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Luther and the Third Use of the Law, with Special Reference to His Great Galatians Commentary

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LUTHER AND THE THIRD USE OF THE LAW, WITH SPECIAL REFERENCE TO HIS GREAT *GALATIANS COMMENTARY*

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by

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LIST OF ABBREVIATIONS

CA — *Confessio Augustana* or *Augsburgische Konfession.* In *Die Bekenntnisschriften der evangelisch-lutherischen Kirche.*

Ap — *Apologie der Konfession.* In *Die Bekenntnisschriften der evangelisch-lutherischen Kirche;* or: *Apology of the Augsburg Confession.* In *The Book of Concord: The Confessions of the Evangelical Lutheran Church.*

BK — *The Book of Concord: The Confessions of the Evangelical Lutheran Church.* Translated and edited by Theodore G. Tappert. Philadelphia: Fortress Press, 1959.

BKS — *Die Bekenntnisschriften der evangelisch-lutherischen Kirche.* 6th ed. Göttingen: Vandenhoeck & Ruprecht, 1967.

CR — *Corpus Reformatorum.* Edited by Carolus Gottlieb Bretschneider, and Henricus Ernestus Bindseil. Brunswick: C. A. Schwetschke et Filium, 1854.

Ep — *Epitome.* In *Die Bekenntnisschriften der evangelisch-lutherischen Kirche;* or: In *The Book of Concord: The Confessions of the Evangelical Lutheran Church.*

FC — *Formula of Concord.* In *The Book of Concord: The Confessions of the Evangelical Lutheran Church;* or: *Konkordienformel.* In *Die Bekenntnisschriften der evangelisch-lutherischen Kirche.*

LC — *Large Catechism.* In *The Book of Concord: The Confessions of the Evangelical Lutheran Church;* or: *Großer Katechismus.* In *Die Bekenntnisschriften der evangelisch- lutherischen Kirche.*

LW — *Luther's Works.* American Edition. Edited by Jaroslav Pelikan and Helmut T. Lehmann. 55 vols. St. Louis: Concordia Publishing House; Philadelphia: Fortress (Muhlenberg) Press, 1955-86.

SA — *Schmalkaldische Artikel.* In *Die Bekenntnisschriften der evangelisch-lutherischen Kirche;* or: *Smalcald Articles.* In *The Book of Concord: The Confessions of the Evangelical Lutheran Church.*

SC *Small Catechism.* In *The Book of Concord: The Confessions of the Evangelical Lutheran Church;* or: *Kleiner Katechismus.* In *Die Bekenntnisschriften der evangelisch-lutherischen Kirche.*

SD *Solida Declaratio.* In *Die Bekenntnisschriften der evangelisch-lutherischen Kirche;* or: *Solid Declaration.* In *The Book of Concord: The Confessions of the Evangelical Lutheran Church.*

WA *D. Martin Luthers Werke: Kritische Gesamtausgabe.* 61 vols. Weimar: Hermann Böhlaus Nachfolger, 1883-

WA, TR *D. Martin Luthers Werke: Kritische Gesamtausgabe, Tischreden.* 6 vols. Weimar: Hermann Böhlaus Nachfolger, 1912-21.

WA, DB *D. Martin Luthers Werke: Kritische Gesamtausgabe, Deutsche Bibel.* 12 vols. Weimar: Hermann Böhlaus Nachfolger, 1906-61.

CHAPTER 1
INTRODUCTION

The Problem of the Third Use of the Law

According to the Lutheran Confessions there are three uses of the law; this is plainly stated by the *Formula of Concord* (Ep. VI, 1; SD VI, 1). In catechesis these are usually referred to as curb, mirror, and guide.[1] The first serves to maintain outward order and decency in society and is exercised by all lawful authority, especially the family, government, and schools; this is called the political or civil use of the law *[usus politicus seu civilis]*. The second and principal use is intended to bring people to a knowledge of their sin; this is the theological use *[usus theologicus]*. The dogmaticians of the orthodox period divided this use into the *usus elenchticus*, by which people are convicted of sin, and the *usus paedagogicus*, by which they are then led to Christ (Gal. 3: 24). This was done to make it clear that the law itself does not lead to Christ but does so only when Christ takes it in hand. The third use *[usus tertius]* applies specifically to Christians, giving them a definite rule and norm according to which they should pattern and regulate their lives *[usus didacticus seu normaticus]*. However, beyond that, opinions differ as to how it is to be used; some, for instance, maintain that it is meant for the regenerate, insofar as they have been born anew; others say that it is for the regenerate, insofar as they are still sinners. Nevertheless, there are two things that supporters of the third use agree on: (1) that it is a specifically positive, didactic use and (2) that it is intended only for Christians. The *Formula* certainly teaches that the law plays a role in the life of the Christian. Precisely what that is, and whether

the third use as such is necessary, will be discussed in chapter three. For the purposes of clarity, we will define the "traditional" understanding of the third use of the law as that view (consolidated in Lutheran orthodoxy) according to which the law plays a positive, normative, didactic, and necessary role in the life of the truly regenerate Christian *qua* saint. This is the *tertius usus legis in renatis*. Whether this is the correct interpretation of the *Formula of Concord* remains to be seen. Furthermore, this traditional view has often been asserted against the liberal position, which denies that the law plays any positive, didactic role in the life of the Christian. Conservatives have clung to it tenaciously, using it as a bulwark against the high tide of moral relativism.

The problem of the third use of the law is part of the larger problem of the proper distinction between law and gospel, which is not only one of the great hallmarks of Lutheranism but, at the same time, a major watershed between it and the rest of Christendom.[2] The controversy over its use, which started shortly after Luther's death, was heightened by the fact that Luther himself consistently taught only a twofold use. The pressure of the First Antinomian Controversy between 1537 and 1540, already during his lifetime, forced Luther to be more precise in his statements about the law, and to correct some of the more serious misunderstandings that seem to have arisen as a result of his sometimes provocative and unguarded remarks about the Christian's freedom from the law. In the *Antinomian Disputations*[3] Luther sets out very precisely his understanding of law and gospel, particularly in connection with conversion and regeneration. The problems connected with the third use of the law, while not altogether absent here, are more the focus of the Second Antinomian Controversy leading up to the *Formula of Concord*. In fact Article VI, on the third use of the law, grew out of this controversy, which had at its center the question of whether reborn

Christians need the law; one party said Yes, the other, No. Both claimed to be the legitimate interpreters of Luther. The problem of the third use of the law, while it has been a major source of division within Lutheranism itself, has also led to significant differences between Lutherans and Reformed, as has the problem of law and gospel generally.

A survey of the literature will show that most modern Luther scholars hold that Luther himself did not teach a third (positive) use, but that the idea was first introduced into Lutheranism by Melanchthon, and later given special prominence by the theologians of the orthodox period. The question of the third use is thought by some to be one of the greatest differences between the Reformation and later Lutheranism. Because of Melanchthon's defection from the Church of the Augsburg Confession, his later writings, and those of his followers, were regarded as suspect by the strict (Gnesio) Lutherans, for it is precisely in these writings that the teaching of the third use of the law is clearly articulated. However, the decisive controversy over the *usus tertius* occurred mainly between the opposing factions of the Gnesio-Lutherans.

The fact that the proponents of the third use of the law were not able to point immediately to passages in Luther where the *tertius usus* is explicitly taught, as in Melanchthon, did not automatically close the debate. What they had to do was show that the doctrinal formulations of Melanchthon agreed in substance with Luther's intentions. Clearly, the question of whether or not Luther taught a third use cannot be resolved simply by demonstrating that he spoke only of two uses of the law. In other words, the number of uses is not in itself decisive. First, we need to arrive at a comprehensive view of Luther's understanding of the law before we can determine whether his teaching implies a third use, or whether a third use is compatible with his theology. Although the

Formula of Concord teaches a third use of the law, the differences of interpretation allow scholars both pro and con to claim its support for their position. Our task will be to determine if there is any difference in accent between Luther's understanding of the role of the law in the Christian life, based on his great *Galatians Commentary*, and Article VI of the *Formula of Concord*, on the *tertius usus*.

The Boundaries of Research

The question of whether Luther taught a third use of the law is far too broad for a thesis. We will therefore confine ourselves, in the main, to his great *Galatians Commentary* of 1531/1535, where he explicates in considerable detail the doctrine of justification and the proper distinction between law and gospel.[4] Even though the nature of the letter is such that Paul speaks there more about justification than about sanctification, Luther still writes enough about the role of the law in the Christian life to warrant using this as our primary source. There are two main reasons for this choice: first, apart from the *Antinomian Disputations* (which would seem to us to be more appropriate for a dissertation than a thesis topic), Luther's *Galatians Commentary* is the best source for an extended treatment of law and gospel in relation to both justification and sanctification; secondly, it is justifiably famous, is often alluded to in the Confessions, and represents Luther's mature theology. This in many ways makes it an ideal document because, even though it does not consciously address the problems involved in the discussion about the third use of the law, the debate over the *tertius usus* cannot be isolated from wider questions, such as those of the relation between law and gospel, between justification and sanctification, and between faith and good works, all of which are dealt with at some length in Luther's *Commentary*.

We have decided against a separate study of Luther's earlier 1519 *Galatians Commentary*[5] because his theology at that stage still contained many Augustinian ideas which he later laid aside as he reshaped his theology around the central core of justification by faith, and the externality of God's redemptive work *pro nobis per Christum*, mediated through the word. On the other hand, there is also much in the 1519 *Commentary* that is thoroughly evangelical, yet it can in no way compare with the profoundness and lucidity of his later *Commentary*.

Method of Approach

Our first task will be to survey the positions of the major protagonists in the modern debate, which peaked around the 1950s. This survey is not intended to be exhaustive. We can only consider a handful of theologians who have made a significant contribution to the discussion. All are responding, in one way or another, to Karl Barth's wartime attack on the Lutheran distinction between law and gospel, and its associated doctrine of the two kingdoms. In all of them, the problem of the third use is inextricably connected with the larger problem of the relation between law and gospel.

Following our survey of the literature and a brief summary of some of the main questions raised, we will turn to a detailed investigation of Luther's great *Galatians Commentary* and attempt to focus especially on those issues already shown to be important by our survey. Although we cannot include a special chapter on antinomianism, we will append an excursus that highlights the chief issues in, and differences between, the First and Second Antinomian Controversies. This in turn will help sharpen our focus as we compare Luther and the Confessions, and alert us to some of the struggles that stand between the time of Luther and the *Formula of Concord*. After the excursus, we will examine the

Lutheran Confessions, especially Article VI of the *Formula of Concord,* to see if there is any inconsistency or difference in emphasis compared with Luther's *Commentary.* In that chapter we will enter into discussion with some modern authors in an attempt to define our own position as precisely as possible. As we probe the problems of the *tertius usus,* we will also try to answer the question of whether there is an evangelical use of the law. The final chapter will be the conclusions.

Background

As we have already indicated, scholars generally agree that the doctrine of the threefold use of the law *[triplex usus legis]* was first introduced on Lutheran soil by Melanchthon in the 1535 edition of his *Loci Communes.* There he posits that, in addition to its civil and theological functions, the law also has a didactic use, which instructs the regenerate in the works that please God and that have been commanded by him (CR 21, 405-6). He reaffirms his position in the 1543 edition of his *Loci:* "Therefore, even though we are free from the Law, that is, from damnation, because we are righteous by faith, for the sake of the Son of God, yet because it pertains to obedience, the Law remains; that is, the divine ordinance remains that those who have been justified are to be obedient to God."[6]

The difference between Luther and Melanchthon on the doctrine of the law was one of the factors that contributed to the bitter, internecine struggle, which embroiled the followers of the two reformers after the death of Luther, and which was only finally settled by the *Formula of Concord* in 1577. It rejected Melanchthon's doctrine of the law and upheld Luther's view of evangelical freedom, by trying to steer a middle course between the unevangelical alternatives of antinomianism and legalism.

It has been noted that Melanchthon's later view of the law, while rejected by Luther and the Confessions, received strong support from the Swiss Reformer, John Calvin. This is particularly clear from his *Institutes of the Christian Religion* (1536) where Calvin defends the view that the gospel and the law have much in common with each other.[7] Ironically, Calvin uses the language of Luther's great *Galatians Commentary* to praise the *usus didacticus* as the principal use of the law, while Luther himself, in that same *Commentary*, emphasizes that the principal use is the *usus theologicus*.[8]

These difference between the two great reformers in their approach to the law sets the stage for the debate in our own century, which is basically a continuation of the argument between Lutherans and Calvinists that goes back to the Reformation.[9] To properly appreciate the modern debate, it is important to realize that the Reformation has bequeathed to us two divergent views of the law. At the risk of oversimplifying, we could say that for Lutheranism, the chief use of the law is basically negative and regulative--its main functions being to accuse people of sin, and to restrain the wicked--while for Calvinism, the chief use of the law is positive and normative--its main function being to guide and instruct Christians in how to lead a God-pleasing life.[10]

In our century the debate over law and gospel in general, as well as the third use of the law in particular, was given fresh impetus by the publication of Karl Barth's famous essay *Evangelium und Gesetz* in 1935.[11] Already the order of the words, gospel and law, is highly significant. Barth does not accept the Lutheran dialectic of law and gospel but rather teaches that law and gospel are merely two different ways of describing the one and the same act of God. Therefore, law and gospel are not two intrinsically different words but merely two ways that God uses to say the same thing. Barth's famous sentence says it all:

"The Law is nothing else than the necessary form of the Gospel, whose content is grace."[12] Given his emphasis on the majesty of God, and the almost unbridgeable gulf that he sees existing between God and mankind, it is not surprising that he says: "The very fact that God even speaks to us, that itself, in any event, is sheer grace."[13]

Survey of the Main Positions

Werner Elert

The first and most powerful Lutheran voice to be raised against Barth on this issue was that of Werner Elert. He rejected Barth's coordination of law and gospel and the positive didactic role that he assigns the law in the Christian life. Instead, Elert proposed a radical dialectic which leaves no room for a third use of the law as traditionally understood.[14] He argues that if Melanchthon's axiom "*lex . . . semper accusat conscientias et perterrefacit* (Ap. 167 § 38) is applied consistently, one can only conclude that the law cannot serve as a guide to life for the *vita christiana*. For Elert the law is never simply an enemy to the sinner *or* a friend to the saint. He categorically denies that the law is ever purely informatory, and rejects the view that the Confessions teach otherwise. "Not for a moment does the *Formula of Concord* forget the fundamental Pauline-Lutheran understanding of the law, which follows already from the text of the Decalogue, namely, that it is always a law of retribution, and that even when instructing the regenerate it can never be anything else."[15] Elert does not deny that the law is valid for the Christian, but not insofar as he or she is born anew. Rather, it continues to address its threats and punishments to the Christian as sinner, for even the Christian can never fully shed the flesh. However, he refuses to have anything to

do with an innocuous third use of the law that has been stripped of its threats and that now serves merely the positive function of guide to the conscience.

Elert agrees that the Confessions do talk of the law playing a role in the life of the regenerate, but he argues that the term "regenerate" is used there in the wide sense of a Christian as saint and sinner, not in the narrow sense of a person who has been reborn through justification. He makes his position clear when he says:

> The *Formula of Concord* thus certainly teaches that the regenerate also need the law, and instruction through the law, "*ut doceat certa opera.*" "But the law of God prescribes good works for believers in such a way that, like a mirror, it shows them *at the same time [simul]* that in this life our good works are imperfect and impure" [SD VI, 21].[16] In other words, there is no law for the earthly life of the regenerate that serves purely as information, either for the old Adam in them or even insofar as they actually do the "good works" of the law. "*Arguere autem peccata est proprium officium legis*" [SD VI, 14]. The person who hears God's law also experiences the *usus arguens* (or, as the later dogmaticians called it, the *usus elenchticus*). Also Melanchthon in the Apology had said, "*Lex semper accusat.*" The *usus didacticus* of the later dogmaticians, in the sense of mere information, is a pure abstraction which, if elevated as a practical norm, could only ever lure them into the *pestilentissima securitas* of the Pharisees.[17]

According to Elert, the problem with the third use is that it has the effect of reducing the law-gospel tension by giving the law preeminence over the gospel, thereby opening the door to moralism. Seen from that vantage point, the divine will begins and ends with the law. Although Christ remains the redeemer, the purpose of salvation is now to enable people to fulfill the divine command for themselves, which they would otherwise be incapable of doing. The gospel then becomes subservient to, and a means of fulfilling, the law. According to this scheme of things, the *only* difference between the way the law functions for a believer and an unbeliever is that the believer is redeemed from

the *curse* of the law. For the Christian, the law then becomes primarily a rule for life.[18]

Such a position is unacceptable to Elert because it weakens the antithesis between law and gospel, which is fundamental to Lutheran theology. Instead of keeping them apart in dialectical tension, a third use that teaches only a positive function of the law for the regenerate ends up bringing law and gospel closer together. Elert traces this error back to Melanchthon who, although he agreed with Luther in teaching that the *praecipuus usus* was the theological use, in which the law reveals and condemns sin, nevertheless diverged from him by eventually developing "a third use in which the law is no longer judgment but *exclusively* a response attainable through obedience" (Ibid., 394).[19] For Elert, a third use of the law understood in this sense, where the gospel finally serves the law, is basically Barthian, for Barth holds that the law is in the gospel, and that the gospel is simply a clearer manifestation of the law.[20]

Paul Althaus

There are two problems that Althaus finds with Elert's denial of the third use of the law.[21] First, it overlooks the fact that there are already imperatives implied by the gospel itself, and secondly, it fails to deal adequately with the ethical directives of the New Testament letters. It is precisely here, according to Althaus, that Barth's position has an element of truth, even though his gospel-law sequence is dogmatically untenable. These are the problems that Althaus addresses in his book, *Gebot und Gesetz*. His thesis is as follows:

> If the *lex* is clearly understood and defined as the polar-opposite of the gospel, then we should no longer really speak of a *tertius usus legis*, much less accept the formula, "gospel and law." What is legitimate in these formulations, from the standpoint of the gospel, must be expressed another way. This is what I attempt to do by distinguishing between "command" *[Gebot]* and

> "law" *[Gesetz]*: that is, between God's will for us, and the special form of that will as law. We can only do justice to what is really at stake in this discussion if we replace the two-part formula, "law and gospel," with the three-part formula, "command, law, and gospel."[22]

Althaus finds some justification for the theological distinction between "law" and "command" already in the terminology of the New Testament, particularly in the Johannine corpus.[23] Even though Paul does not make this distinction, he claims that it is implicit in his statements. The same Paul who proclaims Christ as the end of the law (Rom. 10: 4) also teaches that Christians no longer live under the law, nor do they live without law, but they live in the law, namely, the law of Christ (1 Cor. 9: 21), and fulfill the law through love (Rom. 13: 10; Gal. 5: 14). Althaus does not see *nomos* as identical to the eternal, unchangeable will of God for human beings, but as "one limited and temporary form of this eternal will--a form that in Jesus Christ has been superseded and abolished." [24] The term he uses for God's eternal will (following Johannine usage) is "divine command." This command *[Gebot]* is based on God's eternal love; it is the reverse side of the offer *[Angebot]* with which the eternal love of God encounters mankind. "God's offer is at the same time a summons, an appeal, and a command to let him be what he wants to be--my God."[25] Before the Fall, God's command meant life and joy. His demand: "you shall," was really permission: "you may."[26] We still find an echo of this in some of the Old Testament psalms which praise God's Torah as a source of joy and delight (Pss. 1: 1, 2; 119: 1, 35, 47, 70, 97). However, after the fall, the command became law. "The law is the form that God's will for us must take on account of sin."[27] The contents of the law is the same as that of the command, but the form of God's will as command is fundamentally different from its form as law. The law does not have the unitary character of the command but, of necessity, confronts us as a multitude of prohibitions. After the fall, God's eternal

loving will must take the form of a *verbum alienum*. The law accuses and condemns, and all the more so when sinful human beings use it to justifying themselves before God. Consequently, the law is no longer a source of joy and delight but of anxiety, sighs, fear, torment and also curse.[28] Yet even "through and beyond the *verbum alienum* I hear the original *verbum proprium*. . . . We therefore never stand simply under the law; we also continue standing under the original command of God's love. The will of God confronts us simultaneously as command and law."[29] But Christ is the end of the law, the end of the relationship between God and human beings governed by the law. In Christ God now acts contrary to the law by justifying the ungodly. Through the gospel the law once again becomes command. Althaus comments:

