, and then finally *formaliter* with the resurrection of the body. This he especially stresses *contra antinomios* because by denying the continuing reality of sin, they have no need for lifelong repentance and thus they leave themselves wide open to be duped by Satan. The law will only be finally abolished for us *substantialiter* after the resurrection when sin will be entirely destroyed and we will fulfill it finally *ex amore Dei*. Luther, on the other hand, knows that the saints, because they are still burdened by the flesh, need constant admonition, warning, encouragement, and instruction. They need to be summoned to join the battle against sin and Satan, to watch and pray at all times, and to be good soldiers of Jesus Christ. He knows that even though faith does good works *hilariter et sponte*, just as a tree produces fruit, it must be stirred up to love and good works, on account of the flesh.

This parenthesis is not really a preaching of the law however, for here it is operating under the control of the gospel. However, Luther still calls these exhortations and admonitions *lex*, even though he hastens to add that they are not really *lex*, which for Luther is never a *lex vacua* but always the *lex accusans, reos agens et exactrix*. There is a parallel here with the law given to Adam. Luther calls it *lex* but then immediately says that it is not really *lex* (in the sense in which it became the *lex arguetrix et condemnatrix* after the fall) at all but truly a *lex iucunda*. Here he ties protology and eschatology together, for he anticipates the same delight in the law in the heavenly paradise, except that he says that there will be no *lex* in heaven but only *res*, for the law will have what it demands in full.

The parenthesis is not strictly law for another reason: Luther himself warns that the *lex implenda* must never be addressed to the saints, only the *lex impleta*. The *lex implenda* is only for the old Adam, that is, for the Christian *in quantum peccator*. For this reason we contend that the later concept of the *tertius usus legis* cannot be read back into Luther without causing serious conflict with his understanding of the law. Not only does a *triplex usus legis* contradict his consistent use of the *duplex usus legis*, but what is worse, it is ascribing to the law a function which for faith is now under the control of the gospel. Secondly, the *tertius usus* is purportedly a specifically positive (non-condemning) *usus legis* for Christians, *in quantum sancti*. That, in our view, stands in direct conflict with Luther's insistence that the saints are not to be burdened by the law (*lex implenda*) but are to be given Christ's light yoke (*lex impleta*), which is really synonymous with the gospel, for it does not demand fulfillment from the baptized, but invites them to enter into and be a part of his own fulfillment. Here Christ is our true

sacramentum, and now he summons us to follow him as *exemplum* (= exemplar), but this is not law for he has borne the burden himself and invites us to enter into the fruit of his labor. Thirdly, we reject the idea that the *tertius usus legis* can ever be separated for the *usus theologicus*, and thus that it can ever be solely a positive use. Luther could never agree that the *lex qua lex* can be positive. He says just the opposite: *Lex non damnans est lex ficta et picta, sicut chimaera aut tragelaphus* (sixth *Thesenreihe*). And where he does speak of *lex* in the context of parenesis, although he still calls it *lex*, it is now under the control of the gospel, and therefore its real goal is not to accuse but to call us back to faith, to be *in re* what we are *in fide*. Therefore, even warning and rebuke can be received by faith as *consolatio, paraclesis*, for it is proof that we are loved by the Father who wants nothing more than to be a God who gives and that we should be a people who receive his gifts. This is the goal of parenesis: To keep calling people back *ad baptismum*, to stir them up to love and good works, and ever to remind them of the need to be armed and ready for warfare against the devil, the world and the flesh, and always to watch and pray so that we may not fall into temptation or use our freedom in the gospel as pretext for the $\sigma\acute{\alpha}\rho\chi$. This is one of the big dangers of antinomians. Not libertinism in the first instance (at least not the antinomianism of Agricola and his followers), but the danger of being lulled into *securitas* by Satan so that he may capture a person without a struggle.

According to our reading of Luther, the *sancti* are not instructed to do good works because that it is very thing that they most desire to do. However, they need to be encouraged to do them, and also taught on the basis of scripture what the good works are that God wants them to do, lest they are deceived by the flesh into choosing self-serving works.

In order to reflect the fact that this parenthesis is not a *usus legalis*, we suggest that a better term might be the evangelical use of the law or faith's use of the law. Although there is something to commend the term *usus practicus evangelii* (the practical application of the gospel), insofar as it sets the *lex* squarely on the side of the *evangelium*, Luther refuses to identify exhortation with the gospel but calls it law. However, it would seem to us that if we refer to it as the gospel's use of the law, then we have captured Luther's understanding of parenthesis in that it is not to be identified with the *lex implenda*, but with the *lex impleta*. To refer to it as a *tertius usus legis* fails to orient it to the gospel.

Perhaps the most serious objection we have to the idea of a *tertius usus legis* is that it slips through the net of the law-gospel distinction or at least reduces the law-gospel tension by giving the law preeminence over the gospel. The danger then is that the gospel becomes subservient to the law and a means of fulfilling it. It also does not sufficiently take into account of the fact that Christians are still sinners, and that therefore there will always be a chance that the law as it instructs will also accuse. The proponents of the third use, it seems, tend to assume that the law will permit itself to be a neutral guide and that it will always obediently stay within its appointed bounds. Luther however warns on several occasions that when the law tries to enter the conscience (which is reserved for Christ alone), then one must know how to distinguish between law and gospel *in experientia*. Luther will only permit the law in the proper sense (*lex arguens et accusans*) to discipline his body and prod his old Adam, but he will never allow it to bind his conscience for he now lives under his dear Lord Christ and not under the authority of the law.

On the other hand, he knows that even when the law must speak sharply on account of the flesh, it is not unbearable because *lex est valde mitigata per iustificationem*. It is in this sense that he says that the law must be softened [*mollienda*] for the justified and used with some privilege [*cum aliqua praerogativa*], for the saints do not submit to the flesh but triumph over it. It is not that the *lex* per se suddenly becomes softer, but that for the baptized it must never be preached without the gospel. Moreover, the *mollienda* points to parenesis as the best way of preaching the law to the faithful because it is more an indirect and retrospective method than the straight *usus elencticus*, and as such is more appropriate for the saints in whom *peccata* are *regnata* not *regnans*. In all of this Luther's concern is that the law might be kept in its place and not be permitted to terrorize the conscience.

However, the foregoing must be balanced by the joy and delight that faith has in the law as the *lex impleta*, which it receives as a gift *imputative*. This joy is reminiscent of that which Adam experienced in paradise with *lex iucunda* and which the writer of Psalm 119 also experienced with the Torah. And it looks ahead to that eschatological joy of the heavenly paradise which Luther says will far exceed even anything that Adam knew. There finally there will be no longer any *lex*, not even the *lex impleta*, just the reality [*res*] itself. We too already know something of that joy since through faith the *lex impleta* is for us also a *lex iucunda*; however, insofar as we still have sin clinging to the flesh, our joy is overcast and will only be complete in the life to come.

4. Because the antinomians claim that the law only condemns, they teach that the gospel alone must be preached and that it performs a twofold function (*duplex revelatio evangelii*): first it forgives, then leads to repentance. Luther rejects

the idea of a twofold office of the gospel and instead teaches a distinction between law and gospel. Likewise, he polemicizes against teaching repentance *ex evangelio* (= *ex violatio filii*), and instead maintains that repentance arises *ex lege* (= *ex violatione legis*). Here, incidentally, we see the difference between the early Luther and the mature Luther. Early Luther follows Augustine in teaching repentance *ex amore Dei* or *ex iustitia Dei*, which is thoroughly consistent with the Augustinian one track view of revelation as opposed to later Luther's two track law-gospel recognition. Therefore, in holding the view that he does, Agricola (whose theology stands behind the *positiones antinomicae* even if one of his circle wrote and circulated them) shows himself to be a true follower of Augustine. In a sense, many of Agricola's criticisms of Luther amount to his pitting of early Luther against late Luther. When Luther begins preaching the law in the mid 1520s against the *duri et feroces*, Agricola accuses him of having defected from his early evangelical (read: Augustinian) position. This is certainly the case when Luther leaves behind his view of repentance as *ex amore Dei* and teaches instead that it is *ex lege*, even though he affirms that the gospel is the most important part of repentance.

Luther comes up with a very perceptive definition of the law that not only demolishes the antinomian position but also serves as an important rule-of-thumb for pastoral care: Whatever exposes sin, convicts, and preaches wrath is law, even if they are the words of the gospel. Consequently, Luther acknowledges that the preaching of the gospel may bring about repentance (more accurately, contrition) but if that should happen, it is not really the gospel in the proper sense that is doing it (*opus proprium*), but the gospel is employing the office of the law (*opus alienum*).

Two important facts are tied up with this, one doctrinal, the other practical (*seelsorgerlich*). Luther's definition of the law in terms of function (*Amt/officium*) rather than statute is significant. On the one hand, it allows him to move away from the Aristotelian idea of the *lex aeterna*, and on the other, constitutes a conclusive counterargument to the antinomian assertion that the gospel qua gospel condemns sin (in this Barth is the twentieth century counterpart to Agricola). But there is also an important pastoral consideration riding on this definition, and thus on Luther's insistence that repentance is *ex lege* not *ex evangelio* (= *ex amore Dei*). The gospel can actually produce in people a far profounder sense of sorrow and remorse over sin than the law will ever evoke. However, if the gospel is used for this purpose, and the goodness and loving kindness of God drives a person to despair, there is nothing left, humanly speaking, to give him hope and comfort. Here the gospel that is meant for life becomes death. For this reason Luther cautions pastors not to make a practice of using the gospel as the instrument of repentance. On the other hand, if a penitent does become alarmed as a result of hearing the gospel, the pastor needs to know how to preach the law in that situation in order that the gospel may dispense its gifts as gospel and not function as law. However, in the final analysis, we cannot control God's word nor can we preempt how he will use his words of law or gospel, nor can we in any way force his hand, for God is the only true "user" of the law and uses us as his instruments for his gracious purposes. All we are called to do is to be faithful servants of the his words, which means carefully distinguishing between law and gospel, and never discarding either.

There are two central reasons that Luther gives for why the law must continue to be taught in the church: 1) on account of the *prae fracti et insensati*; 2)

because the *pīi* still have a *reliquiae peccatorum* inhering in the flesh. However, when his arguments are read carefully it becomes apparent that he did not insist on the retention of the law for the law's sake but for the sake of the gospel. When Luther really wants to drive the point home he says things like: Christ cannot be retained without the law. Although such statements cannot be taken at face value they serve a valuable rhetorical function as *dicta heroica* in emphasizing that whenever Christ and the law are pulled apart it is always the gospel which is lost not the law, because the law belongs to the structure of this world and furthermore is inscribed on our minds of all people as the *lex naturalis*. Therefore, whether the law is separated from Christ (legalism) or Christ from the law (antinomianism, in either case the gospel is lost. By and large Luther does not react to the antinomianism of his day simply by insisting on the law all the more, which would only lead to an nomian error in the opposite direction, but instead he distinguishes carefully between law and gospel, preaching each in its proper order so that each can do its own appointed task. And when he has done all that he can humanly do as servant of God's words of law and gospel, to ensure the faithful transmission of those words, he leaves the rest to him who is Lord of his words, to use them as he chooses in his own way and at his own time.

Soli Deo Gloria

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