> The command, as it exists in the realm of the gospel, is different however from the original command in one important respect: It is addressed to those who, though living under the gospel, have not ceased to be sinners, and still have the old Adam. Therefore, the command is no longer supralapsarian--hence it must have one feature in common with the law: it must necessarily express the positive will of God also in the negative form of prohibitions.[30]

Althaus's basic criticism of Barth is the latter's failure to distinguish properly between law and command, on the one hand, and primal grace and gospel, on the other. "In the beginning is the grace of the primal state, not the gospel; and this primal grace does not give rise to the law, but the divine command--God's loving call, his wooing claim upon our hearts."[31] Since the command becomes law after the fall, what follows the gospel is not law (à la Barth), but command. The Christian is freed from the law, but not from the command. Furthermore, while gospel and law stand in strict disjunction and antithesis, there is no *contra* between gospel and command. Rather, the gospel itself points toward the command and enables its fulfillment.[32] In fact for Althaus, "the command is an element of the gospel itself: the challenge to accept the freedom that God offers,

and to live in and from his love."[33] This command is an "imperative of grace" (Elert) and, as such, is altogether different from the imperative of the law. Not only does the command presuppose the gospel, the gospel itself implies the command. To that extent, Althaus argues, the gospel necessarily confronts us in the form of a command--a command which itself is gospel, empowering us to live from God's love, and therefore in that love. He nails his colors to the mast when he asserts: "The gospel is simultaneously and unalterably command; faith is immediately and unavoidably action and stance."[34] While this finally is nothing but a rank confusion of law and gospel, it is his way of attempting to address the problem of cheap grace, where faith is divorced from works. It is also on account of this danger that Althaus claims that the traditional formulas asserting that faith effects works, or that works follow faith, are inadequate. "Faith lives *in* works, in concrete behavior, and not without it or apart from it."[35] Being and action, indicative and imperative, are indissolubly connected. "Thus our Christian life at all times stands under the double aspect of being and act, gift and task. 'Being' (the Christian life as the fruit of faith) is real only in terms of personal 'action.'"[36] Here he appeals to the Confessions which teach that good words *are* done by the Christian, just as a good tree produces good fruit, and that at the same time good works *must* be done (CA VI).[37]

What implications does Althaus's theology have for a third use of the law? Although he finds it theologically indefensible, he still wants to salvage the concept. He gives three reasons for rejecting the traditional idea of a *tertius usus* and in each case offers an alternative. First, the notion of law in Lutheran theology is so overwhelmingly that of the *lex accusans, condemnatrix, justificatrix*, that he thinks it best not to confuse the issue by speaking now of a positive function of the law. Instead of talking about a third use of the law, Althaus would rather

speak of "a function of the biblical commands and directives in the Christian life."[38] Secondly, the term "law" can easily convey the idea that being a Christian means following a code of rules or instructions rather than being led by the Spirit.[39] The ethical admonitions of Scripture are not intended to be understood legalistically as prescriptions, but as *helps* toward our own personal discernment of what the Lord requires of us in the present situation. Thirdly, the concept "law" suggests that it is only the imperatives of Scripture that provide directives for the Christian, whereas in fact Jesus and the apostles also see their lives, as well as their teaching, as being examples to the church (1 Cor. 11: 1; Phil. 3: 17), not to mention the "great cloud of witnesses (Heb. 12: 1). Therefore, even though Althaus rejects the terminology of the *tertius usus legis*, he does not deny that the Christian still needs the guidance and direction of God's will, which he calls the divine command. For it is precisely through "the moral directives and realities in Scripture and in Christianity" that the Spirit leads us to know God's will.[40]

Gerhard Ebeling

Ebeling's assessment of the law in Luther in essence agrees with Elert's position but has corrected some of Elert's imprecisions.[41] The strength of Ebeling's work lies in his detailed study of the *Antinomian Disputations*. Since however this is not our primary area of research, we will refrain from reporting the details of his findings. His general conclusions should be sufficient. We begin by noting that Ebeling agrees with Elert that Luther always speaks only of a *duplex usus legis*, and accepts his proof that the only passage in Luther's works that would support a *triplex usus* must be rejected as a forgery intended to bring about a harmony between Luther and Melanchthon. Ebeling tries to get at the problem of the third use of the law by carefully investigating the origin and meaning of

the term *usus legis* in Luther. He shows that the doctrine of the *triplex usus legis* originates with Melanchthon who includes it for the first time in the 1535 edition of his Loci--not the terminology as such, but the doctrine.[42] While the term *triplex usus legis* is not actually used by Melanchthon until the 1540s, Ebeling observes that the idea of the *tertius usus legis* is present as early as 1528 in the *Instruction for Visitors* and in the *Apology of the Augsburg Confession*.[43] From this he concludes that, apart from a few isolated instances, Melanchthon basically teaches a *triplex usus*, even if he does not use the term until later.

In tracking Luther's use of the term *usus legis*, Ebeling makes several helpful observations.[44] First of all, Luther evinces no consistent use of the term. He uses it most frequently in his 1531/1535 *Galatians Commentary*. On the other hand, in his 1519 *Commentary*, he develops his doctrine of the law without using the term *usus legis* at all, while in the *Antinomian Disputations* the formula *duplex usus legis* occurs only once (WA 39 I, 441: 2-3).[45]

Ebeling asks a question that is crucial to a proper understanding of the *usus legis*, Who is the subject of the *uti*? God, as the author of the law? or the human beings addressed by the law? For him the answer must be God, since, from the standpoint of justification *sola gratia sola fide*, the only legitimate use of the law is the *paedagogus in Christum*. If human beings were the subject of the *uti*, then the law itself would be necessary for justification.[46] Furthermore, while a proper use of the law will distinguish between the *usus politicus* and the *usus theologicus*, in preaching the law the two must be held firmly together, for the law must be understood by all who hear it in both its political and theological modes. Only the believer however can use the law in the *usus politicus* without becoming guilty of abusing it by using it as a means of self-justification.[47]

According to Ebeling, Luther teaches that the law must be preached to both believers and unbelievers, but in different ways. He stresses that the law has to be preached to believers not *in quantum iusti* but *in quantum peccatores*. Here he agrees with Elert. It is not the Christian as saint who needs to hear the law, but the Christian as sinner. Therefore, for Ebeling it is not so much a matter of distinguishing between the second and a third use as making a distinction within the second use itself. He writes:

> In denying that Luther taught a *tertius usus legis* in Melanchthon's sense, we are always apt to overlook the fact that Luther does indeed differentiate between the effects that the law in the *usus theologicus* has on the unbeliever *[impius]* and on the believer *[pius]*, and again, between the ways in which it has to be preached to the one and to the other. Here the distinction between law and gospel encroaches on the doctrine of the usus legis.[48]

Ebeling defends the view that the *usus legis* takes on homiletical and pastoral relevance, so that it could even be said that the preacher becomes the subject of the *uti lege* in rightly dividing the word of God. In support of this he appeals to Luther who says that even though Christians are still to be taught the law, after justification the law loses its sting. Before justification the law terrifies all who encounter it, but afterward the reason for teaching it to the believers is not to accuse or condemn, but to encourage them to do what is good. Therefore, the law is to be softened for them and taught instead of exhortation.[49]

Ragnar Bring

Bring, like most Scandinavian and Finnish scholars, also rejects the third use of the law as traditionally understood.[50] On, the other hand, as we will see later, he has no difficulty in accepting the doctrine of Article VI of the *Formula of Concord*. In order to understand this apparent contradiction, we need to begin where he does, not with examining specific Luther texts, but with a discussion of

such concepts as "converted" and "regenerate." These terms, he argues, which are especially relevant to the debate about the third use of the law, come to take on a different meaning in the period of pietism than in Luther, a meaning which Bring claims ultimately goes back to Melanchthon. Pietism discards Luther's distinction between the old and the new self, and instead identifies the new self with the converted person *in concreto*. In that case, the third use is regarded as a special, positive, non-accusatory use of the law, applicable only to believers. However, in Luther's view, because Christians are still sinners, they continue to stand under the law in the form of both the political and the theological use. When the "inner man" is identified with the "outer man," as in pietism, there is no recognition of the ongoing struggle between flesh and spirit, or the constant *Anfechtung* resulting from the temptation to either *securitas* or *desperatio*. For Luther, on the other hand, the regenerate person is old and new at the same time, and experiences the constant alternation of law and gospel. Pietism loses sight of the biblical truth that God himself dwells within believers and sanctifies them through the means of grace. Rather, sanctification becomes something that believers have, and realize more and more, through obedience to the commandments. According to this scheme of things, the gospel becomes a new law for the converted, which in turn regulates their lives.[51]

Bring believes that the *Formula* paints a different picture. It states that the law is necessary on account of the old self, not that it is a norm for the life of the new self. This for him is a thoroughly Lutheran distinction. However, the real question that the *Formula* addresses is whether the law *must* be taught to the regenerate or not. Here he believes that FC VI is very cleverly formulated so "that from the outset, it can formally *affirm* the third use of the law, while at the same time setting aside the meaning of the third use that was really introduced

by Melanchthon."[52] Bring argues that the *Formula* neutralizes the danger of Melanchthon's doctrine of the third use by (1) stressing the difference between the old and the new self; (2) making the new, and not the old self, the decisive subject in sanctification; and (3) referencing the law to the old self of the believer. He points out that the attempt to equate the new self with the reborn Christian is expressly rejected by the *Formula* (Ep. VI, 3), and he is equally certain that the *Formula* also rejects the traditional understanding of the third use, which sees it as a special use of the law for the reborn (Ep. VI, 6). Certainly, Luther constantly holds up to believers the Ten Commandments. But these are not only norms for Christians, but the will of God for all people. Nor are they simply fixed, eternal norms, solely for the sake of society, but are applicable to believers as well. All people, both regenerate and unregenerate, need the same law, because all people are united by the fact that in Adam they are sinners--the chief difference is that Christians are forgiven sinners.[53] Of course, while both may fulfill the law outwardly, only believers can truly fulfill the law. But this does not mean that they are motivated by the demands of the law, or by norms in the form of commands:

> As long as the law presents external norms for people, and they follow them out of compulsion and under their own steam, their action will not become that of the new man but will remain their own work, something that springs from their own willpower, and will not be the direct result of God's and Christ's indwelling in faith or, as we might say, the result of the Holy Sprit's ruling over him. All this however does not at all exclude the fact that norms and commands are really present for the Christian. The only thing that is denied is that the guidelines *[Richtschnur]* for the new life amount to following specific norms and commands.[54]

We must always distinguish between the insight that the reborn person as sinner is in constant need of the law with its demands and norms (both first and second use), and, on the other hand, the realization that the Christian as saint lives entirely without law, and yet in his or her "law-free" life actually fulfills the law, and is the only person

who really does fulfill it, for the law can only be fulfilled properly by faith. The third use of the law in the traditional sense (which Bring argues is *not* taught in the *Formula*), thrives on the illicit mingling of these two points of view. As a result, a person is seen neither as completely new nor as completely old, but rather as a mixture of both. For Luther however there is never any mixture or change: the Christian is completely new and completely old at one and the same time, but not some thing in between. This two-foldness is characteristic of the Christian life this side of the grave: as saints, who belong already to the new aeon, we live completely in love; as sinners, who still belong to the old aeon, we are bound and driven by the law. Bring shows that this has important implications for the question of law and gospel. The old and new self are distinguished in the same way as law and gospel. The gospel addresses the new self, the law the old. Yet the old and new self form a concrete unity just as law and gospel. Although law and gospel are polar-opposites and must be kept as far apart as possible in justification, Bring stresses that they also cohere very closely in the Christian life. However, like Althaus, he treads on dangerous ground when he insists that, in view of the ultimate unity of law and gospel, the *Formula of Concord* emphasizes that the gospel must not only be understood in marked contrast to the law but that, in the broad sense, it must also include the law.

The position just outlined leads Bring to conclude that the gospel is not simply God's gift or offer of forgiveness; rather, the gospel changes our whole outlook and behavior. It does not allow us simply to accept the gift and still remain the self-seeking people that we are. He notes that in the letters of the New Testament, the strongest admonitions are directly connected with the proclamation of the gospel (cf. Rom. 12: 1-3). In other words, gift and obligation go together. We leave Bring speak for himself:

> As a new person there is no difference for him between the demands of the gospel and its gift; the one includes the other. But there the "demands" are

> not like external demands or norms. However, this does not exclude the fact that he knows that he is obliged to have the deepest responsibility and to achieve the most that can be demanded of him.
>
> But there this is no longer perceived as an outer demand which one focuses on for the purposes of gaining something; it is not fear that binds the person to the demand, not even the hope of reward. The law is "law" in its characteristic sense, precisely for the "old" man, who is always interested only in himself, and is ordered by the law to be interested in something other than himself. The tension which arises therefore when a person attempts, by himself, to get beyond himself, is characteristic of the position under the "law," in contrast to the position under the "gospel." The law demands that a person not only wills, but actually strives, for something other than what is of benefit to him. But the only inducements by which demands can reach a human being are necessarily selfish, precisely because he himself is selfish. This kind of law is completely expunged for the new man. When we speak of demands in connection with the new man, we are not talking about external demands, but something that he must strive to carry out according to his own innermost will, which, through faith, is Christ's own will. The fact that in this way the law belongs to the gospel means, however, that there is no third use of the law. But the fact that we can say of the gospel that, in one sense, it contains law, easily leads us to think in this direction; and a vague feeling for the correctness of this thought may in part lie behind the conviction that the third use of the law is not only compatible with evangelical theology but is in fact necessary for it.[55]

There are finally two reasons why Bring rejects the traditional Lutheran doctrine of the third use of the law, because (1) the law must continue to be preached to the regenerate Christian insofar as he or she remains a sinner; and (2) the gospel does not mean unlimited, fleshly freedom but includes within itself an obligation, a specific law. However, while he cannot accept the third use understood as a special law and norm applicable only to Christians, he can still accept Article VI of the *Formula of Concord* because, according to his reading, it insists that Christians need the law as much as anyone else because they are still sinners. However, the peculiarity about Bring's position, which puts it beyond the confessional boundary, is his understanding that it is the gospel, inasmuch as it contains the law in the form of obligation, which creates and effects what it already gives, and that this must happen of necessity.

Lauri Haikola

Haikola, a Finnish scholar, also rejects the third use of the law as not being genuinely Lutheran.[56] His work has two special virtues: First, he believes that the complex question of the *usus tertius legis* could be illuminated considerably if the problem were investigated in the light of certain contemporary sources which, until now, have not been fully utilized. In his opinion, the *Formula of Concord*, and in particular Article VI, would become clearer if we were to examine it from the vantage point of its main author, Martin Chemnitz (which we will do in chapter 3). Secondly, Haikola compares Luther's teaching on the law with that of post-Reformation Lutheranism. Even if it turns out that his reading is somewhat tendentious--and it lies beyond the scope of this thesis to test that--he has at least raised some important questions which need to be answered.

Haikola notes that the starting point, historically, of the dispute over the third use was the formula that had been drawn up by Lutherans at the Synod of Eisenach in 1556 in connection with the Majoristic Controversy. At the center of this was the thesis that the doctrine of the law teaches that good works are necessary for salvation, if viewed abstractly and ideally *[bona opera sunt necessaria ad salutem in doctrina legis abstractive et de idea]*.[57] It was hoped that the Philippists and Gnesio-Lutherans would be able to unite under this definition of the relation between law and gospel. Haikola points out that this formula presupposes a view, widely held among Lutherans, that sees the law as an objective order, binding on both God and human beings. According to this view, which he says goes back to Melanchthon, the law, in principle, is the original way of salvation. If people could keep the law perfectly, they would be "legally" entitled to salvation. According to this scheme of things, Christ did what human beings cannot do. He fulfilled the law for them perfectly. Christ therefore abolished the law through

his vicarious obedience; but the abstract, theoretical possibility of salvation by works still exists. And people already in the state of grace can help themselves persevere in grace if they fulfill the law. Consequently, the claim is made that the teaching of the third use, which rests on this presupposition, stems from a view of the law which sees it as basically fulfillable.[58]

Haikola argues that Luther, unlike the orthodox theologians, teaches that human beings cannot fulfill God's commands and so preserve their own salvation. The law was never given as a means of salvation. Not even Adam could keep the law without the help of divine grace, much less sinful human beings after the fall. Hence in Luther's view of the atonement, according to Haikola, Christ does not simply fulfill the law as our substitute, because of our inherent inability to keep it ourselves. Rather, Christ frees us from the curse and tyranny of the law, indeed, frees us from the law *in toto*.

All Lutherans agreed that Christians, insofar as they are reborn believers, are free from the compulsion of the law. They willingly and spontaneously do what the law requires, without the need for its external threats and rewards. (They agreed also that Christians, insofar as they are still sinners, need the law to reveal sin and coerce the flesh.) On the other hand, they disagreed on whether Christians, insofar as they are regenerate, are also free from the law as a norm. In Haikola's opinion, the orthodox view, upheld by the *Formula of Concord*, apparently had as its point of departure the idea that the law is as an objective, immutable order, which is given to us in the written law of holy Scripture. It asserts that Christians, although they are ruled by the Holy Spirit and by love, are in no way free from obedience to this objective norm. The law norms the new obedience of believers, both inwardly and outwardly. Christians, even as saints, still need the guidance of the written law; without it they would not know the will of

God, and would soon fall prey to self-chosen works. Those, on the other hand, who denied a third use of the law, thought that Christians, as saints, have the right to contravene any law--written or unwritten--or change it, as love demands. According to this view, the Christian, like Christ, is lord of the law, and uses it just as freely as all other things in creation. The Antinomians claimed that believers were not normed by the law, but that they in fact normed the law.[59]

Haikola believes that the Antinomians captured the essence of Luther's spiritual understanding of the law. One thinks, for instance, of his remark that the Christian could make better decalogues than Moses, or that love masters all laws. What then are we to make of the ethical directives of Scripture? For Haikola, like Althaus, they are to be used as examples to help Christians decide for themselves how love is to act in a given situation. He insists that the scriptural admonitions are merely concretions of the law, and are not intended to be universally binding on a person's conscience. In other words, he views them descriptively, not prescriptively. Christians are free from the whole law: in faith they are free from the curse of the law, and in love they are free from all moral norms. And yet love will go beyond the bounds of the law, for the sake of the neighbor. The law's demand for faith and love is unconditional and unlimited. Its contents however can never be fixed in a final form, for God's eternal will can never find exhaustive expression even in the scriptural commands.[60]

Haikola nevertheless concedes that Luther does at times also speak of the need for the law to be taught after justification, but in an altogether different fashion than before justification. The law is no longer to be presented as a threatening and accusing power, but as a friend and gentle yoke, that admonishes and urges people to produce the fruits of faith. Haikola however rejects the idea that Luther's approach corresponds to the orthodox distinction between the second

and third uses of the law. He is convinced that Luther is not talking here about different *uses* of the law, but simply about the different *effects* which the law in theory will have on unbelievers as compared with believers. We can never know for certain how God is going to use his word of law, and how it is going to be heard; all that we can do is to take into account the effect that the preacher intends the law to have, and the use that God, Satan, and the human hearer may make of it.[61] Haikola however remains adamant that the scriptural "admonition" does not constitute a new use of the law in addition to the second use.[62]

Wilfried Joest

Joest's monograph on the problem of Luther and the third use of the law first appeared in 1951, and is probably the most important and comprehensive treatment to appear this century.[63] It has two parts: the first deals with law and freedom in Luther and is more theological; the second examines how Luther treats the parenesis of the New Testament and is naturally more exegetical. Our summary will confine itself to the first part.[64]

Joest's starting point is Luther's radical, contradictory antithesis of law and gospel in the sense that both cannot be the way of salvation at the same time: "either Christ stands and the law perishes, or the law stands and Christ perishes" (WA 40 I, 114: 13-14). The law demands obedience to God's commandments, the gospel offers Christ and his fulfillment. The gospel does not mean that God no longer demands obedience but that Christ's obedience and his fulfillment of the law is now offered to us as a gift. The law demands that we fulfill the law *in order to* be saved;[65] the gospel is that Christ's fulfillment has been given to us and effected in us *because* we are saved. The gospel, as God's action, is the "counter-part" of the law, which demands action by human beings. The relation between

doing and receiving, fulfillment of the law and justification, is inverted. God's will does not change, insofar as its contents is love; rather, what changes is the law as a *Verhältnisordnung*, as a claim which demands immediate fulfillment and which threatens and punishes all who fail to obey it. The *lex exactrix, accusans, reos agens*, which is the polar-opposite to the gospel, that law now comes to an end in Christ.[66]

Although the gospel is God's final word, Joest contends that Luther knows that the law is still God's law--and that includes the "legal" relationship that the law establishes between God and human beings. It is a false reading of Luther to conclude that he views all "legal" religiosity as imperfect and inappropriate to the true relationship with God. "He is not fighting against a principle of legality in general and for a principle of grace in general, but he is concerned with the fact that law and gospel, both of them God's real word and true order, come into play whole and unmixed."[67] The law comes first and is God's alien work; the gospel comes last as his proper work. The condemnation of the law and God's wrath on sin and disobedience is no human delusion. But God in his unfathomable mercy (not bound to any principle) breaks through his own anger, and voluntarily forfeits his own right to demand and to judge. This means the end of the law, not that the law is not still in force, but "now however" *[nun aber]* (cf. Rom. 3: 21) he deals with us in Christ in a way altogether different from the way in which he deals with us in the law.

> This does not happen as a principle and in a general way, but here and only here in this contingent, concrete, *heilsgeschichtlich* place, in Jesus Christ. God is not a God who does not demand and repay at all; but here where Jesus Christ stands, here and now where the preaching of the gospel meets me, he no longer wishes to demand and repay, but simply to give everything. When Luther fights against the mingling of law and gospel, he fights for a pure understanding of this *hic et nunc*, this '*nun aber*,' with which God reverses his way with human beings, in a particular place, at a particular

> *kairos*, in this one person, Jesus Christ. *Here*, where this has happened and still happens through the proclamation of the gospel in the life of the individual Christian, the law must no longer be preached. What God does in Christ must not be bound up with reservations and conditions, and thus made into some uncertain, half-measure. It must be recognized and preached in its pure opposition to the order of the law.[68]

It is on this basis that Joest seriously questions the validity of a third use of the law, because it is just as *tertius usus* that it is linked with the *heilsgeschichtlich kairos* of the gospel, and issued in the name of Jesus Christ, yet it wants to be law precisely where Christ stands. The question must therefore be asked, Does not the law here reach beyond its *heilsgeschichtlich* limits? Is not the gospel now furnished with conditions and reservations which obscures the pure reversal of God's way of acting?

Joest claims that Luther also knows of an encounter between the Christian and the law, where the law acts in harmony with the gospel. Not that the gospel gives the sinner permission to make a truce with the world of the flesh, or to surrender to sin without a struggle. Rather, for Luther, the gospel belongs to the irruption of God's world into this aeon. A battle between the two worlds has begun: on the one hand, the Christian as sinner stands on the side of the "world," but, on the other, the Christian as saint stands on the side of the coming kingdom. This kingdom, in which the believer is united with Christ through baptism and faith, has a thrust in the direction of reality. Faith--precisely that faith which already anticipates life in heaven--becomes incarnate like Christ. It wants to make everything like itself, beginning with its own flesh. Believers are now shown quite concretely the works that they are to do--and they are shown this by the very same law that previously showed them their sins, and that still does, insofar as they are *simul peccatores*. The *contents* of the law, as the expression of

God's unchangeable will, is and will remain the same, for time and for eternity. But there has now been a complete reversal in the *order of relationship:*

> For sinners, and also for Christians as sinners, the law is always *lex implenda:* you must do this to be saved. But that same law encounters faith as *lex impleta:* Christ has done this and he does it eternally. Now you may do it too, because you are in Christ. The responsibility for succeeding and the burden and danger of failing no longer lies with you. He has already struggled and fulfilled everything, and now takes you with him into his fulfillment. You no longer first have to gain the victory with your own obedience--he has gained it, and now you may begin to measure the extent of *his* victory with your actions. You no longer *have to* in order to . . .; but you *may* because . . . . You are completely sustained and sheltered in everything.[69]

This is the reversal of the order of relationship that Joest sees taking place in faith, and which overcomes the antithesis between law and gospel. The law, which previously made people responsible for their own salvation, has now been overcome, and is not reestablished with *this* "third use." Therefore, whatever name we give this "law" that now guides Christians in their life, it is not the law that Luther knows as the antithesis of the gospel. Rather than the third use of the law, Joest prefers the term "practical use of the gospel" *[usus practicus evangelii].* He claims to find support for this in Luther who often (but not always) avoids the term *lex* precisely in those contexts where he is talking about the Christian and the law.[70] This law, which still comes to Christians externally in the word, is no longer law in the strict sense (as in the second use) but *lex impleta.* Since it presupposes salvation and no longer threatens believers with judgment, they joyfully and spontaneously embrace it in the freedom of faith and willingly conform their lives to it.

Joest posits that, at any given moment, Christians encounter God's command in two ways: as sinners, and yet as those who are called to Christ. As sinners, they encounter the command *[Gebot]* as a destroying law *[Gesetz]:* you

ought, but you cannot. However, as those called to Christ and who believe this call, Christians experience this same command as evangelical encouragement *[Zuspruch]:* Christ can--you will. Joest denies that Christians ever encounter the command as a *tertium* between law and gospel, such as: Christ certainly has--but now you must too. Nor should the command ever be understood moralistically, as if our salvation depended on our own performance and achievement. Joest makes his position clear: " The command as spoken to the sinner is law in all its sharpness; the command as spoken to faith in Christ, as parenesis, is *paraclesis,* encouragement, gospel in the fullest extent."[71]

We have seen that Joest does not reject the idea that the law, or better, command, plays a role in the life of the Christian *qua* saint. Before faith, law and gospel are diametrically opposed, and the law functions primarily as the *usus elenchticus.* After faith, Joest maintains, the law no longer accuses but guides the Christian, so that in fact the gospel and the law become one, and the command is changed from law into a use of the gospel *[usus evangelii].* However, this developing unity ("becoming-one") of law and gospel in the Christian life is a contingent reality, not an ontological reality ("being-one") in principle.[72]

Joest agrees with Paul Althaus's proposal that we should use the term "command" to refer to the law in the life of the Christian, in order to distinguish between the way the law acts before and after faith. For the command is no longer law in the strict sense of a law that requires fulfillment *[lex implenda],* but rather it flows from the law that has been fulfilled *[lex impleta].* The "you must in order to . . ." of the first (before faith), should not be grouped together with the "you may because . . ." 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 the

Bible disallow the view that every aspect of the Christian life is regulated by God's command.

Conclusions

In the light of this survey of the various positions taken in regard to the third use of the law, we conclude the chapter by noting some of the common themes that we found recurring in arguments against the traditional understanding of the third use. We have seen that the basic problem addressed by almost all scholars except Elert, is how to explain, theologically, the different role played by the law in sanctification compared with justification. It was felt that, while the law prior to faith is primarily accusatory, after faith it cooperates with the gospel in bringing about the fruit of faith (good works).

Our survey has raised important questions: Does the function of the law after justification differ from that before? Does the law change or is it now heard with different ears? Is Elert correct in arguing that the law *only* accuses? Is there warrant for Joest's position that for the Christian, the law as command, parenesis, is allied so closely with the gospel that it would be better to describe it as the practical use of the gospel rather than the third use of the law? How do we speak about the *tertius usus legis* without jeopardizing Christian freedom? If the law plays a normative and didactic role in the Christian life, teaching us what works are good and pleasing to God, can it ever be only positive, or is it also bound to be negative and accusatory? Do we need the law insofar as we are saints, or is it only because we are still sinners? Finally, in spite of the fact that FC VI teaches a third use, is it possible to be faithful to the doctrinal content of the *Formula* while rejecting a special, positive, didactic use of the law exclusively for the regenerate?

NOTES

[1]*Luther's Small Catechism with Explanation* (St Louis: Concordia Publishing House, 1991), 94-95.

[2]This assertion is adequately defended by Hermann Sasse, *Here We Stand: Nature and Character of the Luther Faith*, trans. Theodore G. Tappert (New York: Harper & Bros., 1938; reprint, Adelaide: Lutheran Publishing House, 1979), 118-160, esp. 118-130.

[3]WA 39 I, 342-358, *Die Thesen zu den Disputationen gegen die Antinomer*, 1537-1540; WA 39 I, 360-417, *Die erste Disputation gegen die Antinomer*, 1537; WA 39 I, 419-485, *Die zweite Disputation gegen die Antinomer*, 1538; WA 39 I, 489-584, *Die dritte Disputation gegen die Antinomer (Promotionsdisputation des Cyriacus Gerichius)*, 1538; WA 39 II, 124-144, *Die Promotionsdisputation von Joachim Mörlin*, 1540 *(Die sechste Disputation gegen die Antinomer)*.

[4]WA 40 I, 33-40 II, 184, *In epistolam S. Pauli ad Galatas Commentarius ex praelectione D. Martini Lutheri collectus* [1531] 1535.

[5]WA 2, 443-618, *In epistolam Pauli ad Galatas M. Lutheri commentarius*, 1519.

[6]Philip Melanchthon, "The Divine Law," Locus 6, in *Loci Communes*, 1543, trans. J. A. O. Preus (St Louis: Concordia Publishing House, 1992), 74.

[7]This is noted by William H. Lazareth in his Introduction to Paul Althaus, *The Divine Command: A New Perspective on Law and Gospel*, trans. Franklin Sherman, Facet Books, Social Ethics Series (Philadelphia: Fortress Press, 1966), viii (this is a translation of Althaus's *Gebot und Gesetz*). He cites John Calvin, *Institutes of the Christian Religion*, vol. 1, ed. John T. McNeill, trans. Ford Lewis Battles, in vol. 20 of *Library of Christian Classics* (Philadelphia: Westminster, 1960), Bk. 2, ch. 9, sect. 4 ("... where the whole law is concerned, the gospel differs from it only in clarity of manifestation"), and Bk. 2, ch. 10, sect. 2 ("Both [covenants] can be explained in one word. The covenant made with all the patriarchs is so much like ours in substance and reality that the two are actually one and the same").

[8]According to Calvin, *Institutes*, Bk. 2, ch. 7, sect. 12, the law plays a dual role in the life of believers; it teaches as well as exhorts:

> Here is the best instrument for them to learn more thoroughly each day the nature of the Lord's will to which they aspire, and to confirm them in the understanding of it. . . . Again, because we need not only teaching but also exhortation, the servant of God will also avail himself of this benefit of the law: by frequent meditation upon it to be aroused to obedience, be strengthened in it, and be drawn back from the slippery path of transgression.

Luther, in his great *Galatians Commentary*, also teaches a twofold use of the law, namely, the civil use and the theological or spiritual use. However, the emphasis is entirely different. After talking about the civil use, he writes, WA 40 I, 480: 12-481: 4:

> The other use of the law is the theological or spiritual use, which serves to increase transgression. This is the primary purpose of the law of Moses, that through it sin might grow and be multiplied, especially in the conscience. Paul discusses this magnificently in Romans 7. Therefore, the true function and the chief and proper use of the law is to reveal to people their sin, blindness, misery, wickedness, ignorance, hate and contempt for God, death, hell, judgment, and the well-deserved wrath of God.

[9]For a critical analysis of the problem of law and gospel in Luther, Melanchthon, Calvin, Barth, Tillich, Elert, and Althaus, see Albrecht Peters, *Gesetz und Evangelium*, vol. 2 of *Handbuch Systematischer Theologie*, ed. Carl Heinz Ratschow (Gütersloh: Gütersloher Verlagshaus Mohn, 1981). Eugene F. Klug, writing on the third use of the law (FC VI) in *A Contemporary Look at the Formula of Concord* (St. Louis: Concordia Publishing House, 1978), 200-203, offers some cursory comments on the positions of Elert, Althaus, and Ebeling.

[10]For an authoritative treatment of the law in the Reformed tradition, see Otto Weber, *Foundations of Dogmatics*, trans. Darrell L. Guder, vol. 2 (Grand Rapids, Michigan: William B. Eerdmans Publishing Company, 1983), 380-407. Weber can hardly be taken seriously when he warns Lutherans against the error of viewing the life of the believer in Reformed theology as basically law-oriented (394). August Pieper, "The Difference Between the Reformed and the Lutheran Interpretation of the So-called Third Use of the Law," *Wisconsin Lutheran Quarterly* 87 (Spring 1990): 108-122 [trans. Richard W. Strobel from "Über den Unterschied der reformierten und lutherischen Auffassung vom sogenannten dritten Brauch des Gesetzes," *Theologische Quartalschrift* 13 (April 1916)], notes that in Reformed ethics, "the norm for faith and the will, which is carried along by faith, in individual situations always is the divine will *as something still standing over it, demanding* the particular action. The 'you must' has not yet been overcome, but rather *sharpened*" (115). He further notes that "just because faith has been kindled,

for that reason the law is necessary, which urges one on to action." Finally, he highlights the difference between the Reformed and Lutheran ethos on the basis of their difference of approach to the apostolic text about the law of freedom (James 1: 25): "the Reformed emphasizes the word *law* as real law, while the Lutheran emphasizes the word *freedom* as freedom from the law in the true sense of the word, so that the law of freedom signifies the norm that is present in the believer himself" (116).

[11]Karl Barth, "Evangelium und Gesetz," in *Theologische Existenz heute*, no. 32 (Munich: Christian Kaiser Verlag, 1935). The same essay reappeared in *Theologische Existenz heute*, 3d ed., neue Folge, no. 50 (Munich: Christian Kaiser Verlag, 1961), and was reprinted in *Gesetz und Evangelium: Beiträge zur Gegenwärtigen theologischen Diskussion*, ed. Ernst Kinder and Klaus Haendler, vol. 142 of *Wege der Forschung* (Darmstadt: Wissenschaftliche Buchgesellschaft, 1986), 1-29. References to Barth's essay are from this reprinted edition. The book edited by Kinder and Haendler brings together in a single volume some of the most significant essays this century on the topic of law and gospel. The editors regret that they could not include any articles by G. Ebeling, W. Joest, and H. Thielicke.

[12]Barth, Evangelium, 9.

[13]Ibid., 2.

[14]Werner Elert, "Gesetz und Evangelium," in *Zwischen Gnade und Ungnade: Abwandlungen des Themas Gesetz und Evangelium* (Munich: Evangelischer Presserverband for Bavaria, 1948), 132-69. Edward H. Schroeder, the translator of the English edition, *Law and Gospel*, Facet Books, Social Ethics Series (Philadelphia: Fortress Press, 1967), provides a helpful note on p. 1: "Elert's term, *realdialektischer Gegensatz*, expresses the core of his position. It designates a dialectical opposition in the contents *[res]* of law and gospel, not just in terminology *[verba]*. The antithesis is between substances and not merely forms." For a critique of Elert, see Leo Langemeyer, *Gesetz und Evangelium: Das Grundanliegen der Theologie Werner Elerts* (Paderborn: Verlag Bonifacius-Druckerei, 1970).

[15]Elert, Gesetz, 164.

[16]For some inexplicable reason, the English translation in *The Book of Concord: The Confessions of the Evangelical Lutheran Church*, trans. and ed. Theodore G. Tappert (Philadelphia: Fortress Press, 1959), 567, leaves out *zugleich [simul]*, the very word that Elert italicizes because of its importance for his argument.

[17]Werner Elert, *Das christliche Ethos: Grundlinien der lutherischen Ethik*, 2d & exp. edition, ed. Ernst Kinder (Hamburg: Furche-Verlag, 1961), 392-93.

[18]Elert, Ethos, 395.

[19]Elert, Ethos, 394. He argues, Gesetz, 161-3, that the only place in Luther where the three uses of the law are expressly listed is a forgery. The passage, at the end of the *Die zweite Disputation gegen die Antinomer* (WA 39 I, 485: 16-24), was allegedly copied almost word for word from the 1535 edition of Melanchthon's *Loci*. The offending sentence reads: "The law is to be retained in order that the saints *[sancti]* may know the works which God requires and in which they can exercise obedience toward him." It seems that this could easily have been said by Luther, provided that we understand "saints" in the sense of Christians *qua* saints *and* sinners and not just *qua* saints. However, even this would not satisfy Elert since his exclusively negative view of the law compels him to even reject the idea that Christians need the law to teach them the good works commanded by God.

[20]Barth, Evangelium, 9-10.

[21]The following summary is based on 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).

[22]Ibid., 7-8.

[23]Althaus, Gebot, 10, notes that in the Gospel of John "law" always refers to the law of Moses. In his letters John hardly ever uses the term *nomos;* the mark of the Christian life is rather keeping the commandments of God or of Christ.

[24]Ibid., 11.

[25]Ibid.

[26]Ibid., 13.

[27]Ibid., 12.

[28]We merely note in passing that this traditional Lutheran assertion, based on Luther's reading of Paul, is now being called into question by NT

scholars who doubt whether Paul himself properly understood the attitude of first century Palestinian Judaism toward the law. This is a very complex problem and has already produced a massive literature, indicating both the significance of the problem and the widely divergent views among exegetes. For a helpful survey and assessment of the situation, see John M. G. Barclay, "Paul and the Law: Observations on Some Recent Debates" *Themelios* 12 (September 1986): 5-15.

[29]Althaus, Gebot, 20.

[30]Ibid., 24.

[31]Ibid., 25.

[32]Althaus cites Ap. IV, 348: "We are justified for this very purpose, that, being righteous, we might begin to do good works and obey God's law" (cf. also Rom. 8: 4). What Paul and the Confessions call "law," Althaus calls "command."

[33]Althaus, Gebot, 29.

[34]Ibid., 27.

[35]Ibid., 28.

[36]Ibid., 34.

[37]The relation between faith and action, indicative and imperative--which really embraces the relation between justification and good works--is important for a discussion about the third use of the law. While Althaus is right in seeing faith and works closely connected, he fails to understand the proper relation between them. It is our conviction that when the Confessions say that faith should produce good works, they are simply stressing the fact that good works are not optional for the Christian but are commanded by God (Ap. IV; FC SD, IV, 14, 16). However, they also know that Christians, insofar as they are saints, do these same good works cheerfully and spontaneously, without any compulsion. This is what Althaus overlooks when he insists that works never automatically follow faith but are always called into existence by the divine command implied already in the gospel's offer. Yet the Christian life stands not only under the imperative of the law (command) but also, and first of all, under the indicative of the gospel. However, Althaus is unwilling to recognize this indicative (good works *are* the fruit of faith) as a true indicative. For him it is descriptive of the "*inherent* necessity with which the *gospel*, grasped by faith, presses toward deeds

of love. This necessity however does not take effect automatically, but only by means of personal decisions and human actions" (Althaus, Gebot, 35). All of this means that, for Althaus finally, the Christian life is *obedience* [corresponding to the *Soll-Notwendigkeit*]--and even when he qualifies it as *free* obedience, it is that, not by virtue of faith or the indicative of the gospel, but the *necessity* of the indicative *[Seins-Notwendigkeit]*.

[38]Ibid., 37.

[39]Hans Philipp Meyer, "Normen christlichen Handelns? Zum Problem des tertius usus legis," in *Widerspruch, Dialog und Einigung: Studien zur Konkordienformel der lutherischen Reformation*, ed. Wenzel Lohff and Lewis W. Spitz (Stuttgart: Calwer Verlag, 1977), proposes an ethic of discipleship *[Nachfolge]* as an alternative to the teaching of the *tertius usus legis*. The law (first, and esp. second use) drives the "old man" to death from which the "new man" is resurrected. However, Meyer argues that when we confess our sin and our inability to fulfill the law, this is not done abstractly; we die to ourselves only in the concrete act of attempting to fulfill the law and realizing its impossibility. Through the self-destruction of ourselves as persons we rise with Christ in faith, for whose sake our failed attempts to fulfill the law are or become "fruits of the Spirit." For Meyer an evangelical ethic is not one that directly promotes and builds up the Christian life but rather one that *shatters and destroys one's personal life*; an ethic of dying for others after the example of Christ. Only when the old has been destroyed can faith be born and strengthened. For this ethic there is no *tertius usus legis* (see pp. 239-40). While we agree with Meyer that the third use of the law cannot be the basis for evangelical ethics, we do not accept that its basis can be located in discipleship, for there we can never escape the judgment of the law. Rather, the only basis for Christian ethics, which self-evidently must be positive, is the gospel of the forgiveness of sins

[40]Ibid., 39. Althaus also discusses the role of the law in the Christian life in *Die Theologie Martin Luthers* (Gütersloh: Gütersloher Verlagshaus Gerd Mohn, 1962), 232-38. His criticism there of the third use in Luther is less stringent. Even though he knows that Luther never uses the term as such, he concedes that in substance it also occurs in Luther (238).

[41]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), 50-68. The following summary of Ebeling's position is drawn from this essay.

[42]CR 21, 405-6. It is in the new section, *De usu legis*, added to the 1535 edition of the *Loci*, where Melanchthon speaks of the *primum*, *secundum* and *tertium officium legis*.

[43]Ebeling, Triplex, 58. See Ap. IV, § 22-24 for the idea of the later *primus usus legis*, where Gal. 3: 24 and 1 Tim. 1: 9 are also quoted; also Ap. IV, § 187-91. Passages reflecting the *secundus usus* do not need to be cited.

[44]The history of the usage of this term is more complex than one at first thinks. Ebeling, Triplex, 64, shows that Melanchthon originally took the term *duplex usus legis* over from Luther, but then adapted it into the schema of the *triplex usus* to suit his own theology.

[45]Ebeling, Triplex, 58. The verbal phrase *lege uti* occurs twice: WA 2, 500: 12-14 and 527: 17-19. Both passages reflect an *usus theologicus*, leading Ebeling to conclude that this is the only legitimate *usus legis*. Where Luther speaks merely of the discipline of the law, it is always in close connection with the *usus theologicus*: WA 2, 527: 26-32. Finally, Ebeling suggests that Luther's remark in WA 2, 466: 19-26 and 498: 10-13 could point to the idea of a *tertius usus legis*, but in an altogether different sense than that intended by Melanchthon.

[46]WA 39 I, 447: 3-448: 7. In his discussion of the theological interpretation of the *usus legis* doctrine, Ebeling purposely confines himself to the *Antinomian Disputations* since, at the time of writing, he was working on a detailed study of these documents; however, nothing has yet appeared.

[47]Ebeling, Triplex, 66.

[48]Ibid., 67-68.

[49]WA 39 I, 474: 8-475: 6: "Lex est iam valde mitigata per iustificationem . . . Ante iustificationem regnat lex et terret omnes, quos tangit. Sed non sic docenda est lex piis, ut arguat, damnet, sed ut hortetur ad bonum. . . . Itaque lex illis mollienda est et quasi exhortationis loco docenda."

[50]This summary is based on Ragnar Bring, "Gesetz und Evangelium und der dritte Gebrauch des Gesetzes in der lutherischen Theologie," in *Zur Theologie Luthers: Aus der Arbeit der Luther-Agricola Gesellschaft in Finnland*, Schriften der Luther-Agricola Gesellschaft in Finnland 4 (Helsinki: Akateeminen Kirjakauppa, 1943).

[51]Bring, Gesetz, 70-81.

[52]Ibid., 84.

[53]Bring, Ibid., 90, n. 7, notes that it is only after the *Formula* declares that the Holy Spirit must first renew our heart before we can keep the law, that it goes on to say: "Then he employs the law to instruct the regenerate out of it and to show and indicate to them in the Ten Commandments what the acceptable will of God is (Rom. 12: 2) . . ." (FC SD VI, 12). Brings observes that this could be taken as a clear statement of the third use of the law following regeneration, but that is not the case. He argues that there is nothing here to distinguish the law from what Luther calls the first (or second) use; therefore, it is same law, the same will of God, applicable to all people, regenerate and unregenerate alike. However, Bring is wrong when he asserts that, because the old Adam (the flesh) still clings to Christians, they are no different from the unconverted, and hence have no basis for claiming a special (third) use of the law that is different from the law needed for the unregenerate. Sin in believers is *peccatum regnatum*, not *peccatum regnans*. Hence they are *simul iusti et peccatores*.

[54]Ibid., 90-91.

[55]Ibid., 95-96.

[56]The argument is set out in Lauri Haikola, *Usus Legis*, in *Schriften der Luther-Agricola-Gesellschaft*, A 20 (Helsinki: n.p., 1981). For his specific rejection of the third use of the law, see p. 84.

[57]Haikola, Usus, 13.

[58]Ibid., 91.

[59]Ibid., 145-6.

[60]Haikola claims that Luther denied that the Christian is subject to any moral absolutes. The orthodox theologians, on the other hand, began with an entirely different premise: the law as an objective legal order, the *lex aeterna*, valid and accessible to all, not the *impossibilitas legis*, which Luther purportedly taught. Given the orthodox understanding of the law, it is argued that life and salvation mean a state of unequivocal harmony, empirically verifiable, which comes as a reward for keeping the law. Haikola however approaches Luther from an existentialist standpoint, and rejects the orthodox interpretation with its idea of a

continuing state of grace and an uninterrupted growth in holiness. He argues that this would have been impossible for Luther, who knew only of a state of grace that is being constantly renewed. Christians always stand under both law and gospel: the law accuses and condemns, the gospel acquits and frees. With every experience of *Anfechtung*, Christians despair of their own righteousness and flee to Christ in faith. Because of this constant *transitus*, the life of faith under grace is thoroughly contingent. Haikola claims that the orthodox position, on the other hand, teaches that, with the help of a partially restored free will, Christians can intentionally avoid sins, and in that way hinder the inner *Anfechtung* created by the law. Such a view assumes that the law, when it functions according to its third use, does not rule Christians inwardly (in the conscience), whereas, in its second use, it rules the whole person, body and soul. Consequently, *Anfechtung* is viewed negatively: it disturbs the tranquillity of the Christian life lived in harmony with the law. For that reason, faith, life, and salvation can only begin *after* the *Anfechtung* of the law. On the other hand, it is Haikola's contention that the attacks of *Anfechtung* are a common experience of faith, and a means which God uses to keep killing the old nature, and driving the Christian again and again to Christ. Whether Haikola is correct in his assessment of the orthodox position we cannot say; however, as we will see in the next chapter, Luther would never say that faith, life, and salvation begin only after the *Anfechtung* of the law. The very source of *Anfechtung* is the attempt on the part of the law to reenter the conscience of *believers*, and to accuse them of sin, even though Christ has expelled the law and alone rules in the conscience through the gospel.

[61]Regarding the subject of the *uti lege*, Haikola, Usus, 129-32, maintains that while preachers must distinguish between law and gospel, and not preach the one as the other, they themselves cannot determine how people will hear the law, for the real subject of the *usus legis* is God (Christ, faith, the Spirit). Here he is in agreement with Ebeling. For Haikola the *real distinction* between the different uses of the law, as between law and gospel itself, depends on the hearers themselves. The distinction made by the preacher is only of theoretical interest; it happens *only in the word*. The word of the preacher can never anticipate the use 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 this might seem as if Haikola is saying that law and gospel is left to a human decision. However, he rectifies that when he says:

> If we really want to understand how Luther distinguishes between the different uses we must first take into account how the preacher clarifies *in words* the effect that he intends the law to have in theory, and secondly, at the same time, what use the different subjects--God (Christ, the Holy Spirit), Satan, and the human hearer--make of the law (Ibid., 133).

Ulrich Asendorf, *Die Theologie Martin Luthers nach seinen Predigten* (Göttingen: Vandenhoeck & Ruprecht, 1988), 337, n. 70, cites this passage with approval and thinks that Haikola is right in emphasizing the relational use of the law in Luther.

[62]Ibid., 141.

[63]Wilfried Joest, *Gesetz und Freiheit: Das Problem des tertius usus legis bei Luther und die neutestamentliche Parainese*, 4th ed. (Göttingen: Vandenhoeck & Ruprecht, 1968).

[64]This summary will draw heavily on Joest's own conclusions on pp. 129-33. His existentialist interpretation is followed very closely by Gerhard O. Forde in his treatment of justification and sanctification (Eleventh Loc., "Christian Life") in Carl Braaten and Robert Jenson, eds., *Christian Dogmatics*, vol. 2 (Philadelphia: Fortress Press, 1984), 425-44.

[65]The question remains, Did God ever intend the law to be used as a means of salvation, or is this an abuse of the law on the part of sinful human beings? This is a question that was taken up by the later antinomians, beginning with Andreas Poach. He argued that even if human beings could fulfill the whole law, they would still not merit salvation, for anything that humans do can never be anything more than a *debitum*, for which God owes them nothing. See Joest, Gesetz, 50. As we saw earlier, the question of whether good works are necessary for salvation (which was at the center of the Majoristic Controversy) presupposes the further question of whether one could be saved, theoretically, by keeping the law.

[66]Joest, Gesetz, 20.

[67]Ibid., 130.

[68]Ibid., 130-31.

[69]Ibid., 132.

[70]Joest, Gesetz, 132, admits that one of the exceptions to this is the formula *conscientia in evangelio--corpus in lege*, where "*corpus*" does not stand for the Christian as sinner, but for the sphere of his or her concrete actions as a believer. When we discuss this axiom in the next chapter, we will see that Joest interprets it in a way that defeats the very intention Luther had in mind, because he does not distinguish properly between law and gospel.

[71]Ibid., 133.

[72]Joest, Ibid., 236, n. 95, notes that what he proposes is not the same as Barth's idea of the unity of gospel and law. God's real word, according to Joest, is not just the unity of gospel and command in the sense of a *usus practicus evangelii*, such as we have in the life of the Christian, but first and foremost, the opposition of gospel and command, where the command now is no gospel at all, but sheer law in the sense of *lex implenda sub necessitate salutis*. Although Joest rejects Barth's idea of the unity of gospel and law, he still speaks of a unity himself. But this is not an ontological unity, in principle, but a unity that comes to fruition when, in a given concrete instance, the law as *lex implenda* is overcome by Christ, and turned into the *lex impleta* or the *usus practicus evangelii* of NT parenesis. In other words, this side of the paradoxical boundary, prior to the coming of Christ to an individual--when the command is changed from law into the *usus evangelii*--there is no unity between law and gospel, but only antithesis. Beyond that boundary however Joest contends that we can speak of a contingent unity or an *Einswerden* of gospel and law (not a *prinzipielles Eins-sein*), where the *lex iam impleta*, not the *lex implenda*, becomes the *Zuspruch des Gehorchen-dürfens* (Ibid., 198). It is in this context that Luther, according to Joest, knows of a command--now actually in, with, and under the gospel--which gives concrete direction *[Weisung]*, and an obedience of faith, that is united with the freedom of faith (Ibid., 195). The problem that we have with Joest's interpretation is that, instead of distinguishing between law and gospel, he fuses them together in the life of the Christian. Admittedly, unlike the situation before faith, where law and gospel are solely antithetical, after faith there is a real closeness and even harmony between them in the believer's heart. However, because of the constant attempt of the law to regain entry into the conscience from which it was expelled by Christ, the Christian will often experience great anguish and temptation. It is precisely here where law and gospel have to be carefully distinguished, and yet this will be impossible to do if, as Joest claims, the command for the Christian--which we insist is still law--is now actually in, with, and under the gospel.

CHAPTER 2

THE LAW AND THE CHRISTIAN LIFE IN LUTHER'S GREAT *GALATIANS COMMENTARY*

Introduction

Our main task in this chapter will be to examine Luther's *Galatians Commentary* of 1531/1535 to see how he understands the role of the law in the Christian life. The methodology that we employ in this chapter is strictly doctrinal rather than exegetical, although ultimately these two cannot be separated. In other words, we will not simply examine those passages in the *Commentary* where Luther expounds texts that are of a parenetic nature and which occur mainly in the last two chapters of Galatians. Rather, we intend to approach Luther's *Commentary* holistically and to mine it for whatever data it yields on the question of the role of the law in the Christian life. The reason why this approach is preferable is because Luther does not confine his remarks on this topic to merely those passages where he comments on texts in which Paul either urges good works or issues ethical injunctions. Instead, many of the statements that he makes in relation to our topic are to be found sprinkled throughout the *Commentary*.

Given the nature of Paul's letter to the Galatians, we can expect that much of what Luther says about the law is going to be more applicable to justification than to sanctification. Nevertheless, Luther says enough about the function of the law in the Christian life to warrant using this *Comment-*

ary as a primary source for his view on the so-called third use of the law. Besides that, we cannot deal with the question of the *tertius usus legis* in isolation from the wider issue of the relation between law and gospel generally. Hence, that is the place where we will begin. It should be noted that since in this chapter we are working almost exclusively with Luther's great *Galatians Commentary*, which is printed in volume 40 of the Weimar edition, whenever we quote from it or refer to it, we will omit the reference to WA 40 and simply indicate the part (I or II), the page (s), and the line (s).

Law and Gospel

Foundational for Luther is the fact that law and gospel are antithetical and contradictory. They are two altogether contrary doctrines: the law makes demands and the gospel gives; and since demanding and giving are opposites, they cannot exist together (I, 336: 35-337: 22). When the one speaks the other must be silent (40 I, 114: 20-21). Both are God's words but he never speaks both at the same time. Luther often says that to know how to correctly distinguish between law and gospel is the mark of a true theologian (I, 207: 17-19 passim). The reason that the law needs to be distinguished from the gospel is not to keep the law pure but to keep the gospel or promise pure. "For when the promise is mixed up with the law, it becomes law pure and simple" and the promise is completely lost (I, 469: 32-470: 14).

Luther consistently speaks of only two uses of the law: the first, a civic or political use; the second, a theological or spiritual use. The second is also the primary use.[1] The one restrains civic transgressions,[2] the other reveals spiritual transgressions; the one restrains the wicked and lawless; the other reveals sin and drives people to Christ (I, 479: 17-482: 21). However, the law

not only reveals sin, it also provokes and magnifies it so that people are made to see how sinful they really are (Rom. 7: 13) (I, 487: 24-29). Paradoxically, the law ends up making people worse, not better (I, 400: 15-18). The law has different effects on different people, but only God can determine what the effect will be. Some become so afraid that they tremble at the rustling of a leaf (Lev. 26: 36) (I, 257: 19-27); others become hypocritical, and still others are driven to the brink of despair and will remain there unless or until they believe the promise that God loves them in spite of that other word which declares his wrath (I, 490: 21-24).[3] However, the human heart is so perverse that when the conscience is afflicted, instead of grasping God's proffered grace and mercy, it has recourse to even more laws (I, 489: 17-21)--and laws by nature just keep multiplying until they grow to infinity (I, 616: 24-31). The promises of the law however are always conditional and therefore can never grant the conscience the certainty that it seeks, because no one can ever keep the law perfectly.

Luther insists that any attempt to use the law as a means of self-justification is an abuse of the law,[4] for obeying the law can never lead to righteousness either before or after justification (I, 219: 22-33).[5] The problem is not the law but human sin, which tries to make of it something it was never intended to be. The law itself is holy, good, and necessary, if used "properly" (1 Tim. 1: 8, where the RSV translates "lawfully").[6] However, it is impossible for human beings to fulfill the law (I, 256: 30) because of sin (II, 81: 29-31), and even if it were theoretically possible, it would still be a misuse, for the simple reason that God never intended the law to be used as a means of becoming righteous in his sight (I, 620: 33-621: 12).[7] The fact that God commands something does not automatically imply that we can do it (I, 606: 17-18).[8] Paradoxically, to try to keep the law (in an attempt to merit justification)

is to act entirely contrary to it, for all who rely on the works of the law are under a curse (I, 397: 25-32).[9] The Law cannot be fulfilled without the Holy Spirit, and the Holy Spirit cannot be received without Christ (II, 168: 15-16). The doers or keepers of the law then are believers who, having received the Holy Spirit, fulfill the law through faith by loving God and their neighbor (I, 407: 29-30).[10] Here Luther follows Paul's distinction between the works of the law and the fruit of the Spirit (or works of the gospel): the works of the law are the works exacted by the law and are done by all who live under the law, but the fruit of the Spirit are works done by believers through the power of the Holy Spirit. This distinction is really the same as that between the two kinds of righteousness which Luther discusses in his opening "Argument": the righteousness of the law and the righteousness of faith. The former is active and applies to the "old man" who is born of flesh and blood, the latter is passive and applies to the "new man" in Christ (I, 40-52).

Although the law cannot effect justification, Luther says that it serves *[prodest]* justification by impelling us to the promise of grace and making it sweet and desirable (I, 489: 27-29).[11] It is a servant of, and a preparation for, grace (I, 488: 14).[12] It drives the troubled conscience to thirst and yearn for Christ. Yet after the law has done its work, only the Holy Spirit can tell the heart that it is not God's will that it merely be terrified and killed but that it should look to Christ, who is the end of the law (I, 556: 20-557: 14). Hence, the chief purpose of the law is not death but life.[13] "God wounds in order to heal; he kills in order to make alive" (Deut. 32: 39) (I, 534: 17). When the law compels people to despair of themselves and drives them to Christ, then through the gospel it serves the cause of justification (I, 490: 21-23). The law, though inferior to the gospel, works with the gospel.[14] Therefore, although the law

reveals and increases sin, it is still not against the promises of God--if used properly--but is, in fact, for them (I, 508: 29-30).

We began by saying that law and gospel are diametrically opposed, and that remains true. However, we have now seen that that is not the whole story: law and gospel also work together and are closely connected in the heart and life of believers (I, 520: 25-27). Indeed, it is precisely this fact that gives rise to the terrible anguish and temptation *[Anfechtung]* characteristic of the Christian life, which can only be overcome by faith. Therefore, while law and gospel work together to bring about salvation and are closely connected in the life of the Christian, when it comes to justification they can never be separated far enough (I,490: 32-35). Understanding precisely this interplay and distinction between law and gospel will be of the utmost importance in helping us navigate our way around the dangerous reefs in the controversy over the third use of the law.

The Law and the Christian Life

We have already seen in a preliminary way that the law prepares the sinner for justification but cannot itself effect justification. Only the Holy Spirit working through the gospel can change a person's standing in God's sight from that of sinner to righteous. But is justification merely a formal, legal pronouncement whereby God acquits sinners of the law's accusations, or is it also a change that he produces in believers themselves? This is a complex question, addressed also by the Confessions, because it basically involves two different views of justification. One sees justification as progressive and transformative: God changes people into what he wants them to become, so that they gradually become less and less sinful and more and more holy. This

is the classical Augustinian view which Luther initially embraced but later gradually distanced himself from, the more he understood the antithesis between law and gospel. In confessional Lutheran theology, this view was properly understood as sanctification and, as such, carefully distinguished from justification. The other view sees justification primarily as a declaration of grace and forgiveness on God's part whereby he imputes to sinners an "alien" righteousness (in the sense that it is God's and not their own) on account of Christ through faith. Here, if there is any change at all, it is a change in God himself. In mercy he decides not to hold our sins against us but to reckon us as righteous, for Christ's sake, through faith. This is the classical Lutheran view which is set out in the Confessions and which is typical of the later Luther. Both views are theocentric and both teach that justification is by grace alone. The difference between them is that the former sees justification as something that God does inside of us while the latter locates it outside of us in Christ's death and resurrection.[15] However, the view that Luther holds in his 1531 *Commentary* is that justification is not only an imputation of righteousness but also marks the beginning of a real change in the life of the Christian.[16] In other words, justification, while logically prior to sanctification and independent of it, never occurs with it.[17] The following passage from Luther shows there is no justification without renewal:

> First, he [Christ] justifies us by our knowledge of him; then he creates a clean heart, produces new motives, gives us the certainty by which we believe that for his sake we are pleasing to the Father, and grants the sure judgment by which we approve the things of which we were formerly ignorant and utterly contemptuous (I, 579: 14-17).

Justification and sanctification (renewal) are both God's doing, the one *extra nos*, the other *in nobis*. The question that now needs to be asked is, How does sanctification occur? Is it already complete at the moment of justification or is it a process that continues throughout the believer's life?

Sanctification: *Totus* or *Partim?*

In his *Large Catechism* Luther confesses that the sanctification or holiness of believers is nothing else than the Holy Spirit's application to them of the treasures of salvation, meaning justification (LC II, 38). This begins in baptism and daily increases through the means of grace until holiness is finally perfected with the destruction of the flesh and the resurrection of the body (LC II, 57, 58). Thus, on the one hand, Luther can say that the Holy Spirit has "sanctified and preserved me in true faith" (SC II, 6), while on the other, that we are "only halfway pure and holy" because of the flesh (LC II, 57).

The foregoing statements agree entirely with what Luther says in his 1531/1535 *Galatians Commentary*. On the one hand, he emphasizes that the righteousness imputed to us in justification is full and complete because it is Christ's righteousness and Christ cannot be divided. Luther calls him "our chief, complete, and perfect righteousness" (II, 90: 22-23). On the other hand, Luther also knows that, insofar as we still have to struggle with the flesh, we are only partly righteous because we are still partly sinners *[partim peccatores, partim iusti sumus]* (II, 86: 14-15).[18] Christians therefore are not yet perfect but at every moment of their life remain both saints and sinners *[simul iusti et peccatores]* (I, 368: 26; cf. II, 24: 20). Sin is a continuing reality: "remnants *[reliquiae]* of sin still remain in us" (I, 313: 13 passim) since faith does not immediately transform us into new people (I, 313: 13-15). At the same time,

however, Luther also knows that something real happens as a result of justification: we become new people, our actions are no longer driven by the flesh but are now under the guidance of the Spirit.[19] Although we are partly flesh and partly spirit, we are encouraged by the knowledge that in the sanctified life it is the Spirit who rules; the flesh is subordinate (II, 93: 19-21).

These two ways of speaking correspond to justification and sanctification. From the standpoint of justification, we are fully righteous *[totus]*, while from the angle of sanctification, we are only partly holy *[partim]*. Both are God's actions; one is by means of the imputation of righteousness and the non-imputation of sin, the other is by means of the gift of the Holy Spirit who creates in us a clean heart and new motivations--a process that will only be complete in the resurrection, when sin is destroyed once and for all and our new self can live before God in pure righteousness and holiness, without the opposition and encumbrance of the flesh. These two views coexist in Luther quite comfortably because they are complementary. They simply witness to the fact that although Luther stresses that justification is by faith alone, he also knows that justification never exists without renewal and that in this life renewal is only partial.[20]

There is one place where Luther seems to hold a view of progressive justification. On the basis of Paul's statement, "Through the Spirit, by faith, we wait for the hope of righteousness" (Gal. 5: 5), he says that we have indeed begun to be justified by faith, by which we have also received the first fruits of the Spirit. Thus, the mortification of our flesh has begun, which is another way of describing sanctification from the standpoint of the justified person.[21] But we are not yet perfectly righteous. Our full and complete justification still remains to be seen, and as such is an object of hope.[22] In other words, "our

righteousness does not yet exist in fact *[in re]* but it still exists in hope *[in spe]*" (II, 24: 19-22).[23] Thus, Luther can say, insofar as we are both flesh and spirit, that our righteousness is only inchoate and partial. Therefore, believers are not yet demonstrably holy but are in the process of becoming that, and will only be perfectly holy after the resurrection of the body.[24] This transformation is a gradual process because the Spirit does not immediately extinguish the vices of the old nature, "but throughout life he purges the sin that inheres" (I, 312: 23-26). On the other hand, Luther knows that, from the vantage point of justification, we are already perfectly righteous, in spite of the fact that we are also sinners. This finally is the only thing that matters, for the sole basis of our confidence, *coram Deo*, is Christ's perfect righteousness and holiness, and nothing in ourselves.

We have seen that, while Luther can use quantitative language to describe sanctification when he talks of Christians as people who are still struggling with the flesh, his fundamental conviction is that through faith in the promise Christians receive God's righteousness in all its fullness, by imputation.[25] There is never any hint in Luther that this is somehow only partial and must be brought to completion through sanctification. We are already righteous in God's eyes, for Christ's sake, through the word and water of baptism, and yet throughout life we struggle against sin through the power of the Spirit and surrender ourselves to God so that he can make us the holy people that we already are through faith. The same axiom applies here as with justification: righteous deeds do not make a righteous person (Aristotle) but a righteous person does righteous deeds.

The Flesh-Spirit Struggle

As long as we live in this world as Christians we are engaged in a continual battle with the flesh.[26] The classical Pauline description of this struggle comes in Galatians 5: 16-26, the very same chapter in which Paul pleads with his readers to remain free in Christ and not to allow themselves to become enslaved again to the law (5: 1) or to use their freedom as an excuse to serve themselves (5: 13). Therefore, when he admonishes the Galatians to be guided by the Spirit and to resist the flesh (5: 16), he is doing nothing more than calling them to serve one another in love, which is the essence of the law (5: 14). However, is Paul not contradicting himself here? First he declares Christians free, then in the very next breath he appeals to them to stand firm and not to submit again to the yoke of slavery, or to walk by the Spirit and not to gratify the desires of the flesh. Or, perhaps more to the point, does this not sound like a perfect example of the third use of the law? Luther is emphatic that Paul in these verses is not abandoning justification and returning to the law when he demands of his readers a holy life. All he is doing is appealing to them, as people who have been freed from slavery to the law, to freely fulfill the law through love. This is no contradiction. It is not the law that has changed, but it is they who have changed. As those who are no longer slaves to the law but led by the Spirit, they can now see the law as God's good gift. But if they surrender their freedom and become slaves of the law again, they will no longer see it as God's good and gracious will which they are eager to do freely and spontaneously, but instead it will become for them a condemning voice and a coercive power. The burden of Paul's appeal is that believers in Christ should not let their lives be determined by the flesh but by the Spirit. He reminds them that the works of the flesh are totally inconsis-

tent with their new life in Christ, which is the fruit of the Spirit. As saints born of the Spirit, Christians delight in this admonition (which is still law) because it is the very thing their new nature wants to do. Is the admonition given to Christians *qua* saints, or is it given to them *qua* sinners; is it given to them as saints, for the sake of the new nature, or insofar as, or even because, they still have the old Adam? Luther does not answer these questions in so many words. In fact they are not even his questions. He simply states that Christians need the law, although he does say that it is only because as we remain *sinners* that we need the law to discipline the flesh so that the Spirit can do his work in us (II, 78: 35-88: 13).[27] When Luther calls the injunctions of the New Testament--such as the command to love one another, to bear one another's burdens, and to forgive one another's trespasses--a "rule for the saints" (II, 83: 16), he is not implying that Christians *qua* saints need a rule but is simply using the term "saints" there in the broad sense of Christians rather than in the narrow sense of those who are holy and sinless through faith. Luther makes it very plain that while faith is eager to follow the path of love, it is often thwarted by the flesh so that it needs the law to keep subduing the flesh to enable it walk the way of the Spirit and not to gratify the sinful desires of the old nature.[28] We will continue this discussion when we address the problem of the place of admonition in the Christian life.

Because we are still sinners and live in a fallen world, we not only have to fight a constant battle against the old fleshly nature but we are also embroiled in spiritual combat, which involves fighting against the devil and the powers of darkness as well as battling errors and heresies in the church. At times Satan and his forces ally themselves with the flesh and mount a combined assault against God's saints. However, we do not, nor can we, fight

this battle alone. Just as Christ and the Spirit both intercede for us (Rom. 8: 27, Heb. 7: 25), so too both fight for us and with us. In fact finally it is not our battle but God's, for which he gives us his own armor (Eph. 6: 10-17). With faith, hope, and the sword of the Spirit--indeed, with the full armor of God--we fight against the flesh, and using these instruments as nails, we fasten the flesh to the cross, "so that against its will it is forced to submit to the Spirit" (II, 122: 20-22).[29] One weapon which Luther himself highly prizes is the word. In the anguish of temptation that arises from the conflict between flesh and spirit, clinging to God's word is of paramount importance. Luther recalls that as soon as he took hold of some of the words of Scripture as a holy anchor, he found security and his trials subsided. Without the word he would have succumbed (II, 99: 12-28). He knows however that in the final analysis our confidence before God rests not in our ability to win the struggle against the devil and the flesh but in Christ's victory over Satan and all the spiritual powers ranged against us."[30] But we can only rejoice in Christ's victory, especially in the time of temptation, when we know how to distinguish between law and gospel. However, that is most difficult to do precisely when the conscience is being tried and tempted. Yet it is just then that it is most imperative to make that distinction because, as Luther insists, the law must not be permitted to terrorize the conscience (I, 141: 17-18). For that very reason, Christians need be taught how to claim the victory that is theirs in Christ, in the midst of terror and despair (II, 109: 11-18); at the same time however they also need to be warned how easy it is, in the name of Christian freedom, to fall back again under the law and become slaves of the flesh. We can conclude from this that Christians need exhortations to remain faithful and to persevere in the face of temptation just as they need the gospel which renews their flagging

spirits and comforts them with its message of forgiveness. However, not only do Christians need the admonition of the law, inasmuch as they are still sinners, but they also need to be instructed in how to distinguish between law and gospel, especially in times of temptation, so that the law does not enter the conscience and rob them of the certainty and freedom they have in Christ.

Freedom and the Law

Perhaps the single most important thing that Luther would say about the Christian life is that it is freedom from the law--preeminently from its curse and condemnation but also from a guilty conscience. In Christ the law as a whole has been abrogated (I, 672: 28).[31] We are free, our sins are forgiven, and therefore we can no longer be condemned by the law, provided we remain in Christ. The law, of course, still hurls its threats and accusations at us but when we grasp Christ by faith--or, better, when he grasps us--he expels the law with all its terrors and threats.[32] It no longer has the right to accuse us, for we do spontaneously what the law requires, if not by means of perfectly holy works, then at least through the forgiveness of sins and faith.[33] However, that does not mean that Christians are entirely free from all laws. Although the gospel does not subject us to the civil laws of Moses, neither does it exempt us from obedience to all political laws; on the contrary, in our bodily life we are subject to the laws of the state in which we live and are bound to comply with temporal authority (I, 673: 17-20).[34]

Here then we meet an important distinction that Luther makes between the new self and the old self, and again, between the conscience and the body. Insofar as Christians are God's new creation born of the Spirit, they are free from the law, but insofar as they are still sinners encumbered by the flesh,

they are subject to the law in their bodily life.[35] To put it positively, the law applies to Christians precisely *because* they are sinners and *only* because they are sinners. As God's elect and holy people, not only do Christians not need the law but they are beyond the reach of the law, for, since they are pure and holy by faith in Christ, the law can no longer accuse them. But as for what Christians do in the body--their relationships to other people, their duties and responsibilities--here they are still governed by the law. In a word, the law is to rule the body but not the conscience (I, 213: 28-214: 24).[36] But since the law knows no bounds and will still attempt to condemn even the saints, Luther insists that the law must be expelled from the conscience and not be allowed to rob Christians of the comfort of the gospel (I, 205: 8-9 passim).[37] To say that the law must not be permitted to rule the conscience is the same as saying that the law must be excluded from the article of justification. For law and gospel, though different, are also closely connected in the heart and life of the believer, and yet law and gospel must be separated as far as possible in the conscience whenever it causes the Christian to doubt the certainty of God's word of forgiveness. The law's chief office is to accuse and terrify the conscience. Here Luther agrees with Melanchthon's dictum (I, 257: 29; cf. Ap. IV, 285). Yet even though Christians confess that they are sinners, the law dare not accuse them of what is truly sin in their lives, for through Christ the law has now been deprived of its legal hold on them (II, 97: 29-34). Therefore, when justification is at stake, Luther speaks most contemptuously of the law, for in times of temptation or conflict it can do nothing to comfort or encourage the conscience but only frightens it and deprives it of its confidence in the gospel (I, 557: 15-558: 23).[38] The conscience should know nothing about the law but look only to Christ (I, 545: 21-22).[39] Since the law implies works, to

exclude the law from the conscience in the article of justification is the same as excluding works. Justification is by faith alone, without the works of the law. This is the great theme of Galatians which Luther echoes in his *Commentary* again and again.

At the same time, however, Luther also knows that God commands good works and that therefore they are necessary and must be taught. Clearly, there is no contradiction here if the correct order is observed: first faith, then works. Good works are always the fruit of faith and never its presupposition, just as a good tree produces good fruit and not vice versa (I, 287: 17-23). In other words, Christians do not become righteous by doing righteous deeds but, having been justified by faith, they do righteous deeds (I, 402: 24-25).[40] Luther insists that faith spontaneously produces good works in the same way as a good tree bears good fruit. It can do nothing else.[41] Faith does not need the coercion of the law to do good works but freely and willingly does the very things that the law requires.[42] Therefore, Christians are commanded to do good works, insofar as they are still sinners, for the old Adam, which still lives on in them, must be forced to do God's will using all the threats that the law can muster. While Luther constantly stresses that faith alone justifies without works, he says just as emphatically that faith is never alone, that is, it is never idle or without love but always issues in good works (I, 427: 11-14).[43] Both topics, faith and works, must be carefully taught and emphasized but in such a way that they both remain within their limits (II, 78: 20-21). The classical Pauline formulation, "faith active through love" (Gal. 5: 6), rightly puts the *prius* on faith.[44] First faith, then love, but there can be no genuine faith without love. That is the burden of James's argument: faith without love is dead. True faith toward God is faith that loves and helps the neighbor with-

out qualification (cf. James 1: 27). Hence, Luther can say that the only thing that makes a person a Christian is faith and love (II, 38: 26-31). However, unlike the Scholastics, who always spoke of faith formed by love, Luther stresses that faith is the worker and love the instrument; it is faith that is effective, not love (II, 36: 8-14).[45] He can even say that genuine good works commanded by God (as opposed to the self-chosen works that were typical of monastic piety) must be urged as much as faith (II, 68: 16-19). The reason that good works must be preached is not just to bludgeon the flesh and force it to act, but to make plain to Christians what God wants them to do. As church history has shown, the flesh can be astonishingly inventive when it comes to acts of piety, but more often than not they are self-serving works which may be done to the glory of God, but not for the benefit of the neighbor. That is why Luther does not just stress the need for works, for not just any works are pleasing to God, but specifically those that he has "commanded in the law," by which he means the Decalogue.[46] The freedom of the gospel is never to be equated with license (I, 528: 24-34). It is never the freedom to do what I choose but the freedom to do what God wants. Although Luther does not formulate it in so many words, it is freedom *from* bondage *to* serve the neighbor in love. Christian freedom will always be exploited by the devil who is intent on bringing us back into bondage to the flesh (hence, back under the law). The way to resist that is again and again to heed the scriptural exhortations to serve God in one's calling and to help the neighbor in whatever way we can (II, 61: 13-63: 12; I, 51: 21-31).

Even though Luther is in no doubt that good works must be preached to Christians in order to goad the flesh into action, he is also concerned that at no time is the conscience to be threatened by the law. He knows the dilemma

posed by evangelical freedom: if you teach faith, the fleshly-minded neglect good works, but if you urge works, faith and the comfort of the conscience is put at risk (II, 94: 21-22).[47] Hence, he warns that, although good works must be urged, preachers dare not hide the freedom of the gospel, nor may they compel obedience, but only admonish people to do what is right and leave the rest to God (II, 63: 13-21). Luther also knows that good works can even be an occasion for sin: "The devil is such a clever trickster that he can make great sins out of my righteousness and good works." In this sense he can say that, because my sins are so grave, "my righteousness does me no good but rather puts me at a disadvantage before God" (I, 88: 26-29).[48] Yet our fear of Satan's machinations must not be allowed to hinder us from doing good works, for our confidence lies in the fact that everything that we do in faith is pleasing to God, not for its own sake, but because it is forgiven, for Christ's sake. In the final analysis, the only thing that will rescue us from the dilemma posed by evangelical freedom is the correct distinction between law and gospel. Luther points the way in the famous passage about the two ways of viewing Christ. Scripture presents Christ in two ways: as gift *[donum]* and as example *[exemplum]*. Christ as exemplar (mirror) allows us to contemplate how much we are still lacking, lest we become smug (II, 42: 19-28). However, he is adamant that he will not tolerate Christ being presented to him as exemplar except when he is joyful. "In a time of tribulation I will not listen to, nor will I allow, [any Christ] except the gift-Christ *[Christum donum]*, who died for my sins and bestowed on me his righteousness, and who accomplished and filled up what is lacking in my life" (II, 42: 29-31). In other words, whether Christ is presented as example or gift is nothing more than the simple application of law and gospel. To the smug, Christ must be portrayed as example, but to

those already burdened by their sin, Christ must be presented as gift. Similarly, putting on Christ can be understood in two ways: one, according to the law, where we imitate the example and virtues of Christ as we would any saint; the other, according to the gospel, where we put on Christ himself: his righteousness, holiness, power, salvation, life and Spirit. The latter is not a matter of imitation but of a new birth and a new creation (I, 539: 34-540: 19). This happens in baptism: there we put on Christ and his garment of righteousness. "Hence baptism is a very powerful and effective thing, for when we put on Christ, the garment of our righteousness and salvation, then we also put on Christ, the garment of imitation" (I, 541: 33-35).[49] We have seen then that not only doctrine (e.g. Christ's death) but also parenesis (e.g. the exhortation to put off the old self and put on the new) may be preached and heard as either law or gospel. Precisely how this will be heard is beyond the control of the preacher, but whether it is to be preached as law or gospel will all depend on whether the words are intended to demand and accuse (reveal sin) or to give and forgive (reveal Christ as savior).

We have already stressed that Luther is emphatic that the law was given to terrify and kill the stubborn and to exercise--indeed, drown--the "old man" *[vetus homo]* (I, 44: 15-16), whereas the "new man" *[novus homo]* is not under law but under grace (I, 44: 24-45: 22). But the law is not meant to last forever. Its terminus is Christ. Thus, Luther echoes Paul in asserting that Christ is the end of the law--not just its fulfillment but its end (Rom. 10: 4). When Christ comes, the time of the law is finished and the time of grace begins. However, Luther does not understand this merely in a historical sense with reference to Christ's first coming at the time appointed by the Father (Gal. 4: 4). He also understands it spiritually in the sense that "the

same Christ who once came in time comes to us in the Spirit every day and every hour." The reason he continues coming to us through his means of grace is because we are not yet perfectly pure but are still infected with sin.[50] Every time Christ comes in grace and mercy to a penitent sinner, he more and more abolishes the law and establishes his reign of grace.[51] Thus, although the alternation of law and gospel continues in the life of believers inasmuch as they are both sinners and saints, the more they grow in God's grace, that is, the more they allow him to be the gracious, forgiving God that he wants to be, the more they will be immune to the threats and accusations of the law. Christians *in concreto* are both saints and sinners and therefore live under God's total word of law and gospel: the law still judges them insofar as they remain sinners, but the gospel absolves as they accept that judgment and strengthens them for their battle against the flesh and the powers of evil.

The Place of Admonitions

The point has already been made several times that the chief function of the law in Luther's view is the negative one of exposing and convicting sin as well as coercing the old Adam to do the works commanded by God which Christians, according to their new nature, do--or, at least, want to do--cheerfully and spontaneously, without any compulsion from the law. However, while this is the law's chief role, it is not its only role. The law also instructs Christians in the good works that are pleasing to God and which he "prepared beforehand, that we should walk in them" (Eph. 2: 10). It is this didactic function of the law that we must now address.

We begin this section with a few definitions. So far we have not defined law except to say that, when Luther speaks about it, he more often

than not sees it in antithesis to the gospel. However, it would be more correct to see the accusing function of the law as one of the post-fall expressions of God's eternal, unchangeable will. The law that accuses is essentially the Decalogue, interpreted spiritually, as in the Sermon on the Mount. This is also the same law as that which is written on the heart, as we will see in the next chapter. However, the question now arises, How are we to understand the admonitions (parenesis) of the New Testament? Are they anything more than the explication and application of the Ten Commandments, which can be summed up in the command to love God and the neighbor, or are there also parenetic statements which go beyond the Commandments? Luther of course nowhere defines for us how he understands the term admonition in his *Commentary*, but it is probably safe to say that he equates it with the preaching of good works, which is ultimately a preaching of the law. That of course immediately raises the question of how a law that accuses us of sin can be used positively as a basis for instruction. Does the law itself change after justification or is it the Christian, who now hears it differently? Can we speak of so-called "evangelical imperatives," or of a gospel use of the law? These are some question that we need to keep in mind as we consider how Luther understands the place of admonition or instruction in the Christian life. For the time being, it is enough to say that when we talk about the admonitions of the New Testament, we are talking about the appeal to do the good works commanded by God. While these ethical appeals or instructions will often go beyond the Ten Commandments, nevertheless, they are often still related to the Decalogue, and can be broadly summed up by the twofold command to love God and the neighbor.

The first thing that needs to be said is that there can be no doubt that Luther uses the term law *[lex]* in connecting with instructing believers, even though Joest, as we have seen, claims that he often uses command *[Gebot]*. While this modern distinction between law in its primary role as revealing and condemning sin, on the one hand, and law in the form of command after justification as it warns, instructs, and encourages believers, on the other, has some limited merit in formal theological discourse, it is a distinction foreign to Luther. In our opinion--and that is all it can be--the fact that Luther often uses "command" in connection with parenesis does not automatically imply that he sees the law undergo a theological change of function when applied to believers. The law itself does not change but believers do.

Luther holds that when Paul admonishes Christians with the law and urges them to mutual love, he is doing nothing more than exhorting them to walk by the Spirit and not to gratify the desires of the flesh (II, 82: 19-22). Love is the fulfilling of the law, but genuine love is impossible without the Spirit and ends only in hypocrisy (II, 168: 15-20). Since, however, the Holy Spirit can be received only by faith, Luther can say that finally faith is the fulfilling of the law.[52] So the real "doing" of the law is believing.[53] This is entirely in keeping with Paul's words that whatever does not proceed from faith is sin (Rom. 14: 23). Even more profoundly, Luther can say that our "activity" is simply to let God do his work in us (I, 610: 15-17) because it is ultimately the Holy Spirit, working through the word, who himself produces in Christians the fruit of faith and the works of love. And because believers have the Holy Spirit, they will certainly not be idle but, like a healthy tree, bear good fruit. The Spirit guides them in all aspects of their piety so that they love God, pray and give thanks to him, as well as show love to all people (I, 265: 29-36).

These remarks of Luther agree with what we have seen elsewhere. He consistently emphasizes that Christians are impelled by the Spirit in all aspects of their life. Likewise, he says that the law is not to be preached for the sake of faith (the "new man") but on account of the flesh (WA 39 I, 374: 16-18).[54] Christians do not need the Decalogue to tell them what to do; insofar as they are born anew and have the Spirit they know that already. The point to be made here is simply that the good works done by Christians are good only because they are done freely in faith. Therefore, when the law compels the flesh to do the works commanded by God, they are not pleasing to him as such, even though they accord with his command, because they are not accompanied by faith. Only the fruits of the Spirit are truly works of faith because they are done freely and spontaneously without any compulsion. It follows then that since as Christians we are simultaneously saints and sinners, our good works are pleasing to God only because they are forgiven. Ultimately, Christians obey the law not to earn righteousness, which they have by faith alone, but for the peace of the world, out of gratitude to God, and as a good example, so that others may be invited to believe the gospel (I, 570: 18-21).

Christian freedom is the freedom to do the good works that the Spirit of God leads us to do, in opposition to the flesh. If Christians are to continue walking in the way of the Spirit, they need to be nourished and strengthened by word and sacrament, and to be constant in prayer, so that, by the power of the Spirit, they can nail the flesh to the cross. Precisely because they are led by the Spirit, Christians are exhorted to be the righteous people that they already are by faith; they are warned not to give into the flesh but to resist it through the Spirit. Luther can say that, to the extent that they struggle against the

flesh through the power of the Spirit, they are also outwardly righteous even though it is not this righteousness that makes them acceptable to God (II, 90: 26-32). Although sin is still a reality in their lives, Christians no longer sin deliberately but unwillingly, out of weakness and ignorance (I, 573: 21-22). For Luther the crucial thing is not that we are aroused by the desires of the flesh but that we do not capitulate to them. In fact, the more godly people are, the more aware they will be of the intensity of this conflict between the flesh and the Spirit, and the less they will see in their lives any evidence of "progress" or growth in holiness (II, 94: 11-15). Since the struggle against the flesh is the sign of faith and of the Spirit's presence, we should not despair when we feel the flesh entering into a new battle against the Spirit, or if we cannot immediately force the flesh to submit to the Spirit (II, 90: 33-35).[55] The mere fact that it grieves us that the flesh is so intractable and that, even as Christians, we are so weak and vulnerable, is already a sign that we are being led by the Spirit. On the other hand, the absence of genuine grief over sin(s), that is, impenitence, grieves the Holy Spirit, and is a sign that we are being led by the flesh. Law, gospel and good works--each has its proper place in the Christian life. The law prepares the heart for the gospel while good works, as the fruit of faith, flow from a heart that has been renewed by the gospel.

It is clear that Luther regards the dominical commands in the four gospels as a preaching of the law and not of the gospel. In fact he calls them "expositions of the law and appendices to the gospel" (I, 260: 13-14). While this phrase seems to bear some resemblance to the modern phrase "gospel imperatives" (or imperatives grounded in the gospel, used chiefly in connection with the letters of the New Testament), Luther is still adamant that the commands in the gospel are law. However, the fact that he does not call

them law, pure and simple, but expositions of the law appended to the gospel, suggests that he does not see these commands as functioning in a purely accusatory way but as guiding and instructing believers in those works that are pleasing to God. On the other hand, when Luther says that the commands are appended to the gospel, the word "gospel" here may mean nothing more than the literary gospel. Be that as it may, from what we have seen so far, we have no basis for believing that Luther ever saw the admonitions of the New Testament--either the dominical injunctions or apostolic parenesis--as *purely* positive directives for Christians which no longer accuse them of sin. In our opinion, the most we can say is that there is evidence to suggest that Luther approved a toning-down of the law when preached to Christians, not because they no longer need the law as sinners, but in order not to risk threatening their conscience and injuring their faith.[56] Although the flesh still needs to be disciplined and coerced, the situation is not exactly the same as that prior to conversion. Before justification, the flesh ruled unhindered *[peccatum regnans]*; after justification however the flesh is no longer ruler but is now ruled by the Spirit *[peccatum regnatum]*, although it still tries to regain its lost ascendancy. It is for this reason, no doubt, that Luther concedes that the preaching of the law among Christians is to be milder because the flesh has been overcome by the Spirit.[57] On the other hand, if believers allow the flesh to regain control, and consequently lose the Spirit by refusing the gift of the gospel, they can no longer be regarded as a Christians.

While the gospel is meant for the conscience and is intended to strengthen and confirm our faith, when Luther wants to describe the way in which faith expresses itself in love, he turns to the law, more specifically the Decalogue,[58] which Jesus sums up with the command to love God and the

neighbor.[59] Luther says we must listen to the law and follow our vocation. Here he connects the law with our vocation and stations in life. God's will as expressed in the Decalogue in concrete form is to be lived out, first and foremost, within the framework of our vocation as well as within the specific structures (family, school, government etc.) and relationships in which he has called us to serve him.[60] For whatever work we do in these spheres is "a divine work because it is a divine calling and has God's mandate" (II, 152: 38-153: 29).[61] We praise and serve God, not in the abstract, but concretely, by serving our neighbor and faithfully doing the work we are called to do. This again highlights the importance that Luther attaches to the works commanded by God rather than those of our own chosing, which, more often than not, end up being an escape from our God-given responsibilities and the needs of the neighbor. It is precisely as we live out our lives in the community of this world and of the Christian congregation that our faith is given the chance to become active in love.

Conclusions

In this chapter we have explored the role of the law in the Christian life and, in particular, the relation between the law and the freedom of the gospel. Several points have become clear from our study of Luther's great *Galatians Commentary* of 1531/1535. On the one hand, Christians, insofar as they are already righteous and holy by faith, need no law, because they freely and spontaneously do the works that God has commanded. As people who have been born anew by the Spirit, they know what God requires, even before they are told, and delight in doing it to his praise and glory. The law for them has been abrogated and driven out of their conscience where Christ alone

dwells in faith. On the other hand, because Christians are still sinners and burdened by the old Adam, they must have the law preached to them, both to convict them of sin, drive them to Christ, and to instruct them in the works that are pleasing to God. Even though the old Adam remains an unwilling partner, because the Christian is led by the Spirit and not the flesh, the law forces the flesh to do God's will with all manner of threats, rewards, and punishments. This twofoldness which characterizes the Christian life stems directly from the fact that believers are simultaneously righteous and sinners, and as such are enmeshed in a battle between the flesh and the spirit--which is ultimately a battle between the old Adam and the Holy Spirit. The final outcome is already assured through Christ's death and resurrection, but until the death of the old Adam, begun in baptism, is completed on the last day, we must continue to fight the flesh by letting the Spirit have his way with us. In other words, we need to return daily to our baptism to drown the old Adam through contrition and repentance so that the new self may daily rise up and live before God in righteousness and purity forever (SC IV, 12).

This lifelong struggle between the flesh and the spirit/Spirit will often give rise to terrible *Anfechtung*. The accusations of the law will repeatedly threaten the conscience and try to rob it of the freedom of the gospel. Luther never tired of saying that the law must be kept out of the contrite conscience and relegated to the domain of the body. The law controls our bodily life and relationships, our duties and responsibilities in our calling and stations in life, but Christ alone dwells in our conscience with the comfort and certainty of the gospel. However, in order not to lose the freedom of the gospel, we need to be taught how to distinguish the law from the gospel so that, when our conscience is harassed, we can turn a deaf ear to the law and take refuge

in the gospel. For when we take hold of Christ by faith, it always means believing the promise of God's mercy and forgiveness in spite of the accusations and threats of the law. Not only do we need practise at this, but our faith must be strengthened again and again through the preaching of the gospel, the words of absolution, and the sacrament of the altar.

The admonitions in Galatians, and indeed in the New Testament as a whole, presuppose the gospel. They appeal to us not to yield to the flesh but to live by the Spirit (Gal. 5: 16, 25). In other words, their appeal is that we let what we are now by faith become the determining reality in our life. Paul reminds us that the works of the flesh are totally inconsistent with our new life in Christ, which is the fruit of the Spirit. As Christians we take delight in the dominical admonitions and apostolic imperatives because, although they are still statements of law, we now see the law itself as God's good gift and not an onerous burden. It is now the gentle yoke and the light burden that Christ invites us to put on (Matt. 11: 29-30), for even though we are still slaves, we now have a gracious master who showed his lordship precisely in becoming a slave himself and serving us to the point of death (Phil. 2: 5-11). Luther does not say that the admonitions of the New Testament are directed to Christians *qua* saints. He simply states that Christians need the law insofar as they are still sinners.

The only conclusion we can draw from Luther's 1531/1535 *Galatians Commentary* regarding the so-called third use of the law--although he does not use the term as such--is that Christians need both the discipline and the instruction of the law because they are still sinners. His own teaching and admonitions in the *Commentary* make it clear that he would not subscribe to the view that the only function of the law in the Christian life is to convict

believers of their sin and drive them to Christ. While the law *always* accuses, it does not *only* accuse; it also teaches Christians the good works God that has prepared (for) them to do (Eph. 2: 10). However, the appeal to do the good works commanded by God is never regarded by Luther as anything other than a preaching of the law. On the other hand, he knows that since our hearts have been renewed by the gospel, we now receive these admonitions with joy, for not only do they correspond with our own inmost desires but in faith we see God's law as his good and gracious gift. It is for this reason that Luther can extol the Ten Commandments in his *Large Catechism* and say that we should "prize and value them above all other teachings as the greatest treasure God has given us" (LC, I, 333).

NOTES

[1]"Therefore, the true office and chief and proper use of the law is to reveal to people their sin, blindness, misery . . . judgment and the well-deserved wrath of God" (I, 481: 13-16). For more on the proper use of the law, see I, 485: 23-486: 16. All references are to WA 40 unless otherwise stated.

[2]Luther, commenting on Gal. 3: 19, says that the first use of the law as a civic restraint is extremely necessary for preserving public peace and order, and especially for ensuring the free course of the gospel. Compared with the second use, which is primarily negative, the first use of the law has a positive function in preserving external righteousness and justice and restraining evil (I, 480: 22-25).

[3]When justification is at stake, "the law must be removed from sight completely, as though it had never existed or would never exist but were a mere nothing" (I, 490: 30-32).

[4]The law is chiefly abused when the self-righteous and hypocrites imagine that they can use it to merit their own salvation. However, Luther also mentions two other abuses: the law is abused by those who want to exempt Christians from it altogether, in the name of Christian liberty (à la the Peasants' Revolt), which they confuse with carnal license. The other abuse is perpetrated by those who do not understand that the terrors of conscience produced by the law are meant to last only until Christ comes. In the latter case the law leads to despair, while in the case of hypocrites it causes pride and presumption (I, 528: 21-34).

[5]For Luther the fundamental sin is the private opinion all people have that they are righteous by means of their own work. This fatal presumption, endemic to all human beings, who are by nature "religious," is "the head of the serpent crushed by Christ" (I, 477: 23-478: 13).

[6]When the law is used properly and not abused, it does not lead to pride or despair but rather, like a stimulus, drives the hungry to Christ in order that he may fill them with his good gifts. Thus Luther says:

> Therefore, the proper function of the law is to make us guilty, to humble us, to kill us, to lead us down to hell, and to take everything away from

> us, but always with the purpose that we may be justified, exalted, made alive, carried up to heaven, and acquire all things. Therefore, the law does not merely kill, but it kills for the sake of life (I, 529: 10-14).

[7]Luther seems to vacillate on the question of whether the law was ever given on the assumption that it could actually be kept. Is it the case that the law could, and indeed should, be kept but that sin makes this impossible? Or does the very attempt to keep it already constitute an abuse of the law since it fails to recognize the law's real purpose? Thus, on the one hand, Luther can say that it is impossible for human nature to keep the law; on the other, he can also say that we should keep the law and be justified by keeping it, but sin gets in the way *[Deberemus quidem implere legem et implectione eius iustificari, sed peccatum obstat]* (II, 79: 22-23). Perhaps it would be wise not to press passages like the latter since, on balance, they are in the minority. More often than not, Luther asserts that the law is impossible to keep without the promise (meaning Christ and justification by faith) and the Holy Spirit, and that God foresaw this long before the law (I, 400: 15-26). Passages that suggest that we should be able to keep the law but cannot probably owe more to Luther's rhetoric than his dialectic. It would be going too far, in our opinion, to say that such passages allow us to conclude that Luther viewed the law, even if only theoretically, as a potential way of salvation. We saw already in the last chapter that the question of the fulfillability of the law was a point of contention between the Gnesio-Lutherans and the Philippists in the controversies that arose after Luther's death.

[8]The Christian ethos has no place for the Kantian axiom: you must, therefore you can. Luther writes:

> If we loved God with all our heart etc., then, of course, we would be justified and would live on account of that obedience, according to the statement, "By doing this a person will live." But the gospel says, "You are not doing this; therefore, you will not live on account of it." For the statement, "You shall love the Lord," requires perfect obedience . . . toward God (I, 606: 18-22).

This remark is interesting for two reasons: First, it provides us with another passage in which Luther is at least prepared to grant the possibility that a person could be justified by perfect obedience (see the previous note for the discussion). Secondly, his use of the word "gospel" here is unusual. Clearly, when he states that the gospel says, "You are not doing this; therefore, you will not live," we can only assume that he is using the term in the broad sense of God's word and not, as is more usual, in the narrow sense of the promise of the forgiveness of sins.

[9]Luther distinguishes between a moral "doing" and a theological "doing." True "doing" is a doing in faith, a theological doing. "Therefore, every doer of the law and every moral saint who wants to be justified through human will and reason is under a curse, because he comes before God in the presumption of his own righteousness. In 'keeping' the law he does not keep it" (I, 419: 13-16). In his comments on Gal. 3: 10 Luther notes that Paul proves the affirmative statement, "All who rely on works of the law are under a curse," on the basis of a negative statement which he borrowed from Moses, "Cursed be everyone who does not abide by all things, etc" (Deut. 27: 26). These two statements however appear to be in flat contradiction: Paul says that those who do the works of the law are under a curse, but Moses says that those who do not do the works of the law are under a curse. For Luther these can only be reconciled through faith. The operative word is "do." There are two types of doers: true doers and hypocrites. The first are people of faith, who trust that they are justified solely for Christ's sake; the second are people who rely on the works of the law for justification. The latter, however, desiring to be justified by the works of the law, act contrary to the law, for even the law witnesses to the righteousness of faith. Only believers who have received the Holy Spirit fulfill the law by loving God and their neighbor--if not in fact, at least through forgiveness. Therefore, only believers are the real doers of the law; the rest abuse the law by trying to justify themselves on the basis of works, and are thus under a curse (I, 396: 26-409: 22). Hence, when Paul says that those who do the things written in the law will live by them (Gal. 3: 12), Luther takes this statement as hypothetical, since for him there are no such people *extra fidem* (I, 430: 15-18).

[10]Therefore, it is impossible to keep the law without the gospel, the Holy Spirit, and faith. Thus, Luther can say that the true doer of the law receives the Holy Spirit through faith in Christ, and then begins to love God and to serve the neighbor. Hence, there is no "doing" in the theological sense without faith. Faith first makes the doer into a tree so that his or her deeds become the fruit. "To keep the law without faith therefore is to make apples without a tree, out of wood or mud, which is not to make apples, but to make mere fantasies. But once the tree has been planted . . . then works follow. For there must be a doer before deeds, not deeds before a doer" (I, 401: 30-402: 21).

[11]The true office and use of the law is as a "most useful servant, impelling us to Christ" (I, 489: 30-31). Luther insists that it is vital for people, crushed by the law and on the brink of despair, to know how to use the law correctly, which means in the service of the gospel. Thus he says:

> Its function and use is not only to disclose the sin and wrath of God, but also to drive us to Christ. Only the Holy Spirit seeks this use of the law,

> and the gospel teaches it, because only the gospel says that God is present with those who are contrite in heart. Therefore, if you have been crushed by that hammer, do not use your contrition wrongly by burdening yourself with even more laws, but listen to Christ when he says, "Come to me . . . ." When the law drives you this way so that you despair of everything that is your own, and seek help and solace in Christ, then it is being used correctly; and so, through the gospel, it serves the cause of justification *[servit per Evangelium ad iustificationem]*. This is the best and most perfect use of the law (I, 490: 15-24).

[12]Cf. I, 598: 28-30: "Sin still clings to our flesh, continually disturbing the conscience and hindering faith, so that we cannot perfectly see and desire with joy that eternal wealth which God has given us through Christ." This can be seen only in the light of the gospel, and yet the gospel cannot do its work and plant the seed of faith unless the soil of the heart has been prepared by the scarifying work of the law.

[13]Because of human pride and the presumption of righteousness, people cannot live until the old nature is killed. "Although the law kills, God still uses this effect of the law, this death, for a good cause, namely, life." God decided to kill this pestilence (Luther also calls the old Adam a beast) by means of the law, that people might be raised up again to hear this voice beyond the law: "Do not fear. I did not give the law and kill you through it, in order that you should remain in death, but that you should fear me and live." A presumption of good works and of righteousness leaves no room for the fear of God. Therefore, God must use the hammer of the law to crush that proud beast, presumption. When people have been reduced to nothing by the pounding of the law, they despair of their own powers or goodness and "begin to thirst for mercy and the forgiveness of sins" (I, 517: 31-518: 24).

[14]The law is much inferior to the gospel because it was ordained through an intermediary (angels), whereas the gospel was ordained through the Lord himself (I, 494: 23-24).

[15]The difference between the views of early and late Luther with regard to justification has been well documented in 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. The core difference between Augustine and late Luther is that for Augustine, justification is the 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 for Christ's sake. Both see salvation

consisting of two gifts, forgiveness and renewal. Augustine understands justification primarily as renewal, with the non-imputation of sins as its supplement (basically the view adopted by Trent), whereas Luther sees justification as both the non-imputation (or the forgiveness) of sins and the imputation of Christ's righteousness. According to Luther's view, renewal is not a part of justification but its fruit. Furthermore, for Augustine, salvation results from our fulfillment of the law made possible by the power of grace; for Luther, on the other hand, the law can only be (or begin to be) fulfilled after we have first been justified and received Christ's perfect fulfillment in faith. Therefore, 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 obedience; for Luther, the law drives people to Christ to receive from him his own perfect fulfillment of the law; their own fulfillment of the law in love will follow as a fruit of faith. Adolf Köberle, *Rechtfertigung und Heiligung: Eine biblische, theologiegeschichte und systematische Untersuchung*, 2d ed. (Leipzig: Verlag von Dörffling & Franke, 1929), 122, n. 2, distinguishes three different emphases in Luther's treatment of the relation between justification and sanctification *(nova vita)*, each corresponding to a particular stage of his theological development. In his early life, when he is still under the influence of Augustine, he uses *effici* and *reputari* interchangeably, so much so that he even speaks of a *magis et magis iustificari*. Later, Luther begins to emphasize more and more the externality of Christ's work so that the *Christus in nobis* is clearly subordinated to the *Christus pro nobis*. This is what we find in his great *Galatians Commentary*. Finally, in the latter part of his life, as a result of his experiences with the fanatics, he comes closer to the view of Melanchthon by emphasizing the *iustitia aliena* more and more in contrast to renewal. Köberle concludes however that Luther at all times, though with differing emphases, held to "the close interconnection between justification and sanctification, while clearly distinguishing between the two theological concepts."

[16]This, for instance, comes out in his description of the new life as God's new creation wrought by the Holy Spirit. In connection with Gal. 6: 15 Luther comments:

> This [renewal] is then followed by an outward change in the flesh, in the parts of the body, and in the senses. For when the heart acquires new light, a new judgment, and new motivation through the gospel, this also brings about a renewal of the senses. The ears long to hear the word of God . . . These changes are, so to speak, not verbal but real. They produce a new mind and will, new senses, and even new actions by the flesh so that the eyes, the ears, the lips, and the tongue not only see, hear, and speak differently than before, but also the mind itself approves and

> pursues things that are different. Before it went about blindly . . . , imagining that God is a peddler who sells his grace to us in exchange for our works and merits. Now that the light of the gospel has risen, it knows that it acquires righteousness solely by faith in Christ. Therefore, it now casts off its self-chosen works and performs instead the works of its calling and the works of love, which God has commanded. It praises God and proclaims him, and glories and exults solely in its confidence in mercy through Christ. If it has to bear some sort of evil or danger, it accepts this willingly and joyfully, although the flesh goes on grumbling. This is what Paul calls a new creation (II, 178: 32-179: 23).

[17]Köberle, *Rechtfertigung*, 125-6. Henry P. Hamann, "Sanctification--A Symbolical, Exegetical, Dogmatical, and Homiletical Study," *Lutheran Theological Journal* 10 (December 1976), 90, argues, *contra* Käsemann, that while justification and sanctification cannot be separated chronologically, they must be distinguished materially. Werner Elert, *The Structure of Lutheranism*. Vol. 1: *The Theology and Philosophy of Lutheranism Especially in the Sixteenth and Seventeenth Centuries*, trans. Walter A. Hansen (St. Louis: Concordia Publishing House, 1962), 81-2, 153, stresses that the divine righteousness received by faith (transcendental I) is reduced to a mathematical point *[punctum mathematicum]* and, as such, is never something empirical that can be located somewhere in the conscience (psychic I).

[18]The *partim . . . partim* way of speaking is typical of Luther's earlier 1519 *Commentary*. However, at that stage Luther was still not completely free of Augustinian influence, and consequently we find places where he still seems to be running justification and sanctification together. We find an example of this in WA 2, 586: 9-19, where he says that the divine imputation which justifies and the outpouring of the Spirit which sanctifies are one and the same. When justification is understood progressively and transformatively, then *partim . . . partim* means that the Christian is partly justified and partly a sinner. On the other hand, when Luther uses *partim . . . partim* in his 1531 *Commentary*, he applies it, not to justification, but to sanctification.

[19]It is clear that for Luther, God not only justifies people through the proclamation of the word but also sanctifies them: "Through my preaching God has not only brought it about that you believed but also that you lived holy lives, produced much fruit of faith, and suffered evil" (i, 352: 14-16). To love one's neighbor with unfeigned love is for Luther certainly a powerful deed of the Spirit (I, 352: 22-28).

[20]Luther can speak about sin and righteousness in a *partim . . . partim* way when he considers sanctification from the standpoint of the Christian as saint and sinner:

> And so if we look at the flesh, we are sinners; if we look at the Spirit, we are righteous. So we are partly sinners and partly righteous *[Atque ita partim peccatores, partim iusti sumus]*. Nevertheless, our righteousness is more abundant than our sin, because the holiness and righteousness of Christ, our propitiator, by far surpasses the sin of the entire world. Consequently, the forgiveness of sins, which we have through him, is so great, so abundant, and so infinite, that it easily swallows up every sin, provided that we persevere in faith and hope toward him (II, 86: 13-19).

As we have already seen, when Luther uses the language of *partim . . . partim* he does not contradict his basic assertion that Christians are wholly righteous and wholly sinful *[totus . . . totus]*. Our sanctification, no less than our justification, is entirely God's doing. However, while our justification is complete, God continues to sanctify us throughout our life. Each is a hidden reality and an article of faith. Thus, Luther can say that we are indeed partly sinners and partly righteous. But never for a moment should we take that as an alternative to his fundamental conviction that as Christians we are both wholly righteous and wholly sinners at one and the same time.

[21]Luther regards the first fruits of the Spirit *[primitias Spiritus]* as the leaven hidden in the lump; "the whole lump has not yet been leavened, but it is beginning to be leavened." He says that if we look at Christ, our leaven, we see that we are completely pure and holy, but that if we look at ourselves we see nothing but greed, lust, anger, pride, the terror of death, etc. "To the extent that these are present, Christ is absent; or if he is present, he is present weakly" *[quatenus ista adsunt, eatenus abest Christus, aut si adest, infirme adest]* (I, 537: 21-29). The passage about the leaven should not be interpreted to mean that justification is incomplete and progressive. That would be contrary to the whole thrust of the *Commentary*. Rather, it is a reference to God's on-going work of sanctification, which we cannot see in ourselves but which we believe, through the word and on account of the Holy Spirit whom God has given us as a guarantee that what he has begun in us he will complete with the resurrection of the body and the life everlasting (I, 538: 23-26).

[22]Luther notes that there are two ways of interpreting Gal. 5: 5. One is to understand it as saying, "through the Spirit, by faith, we wait for the hope of our righteousness, that is, the hoped-for righteousness *[iusticiam speratam]*, which is certainly to be revealed in due time." The other way is to take it as saying, "through the Spirit, by faith, we wait for righteousness with hope and longing; that is, we are justified, and still we are not yet justified,

because our righteousness is still hanging in hope" (II, 23: 33-24: 15). He puts them together in the following way:

> Thus, in the midst of fears and of a consciousness of sin, my hope, based on experience [cf. LW 27: 21: "that is, my feeling of hope"] is so aroused and strengthened by faith that it hopes that I am righteous. Then hope--that is, the thing hoped for--hopes that what it does not yet see will be made perfect and will be revealed in due time (II, 24: 34-25: 18).

Luther approves both interpretations but thinks that the first affords greater comfort to the troubled conscience because it regards righteousness as hope based on experience *[de affectu sperante]*. He continues:

> For my righteousness is not yet perfect or conscious. Yet I do not despair on that account, for faith shows me Christ in whom I trust . . . and through hope I am encouraged over against my consciousness of sin, since I conclude that perfect righteousness has been prepared for me in heaven. Thus both things are true: I am righteous here with an incipient righteousness; and in this hope I am strengthened against sin and look for the consummation of perfect righteousness in heaven. These things are correctly understood when they are put into practice" (II, 25: 19-26).

Luther knows that Christian hope is not just a hoping against hope, but a sure confidence of the future, because it is anchored to Christ. Luther says elsewhere that believers have eternal righteousness laid up in heaven, "which they look for in hope as an utterly certain possession" (II, 33: 29-31). Hope waits to see visibly the righteousness that it already has through faith.

[23]In connection with Galatians 3: 6 Luther makes the point that righteousness does indeed begin through faith and that through it we have the first fruits of the Spirit. "But because faith is weak, it is not perfected without divine imputation." Therefore, faith begins righteousness, but imputation perfects it until the day of Christ." (I, 364: 25-28). Although it is precisely faith that receives the imputed righteousness, Luther's concern here is to take the focus away from the subjective side of faith and to put it on the object of faith.

[24]"Therefore, we are not said to be saints, formally, as a wall is said to be white because of its inherent whiteness. Our inherent holiness is not enough. Christ therefore is our entire holiness; where this inherent holiness is not enough, Christ is" (I, 197: 25-198: 14). As we have said before, Luther keeps both the whole and the partial aspects of righteousness and holiness closely together. However, the basis and presupposition for the partial (sanctification) is the whole (justification).

[25]Luther also knows of other ways in which we receive the divine righteousness. For instance, he can say that it is given to us by Christ in what

Luther calls a happy exchange *[feliciter commutans]*, where Christ takes our sins and gives us his righteousness (I, 443: 23-24). The term "transfer" is also used: "Let us learn then in every temptation to transfer sin, death, the curse, and all the evils that oppress us, from ourselves to Christ, and, on the other hand, to transfer righteousness, life, and blessing from him to us" (I, 454: 33-455: 10).

[26]For Paul "flesh" characterizes people in their radical rebellion against God, and as such is always in conflict with the Spirit. Hence, the flesh is to be put off again and again until finally, in the resurrection, it will be destroyed along with sin. Luther however often uses "flesh" in a wider sense, so that it not only refers to the old nature but to the body as well. In this sense he can say that, when believers put off the flesh completely in the resurrection, they will have a flesh that is pure, without any passions or evil desires (II, 122: 23-24). Here he is closer to Johannine usage. In fact Luther freely admits that he understands flesh in Paul in the same way as Jesus uses it in John 3: 6: "That which is born of the flesh is flesh." Therefore, more often than not, Luther does not simply identify the flesh with the old Adam, but sees it as referring to human beings as a whole--body, soul, and spirit--in their sinful rebellion against God (see I, 244: 14-28). This is clear from his comments on Gal. 5: 16: "When I say that you should walk by the Spirit and should not obey the flesh, or gratify its desires, I am not demanding that you strip off the flesh completely or kill it, but that you restrain it" (II, 85: 26-28).

[27]Again, Luther says that we continue to need the admonition and discipline of the law for the daily mortification of the flesh, the reason, and our powers, and the renewal of our minds (2 Cor. 4: 16) (I, 536: 23-537: 20).

[28]Luther comments on the perpetual struggle in believers between the hearing of faith and the works of the law, and how difficult it is for us to get rid of the *opinio legis* that we can make ourselves righteous by our own efforts. The notion that one must do something to earn salvation is so deeply ingrained that it can never be entirely eradicated. Of course, God grants the will to listen to the word of faith and to do it. But our capacity to understand is limited and our faith is weak, all of which creates such a struggle within us that we cannot receive the gift when it is offered. Luther continues:

> Just let your conscience keep murmuring, and let this "one must" keep on recurring; endure it for a while and stand firm until you conquer this "one must." Thus, as faith gradually increases, that opinion about righteousness based on the law will decrease. But this cannot be done without a great struggle" (I, 345: 33-346: 22).

These passages show that the distinction between law and gospel is related also to the triumph of faith over reason.

[29]"Faith and hope must remain, so that we may be justified by the former and encouraged to persevere in adversity by the latter" (II, 85: 22-23). Luther calls faith a theologian *[Doctor]* and a judge, which fights against errors and heresies, and judges spirits and doctrine. On the other hand, he calls hope a captain *[dux belli]*, which fights against feelings such as despair, tribulation, and the cross. On top of that, faith and hope have different objects (II, 26: 16-25). Luther highlights the importance of hope in our struggle against the enemies of faith, for we need hope to help us persevere. Although we are justified by faith, we are encouraged by hope. However, in the face of cross and conflict, faith and hope are both very weak and feeble; they "seem to be a 'dimly burning wick' which a strong wind is about to blow out." But for those who fight against the consciousness of sin and of God's wrath by taking hold of the promise of Christ, faith "will become like elemental fire, which fills all heaven and swallows up all terrors and sins" (II, 33: 17-23).

[30]Luther discusses this great duel *[mirabile duellum]* at various places in his *Commentary;* see, for instance, I, 438: 32-440: 35.

[31]When Luther says that the entire law has been abrogated, he means the law of Moses, chiefly in its proper or spiritual sense. However, he does not limit it to that, but includes the entire law, without distinguishing between the civil, the ceremonial, and the moral law (I, 671: 28-672: 17).

[32]II, 98: 11-14: There are two reasons that Luther gives for why Christians cannot be accused and condemned by the law: because (a) the rule of the Spirit is so powerful and (b) Christ, our righteousness, is beyond reproach, and therefore cannot be accused by the law. Since Christians are in Christ through baptism and faith, the law cannot accuse them either.

[33]Thus, a Christian fulfills the law inwardly by faith, and outwardly by works and by the forgiveness of sins (II, 121: 14-23).

[34]Luther calls this a second kind of abrogation of the law. First, Christians are freed spiritually from the law, meaning primarily the moral law; but then, secondly, they are also freed outwardly from the political and ceremonial laws of Moses, for these were laws given to a specific people at a specific time (I, 673: 14-674: 8). However, Luther recognizes the abiding merit of some aspects of the Israelite law codes, and so he can say that it might even be a

good thing if the emperor were to use some of the civil laws of Moses. Luther rejects the opinion of the sophists who take an extreme antinomian position and claim that after Christ the civil laws of Moses are fatal to us (I, 673: 22-24).

[35]Luther can even go further than this on occasion and say that Christians, to the extent that their conscience is trained by faith, are free from all laws and subject to nothing, either internally or externally (I, 235: 26-30).

[36]Although Luther expresses this in different ways, one of the most common is the phrase, *conscientia in evangelio--caro in lege*. On this see Wilfried Joest, *Gesetz und Freiheit: Das Problem des tertius usus legis bei Luther und die neutestamentliche Parainese*, 4th ed. (Göttingen: Vandenhoeck & Ruprecht, 1968), 101-109. Joest's interpretation of this phrase is tied to his understanding of the need for the continuance of the law in the Christian life and contains different nuances. In essence, he does not separate conscience from body as Luther does (conscience being the sphere of Christ and the gospel, the body being the domain of the law) but rather combines them. He sees the *caro in lege* belonging together with the *conscientia in evangelio* in the same way as love and faith belong together, the former deriving from the latter. This is consistent with Joest's attempt to combine law and gospel, after justification, into one, so that the inner and the outer, the new and the old in the Christian, are one. The freedom of faith in Christ always stands at the center of action, and the binding of love to the neighbor is the way of God's action with us. For Joest the *caro in lege* has three different meanings, loosely corresponding to the three uses of the law, but the second and third each has two parts to it. *Caro in lege* means that: (1) Christians are reproved by the law on account of sin; (2) Christians are subject to the external authority of the law, because (a) as sinners they need this authority themselves and (b) as believers, for the sake of love, they do not reject this authority, which is needed by the sinful world; (3) Christians are given the law as a guide to enable their faith to become incarnate in good deeds--and for these reasons: (a) to put off the fleshly nature through the *mortificatio carnis* and (b) to allow the spiritual nature to become embodied in love (p. 108). Our chief problem is with Joest's attempt to fuse faith and love after justification. We do not question the fact that they belong closely together, for faith is active in love (Gal. 5: 6). However, even after justification, faith and love must still be distinguished whenever the article of justification is at stake. That is why Luther will not permit the law to enter the conscience of the Christian but relegates it to the domain of the body, for he knows that if it is permitted entry, the conscience would be robbed of the certainty of knowing that Christ has fulfilled the law for us.

[37]Through a tropological use of Gen. 22: 5, Luther makes it clear that Christ has delivered the conscience from the law so that it is free from slavery (see I, 207: 24-208: 13). He continues:

> Let the slaves remain in the valley with the donkey, and let Isaac alone ascend the mountain with his father. That is, let the law have dominion over the flesh and the old self; . . . let the law prescribe what the flesh should do and accomplish, and how it is to deal with other people. But the law must not pollute the chamber in which Christ alone is to take his rest and sleep; that is, it must not disturb the conscience, which should live only with Christ, its bridegroom, in the realm of freedom and sonship (I, 595: 27-34).

Luther mentions the limit of the law already in his opening "Argument" in connection with a discussion about the two kinds of righteousness, the righteousness of the law and the righteousness of faith. See I, 50: 24-51: 20.

[38]We can mock the law because it is captive, bound, and shorn of its powers through Christ and can no longer frighten us (I, 276: 24-278: 29). On the other hand, apart from justification or the conscience, Luther can speak very highly of the law, and even revere it as a god, "but in our conscience it is truly a devil" (I, 558: 24-32).

[39]The conscience must also learn to recognize the devil when he comes wearing the mask of Christ. "If Christ appears in the guise of a wrathful judge or lawgiver who demands that we account for how we have spent our lives, we should know for certain that this is not really Christ but the devil" (II, 13: 13-15). Again, it is the devil's ploy to present Christ our savior as a lawgiver, judge, and condemner, for the devil never stops accusing our conscience (I, 90: 21-24).

[40]Luther notes that in the civic realm things are different. There, what Aristotle says holds true: one becomes a doer by doing something, just as one becomes a lutenist by often playing the lute. But in theology, one does not become a doer by doing the works of the law; rather, the deeds follow the doer (I, 402: 23-28).

[41]Here we think of how Luther describes faith in his *Preface to the Epistle of St. Paul to the Romans*, 1546 (1522): "O, it is a living, busy, active, mighty thing, this faith. It is impossible for it not to be doing good works incessantly. It does not ask whether good works are to be done, but before the question is asked, it has already done them, and is constantly doing them" (DB 7, 10: 9-12).

[42]Luther, in his fourth set of theses against the antinomians, also makes it clear that after justification good works follow spontaneously without the law, that is, joyfully and without coercion (WA 39 I, 354: 3-6).

[43]Cf. I, 579: 14-15: "First, he [Christ] justifies us by our knowledge of him; then he creates a clean heart, produces new motives . . . ." This passage reminds us that for Luther justification and sanctification belong together and that justification never occurs without renewal. On the other hand, when it comes to the article of justification, Luther, as we have seen, confesses that we are made righteous by faith alone; but then the life of new obedience always follows faith as its fruit.

[44]Cf. II, 37: 26-30: "Paul is describing the whole of the Christian life in this passage: inwardly it is faith toward God, and outwardly it is love or works toward the neighbor." That is, we are Christians, inwardly, through faith, *coram Deo*, for God does not need our works; outwardly, through love, *coram hominibus*, for our fellow human beings do not benefit from our faith but only from our love and works.

[45]The Christian life consists of faith and works (love). Faith has two sides; it can be viewed from the vantage point of justification or sanctification as mirrored in the traditional distinction between *fides quae* and *fides qua*. According to Luther, when Paul speaks of its external function *[de eius externo officio]*, he connects it with love and works. "Here he says that it is the impulse and motivation of good works or of love toward one's neighbor." Clearly, when Luther speaks of the external side of faith, he is thinking of sanctification, the *vita christiana*, not justification (II, 37: 30-38: 21).

[46]I, 345: 14-20: After a person has become a Christian by hearing the gospel, he should give thanks to God and begin doing the good works that are prescribed in the law. Luther continues:

> Thus, the law and works follow the hearing with faith. Then he will be able to walk securely in the light that is Christ, and be certain about choosing and doing works that are not hypocritical but truly good, pleasing to God, and commanded by him, and certain about condemning all the masks of self-chosen works.

This passage is instructive because it shows that, for Luther, good works clearly come under the category of law, yet for Christians living under the gospel, these good works prescribed by God in the law are the very things that they delight in doing. The Spirit leads us to see the law in this new light, and yet insofar as we remain sinners, we cannot escape its accusation. But even

this no longer threatens our conscience, as long as we take refuge in Christ and live in his forgiveness.

[47]Luther knows that this dilemma cannot be overcome by prescribing definite rules, but all must struggle against the desires of flesh through the power of the Spirit so that, if they cannot bridle them, they will at least not gratify them (II, 94: 22-27).

[48]The editor of *Luther's Works* notes that "this passage and others like it in Luther's rhetorical denunciation of works were to figure prominently in the controversies over the necessity of works for salvation between George Major (1502-74) and Nicholas Amsdorf (1483-1565)" (LW 26, 36 n. 18).

[49]Luther opposes the fanatics and sectarians who claim that baptism is "merely a token, that is, a small and empty sign." He stresses that in baptism we have been snatched beyond the law into a new birth. Therefore, we are no longer under the law, but we have been dressed in a new garment, that is, in Christ and his righteousness (I, 541: 21-33).

[50]"Therefore, he comes spiritually every day; day by day he completes the time set by the Father more and more, and day by day he more and more abrogates and abolishes the law" (I, 550: 17-29). In the final sentence of the passage just cited: "*Ideo quotidie venit spiritualiter et indies magis magisque absolvit tempus praefinitum a patre, abrogat et tollit legem*" (I, 550: 28-29), we take the phrase "*indes magis magisque*" as modifying both the *absolvit* and the *abrogat et tollit*. This is consistent with what Luther says elsewhere, such as the statement: "To the extent that I take hold of Christ by faith, to that extent the law has been abrogated for me" (I, 538: 19-20).

[51]In the following citation Luther expands on the difference between the time of the law and the time of grace for the Christian:

> To the extent that he is flesh, he is under the law; to the extent that he is spirit, he is under the gospel. . . . If you do not look at all beyond the flesh, you will remain permanently under the time of the law. . . . An end to the law must be fixed when it will cease. Therefore, the time of the law is not forever; but it has an end, which is Christ. But the time of grace is eternal. . . .

Luther then goes on to talk about the connection between fear and faith, insofar as these correspond to the time of the law and the time of grace respectively. The dynamic between them is very closely akin to that of law and gospel: just as the law without the gospel can lead to despair, so fear without the gospel is not filial fear but servile fear:

> The fear of God is something holy and precious, but it should not be eternal. It must always be present in a Christian, because sin is always present in him, but it must not be alone, otherwise it is the fear of Cain, Saul, and Judas, that is, a servile and despairing fear. By faith in the word of grace therefore a Christian should conquer fear, turn his eyes away from the time of the law, and gaze at Christ himself and at the faith to come. Then fear becomes sweet and is mixed with nectar, so that it begins not only to fear God, but also to love him (I, 526: 21-527: 18).

Perhaps the most interesting aspect of this passage is Luther's understanding of fear. He begins by saying that the fear of God is good but it should not last forever. That seems to be a reference to fear under the law: it is good in that it has a specific role to play in preparing people for faith, but, like the law itself, it is not eternal; it lasts only until Christ comes (Gal. 3: 24). Yet the way the passage finishes is quite different: fear does not disappear when Christ comes, but it is changed from servile fear to the fear of the children of God. The dynamic involved here is instructive: faith in the word of promise overcomes fear because it no longer sees the law in purely negative terms, but comes to rejoice in it as God's good gift. Fear then mixed with the nectar of the gospel not only fears God, says Luther, but even begins to love him. This train of thought would seem to lie also behind Luther's explanation of the Ten Commandments with its famous refrain, "we should fear and love God."

[52]"Doing" or "working" can be understood in three ways: naturally, morally, and theologically. Luther insists that when used theologically, these words acquire a new meaning. In fact, they are to be explained according to "a new and theological grammar" (a term Luther coins on the basis of Hebrews 11 with its constant refrain: "by faith"). "Thus, faith embodies and informs the doing." Therefore, whenever Scripture speaks about doing and working it is always predicated to faith. "In this way, whatever is attributed to faith is later attributed also to works, but only on account of faith." Faith is the "do-all" *[Fac totum]* in works (I, 417: 18-19). "For works are not to be viewed morally, but from the standpoint of theology and faith." Luther's whole purpose here is to admonish students of theology to distinguish between moral "doing" and theological "doing." (I, 417: 11-419: 21)

[53]In connection with Gal. 3: 12 Luther stresses that Paul is not speaking here about the believing doer of the law; he is speaking rather about the doer of the law, who does not have the forgiveness of sin but wants to be justified solely on the basis of the keeping the law. That is, he is discussing the passage theologically. Given his twofold understanding of the law, Luther does grant that the statement, "whoever does these things shall live by them," can also be taken politically, but that is not Paul's purpose here (I, 429: 29-430: 15).

[54]Paul Althaus, *Die Theologie Martin Luthers* (Gütersloh: Gütersloher Verlagshaus Gerd Mohn, 1962), 234, agrees that the theological function of the law in the Christian life is to reveal sin, and not to motivate or guide the new life of the believer in Christ, yet he argues that Luther also knows that the Christian life is not just about combating sin, but also doing good works as commanded by the law. The law not only curbs and disciplines the Christian as sinner, but the "commandments also serve the Christian who has received the Spirit, by helping him to a true understanding of 'good works' and summoning him to action" (236). He cites Luther, *Die Promotionsdisputation von Theodor Fabricius und Stanislaus Rapagelanaus* (1544) as saying that although the law must no longer accuse, coerce or condemn believers *[pii]*, yet it is to be retained, that they might have a pattern *[forma]* for doing good works. The law instructs them in the good works that they are to do (WA 39 II, 274: 20-22). He claims that this passage guarantees the authenticity of WA 39 I, 485, 22 ["the law is to be retained so that the saints might know what sort of works God requires, and in what things they can practice obedience to God"], the very passage which, as we saw in the last chapter, Elert rejects as a forgery (236, n. 124).

[55]Rather then being surprised or frightened when he feels within himself this conflict of the flesh against the Spirit, Luther fights back by telling himself:

> I am a sinner, and I am aware of my sin, for I have not yet put off the flesh to which sin clings as long as I live. But I will yield to the Spirit rather than the flesh. That is, I will take hold of Christ by faith and hope, and I will fortify myself with his word, and being thus fortified, I will not gratify the desires of the flesh (II, 91: 26-30).

[56]Paul Althaus, *Theologie*, 235, cites several passages from the *Antinomian Disputations* in which Luther says that the law and its terrors are greatly "moderated" on the grounds of justification (WA 39 I, 474: 8). Repentance is now "joyful and easy" *[iucunda et facilis]* (WA 39 I, 398: 15). Again, "the law remains, but its onus or yoke is not placed around the necks of those on whom Christ's yoke has been imposed, which is sweet and easy *[suave et leve]* (WA 39 I, 381: 9-10). The problem that we have with Althaus's view is that he wants to see a change in the law itself after justification whereby it becomes more gentle and helpful rather than only being accusatory. We, on the other hand, think it better to say that the law remains law, but that after justification Christians experience it differently because, now that they have been born anew by the Spirit, they take delight in the law, not only because it is the very thing that they themselves are eager to do, but also because the law

disciplines and compels the old nature into doing it too. Ultimately, the law would be unnecessary if Christians were perfectly pure and holy, for it is the sinful flesh that constantly prevents them from doing the works of faith, namely, praising God and serving the neighbor in love.

[57]We note in passing that Luther stresses that a sermon should be more than an exhortation to good works; it should also be an appeal to believers to maintain sound doctrine. Pure doctrine and genuine love are the two vital components of the Christian life, but doctrine is to take precedence over love. Once we have lost sound doctrine we have also lost Christ, and if we lose Christ, love will be of no use. In the sphere of life, with its sin and error, where there is repentance there must also be forgiveness. But in doctrine there is no error to forgive. Therefore, there is no room to tolerate errors of doctrine, but we can be lenient toward errors of life (II, 51: 28-60: 25).

[58]The Decalogue is both a prescription and a description of God's will, and, to that extent, can be understood as both second and third use of the law. This is also how Luther's explanation of the Ten Commandments should be understood. In a strictly theological sense, the *Catechism* begins with the Ten Commandments, and since they precede the Creed, they prepare the heart for the gospel by accusing and convicting the conscience of sin. However, Luther ends the *Catechism* with the Table of Duties, which point us back again to the Ten Commandments, which are now seen as a description of the good works which God has commanded us to do. However, when Luther's explanation of the Commandments is considered in catechesis, it must be remembered that even when they are taught as descriptions of the new obedience and the good works that Christians are now eager to do, insofar as they have a new heart and are led by the Spirit, yet they will continue to be heard as accusing law by anyone whose heart remains impenitent. The difference between the penitent and the impenitent is not that the former are any less sinful before God than the latter, but that they agree with the judgment of the law, confess their sins, and take to heart God's gracious words of absolution.

[59]Luther thinks that people are mistaken when they imagine that they understand the command to love. This mandate, of course, is written on the heart because people by nature instinctively know that we should treat others in the same way as we want to be treated ourselves. Yet, it seems that they do not really understand this command, for if they did they would show it in their actions and prefer love to all other self-chosen works (II, 71: 22-72: 12). Yet Paul the Christian says that, while he knows what to do, he is powerless to carry it out because the old sinful nature always tries to thwart the Spirit, and to block it from fulfilling the very law that Paul calls holy, just and good.

But that is a confession that can only be made by the Christian who now sees God's law as a good and gracious gift (Rom. 7: 7-20).

[60]The connection between faith and vocation is developed especially by Gustaf Wingren, *The Christian's Calling: Luther on Vocation*, trans. Carl C. Rasmussen (Edinburgh: Oliver & Boyd, 1958).

[61]"Thus a prince walks by the Spirit when he performs the duties of his office diligently, rules his subjects well . . . His flesh and the devil oppose him [when he does this], and they urge him to start an unjust war . . . Unless he follows the Spirit as his guide and obeys the word of God when it gives him correct and faithful warning about his office, he will gratify the desires of the flesh" (II, 87: 34-88: 13). Note the coupling here of following the guidance of the Spirit and heeding the word of God.

EXCURSUS

THE ANTINOMIAN MOVEMENTS OF THE SIXTEENTH CENTURY

Our aim here is to provide a summary of some of the key issues that were discussed during the antinomian controversies which began already in Luther's lifetime and which emerged again in the decade following his death. For this we will depend largely on the overview presented by Joest.[1] First of all, we need to distinguish between two separate groups of antinomians who stood for different issues. The earlier antinomians are better known and have as their chief representative John Agricola. He was the main target of Luther's disputations, polemical writings and sermons against antinomianism. The other group, the later antinomians, represented by men like Poach, Otho, Michael, Neander, Musculus, flourished in the decade following Luther's death and were mainly embroiled in controversy with the Philippists and the Gnesio-Lutherans.

Agricola was chiefly concerned with the problem of conversion and not that of the third use of the law. He taught that contrition does not result from the preaching of the law but of the gospel. Consequently, he was alarmed by the importance given to the preaching of the law by the Saxon Visitation Articles of 1527. When Melanchthon urged that the law be preached to counter the abuse of evangelical freedom, he saw this as a decisive break with the original evangelical position. Agricola's stance however was not always clear and consistent like that of the later antinomians. At any rate, it seems that basically he wanted to reverse the law-gospel sequence, not do away with the law altogether. He objected to the Decalogue being taught in the church, and preferred to replace it with admon-

itions from the concluding chapters of Paul's letters. He seemed to be in no doubt that God's wrath against sin must be preached as well as the imperatives of the law. Yet, on the other hand, he could say that the Decalogue belongs in the town hall, not in the pulpit.

However, Agricola's real concern had to do with the inner dialectic of law and gospel. For him the time of the law--Moses, the Decalogue, indeed the Old Testament--was past, and now the time of the gospel had come. The inferior law had been replaced by the superior gospel. He did not understand, as Luther did, that the law prepares people for the gospel and drives them to Christ. He could not agree with Luther's statement that the law kills in order to make alive. His conviction that repentance, faith, and renewal are awakened, not through the fear of God's wrath but through the overwhelming power of God's love, resulted from a failure to understand the relation between law and gospel.

The later antinomians, on the other hand, were certain that it is the law that drives people to repentance, and so works toward the gospel. It is clear that they taught the *usus elenchticus*--partly in reaction to Agricola. However, they opposed the *usus tertius* which was strongly emphasized by Melanchthon and the Philippists, who taught that the law instructs the regenerate as well as reveals their sin.

The starting point of the Second Antinomian Controversy was the dispute between the Philippists and the Gnesio-Lutherans over the necessity of good works. The followers of Melanchthon held unwaveringly to the *sola fide*, but they taught that if good works do not result from justification the person is not saved. Their opponents objected that this finally means that salvation is once again made to depend on works instead of faith alone.

At first the question of the law was not raised in the dispute over the *necessarium* of good works. It only emerged with the formula produced by the Eisenach synod of 1556 which was meant to strike a compromise between the Gnesio-Lutherans and the Philippists. It stated that works can be spoken of as being necessary for salvation "*in doctrina legis abstractive et de idea.*" What this means in effect is that it is theoretically possible to be saved by keeping the law and doing good works, on the assumption that the structure of the relationship between God and humans is based on the law *[Gesetzordnung]*. However, since fallen humankind cannot keep the law, justification by works or the *necessarium* of works is nothing more than a theoretical possibility *[abstractive et de idea]*. Nevertheless, the formula still raised the question: Is the fundamental relationship between God and humans stamped by the *necessarium*, by demand, achievement and reward--that is, by the law--or is it stamped by the gospel?

The idea that the *Gesetzordnung* is primarily a way of salvation came under strong criticism by Andreas Poach, the first of the later antinomians. He argued that, even if human beings could fulfill the law, that would still not mean that they would have earned salvation. Because of sin, there is nothing that we can do that is not a *debitum*, for God owes us nothing. The gospel cannot be introduced into a legal framework of demand and reward and made the exception, for the gospel by its very nature is superior to the law. Poach concluded that the regenerate should and will do the will of God, but not in response to some external demand, but as a direct consequence of their own new nature.

Anton Otho went further and denied the *tertius usus legis* altogether. For him the law belongs in two places: in the pulpit to reveal sin and in civic life to preserve order. He rejected totally the idea that the law admonishes and guides Christians *qua* believers, and instead asserted that they spontaneously do those

things that are pleasing to God because through faith their will is now completely at one with the divine.

Michael Neander adopted a similar position but he distinguished between Christians *qua* believers and Christians *qua* sinners. Christians are both one and the other at the same time, yet theologically the *iusti* must be sharply distinguished from the *peccatores*. As sinners Christians live under the law in the sense of the *usus elenchticus*, and thus again and again before the gospel; as believers they live under grace and thus no longer under the law.

Andreas Musculus followed a similar line of thinking. He agreed with Otho that there is no longer any antithesis between God and believers because it is God alone who is at work in them. Thus, there is no place for the law in the Christian life except where the *usus elenchticus* is needed to drive people back to the gospel when they fall away from grace.

One of the chief opponents of the later antinomians was Mörlin. He rejected Poach's idea that a right relationship to God is based on the gospel and not the law, and that the law came later and is thus secondary. Mörlin argued that, since Christ fulfilled the law for us, in the final analysis, God's first and last will is that we obey him and that his law is fulfilled. He claimed that the cross joins law and gospel together on the same level. Therefore, the gospel does not break through and abolish the law, but establishes and confirms it. He also criticized the antinomians for what he saw as a mystical or *schwärmerisch* tendency to reject the word as a means of grace in favor of inner experience and an immediate union of the divine and human wills.[2]

In their struggle against the third use of the law, the antinomians from Poach to Musculus wanted to defend Luther's law-gospel dialectic in all its tension (as they understood it) against the leveling, tempering, pedagogical

tendencies of the Melanchthonian school of theology. It is precisely here of course that the question arises: Did they understand Luther in the first place or did they simply read him idiosyncratically in order to support their own position which they could easily justify as being authentically "Lutheran"? Joest rejects Seehawer's opinion that the antinomian position can be understood as an extension of medieval theology and claims instead that every stage of its development can be found in Luther. This however comes as no surprise to us since Luther himself was trained in the Augustinian theology of the Middle Ages and only gradually gave it up as he came to see that it was incompatible with his new understanding of the difference between law and gospel.

The question that Joest wants to investigate is whether Luther understood the permanence of the law for the Christian only in the sense that the law always accuses--*usus elenchticus*--which means always coming before the gospel--or whether he also understood it as a norm and guide for life in the sense of the *usus tertius*--which means coming after the gospel. When the law is applied to the regenerate, does it lead ever anew to faith, or is it a word that leads beyond faith itself?

The other question that Joest is intent on pursuing as a result of his brief excursion into the antinomian controversy is whether, in view of the concrete unity of the old and the new in the Christian, there is a mediating position between the law as an agent of punishment and wrath, on the one hand, and the full freedom of the gospel, on the other. In other words, is there in Luther any support for a *tertius status:* a real union of law and gospel, so to speak, that corresponds to the personal union of the saint and the sinner in the Christian?

NOTES

[1]Wilfried Joest, *Gesetz und Freiheit: Das Problem des tertius usus legis bei Luther und die neutestamentliche Parainese*, 4th ed. (Göttingen: Vandenhoeck & Ruprecht, 1968), 45-55. Joest mentions that he himself depends especiallly on two monographs: G. Kawerau, *Johann Agricola von Eisleben*, and J. Seehawer, *Zur Lehre vom Brauch des Gesetzes und zur Geschichte des späteren Antinomismus*. He also makes reference to R. Seeberg, *Lehrbuch* IV 2 and O. Ritschl, *Dogmengeschichte* II.

[2]Joest, 53, mentions that the most significant point made by Seehawer in his critique of the antinomian controversy has to do with the sharp distinction made between Christians as sinners and Christians as regenerate. Seehawer notes that this has the effect of dividing Christians into two abstract, unreal halves whereby the interaction between the old and the new is not properly understood. If the third use of the law has to be taught *because* of the concrete unity of old and new in Christians, then this *usus* would no longer entail a judgment that kills and condemns, nor yet would it mark the complete abolition of all admonition and demand.

CHAPTER 3

THE THIRD USE OF THE LAW AND THE LUTHERAN CONFESSIONS

Our aim in this chapter is to examine what the Lutheran Confessions teach about the third use of the law. Since the *Formula of Concord* is the only document to specifically address this topic, it will be our main source. However, reference will also be made to passages in other confessional writings which deal with the role of the law in the Christian life. Furthermore, since the question of the third use of the law is bound up with that of good works, we think it would be useful to first consider whatever is pertinent to our topic in Article IV of the *Formula* on good works, before launching into a discussion of the third use of the law based on Article VI. Because we are chiefly interested in the doctrinal content of the articles, we will not go into a discussion of their historical background. Besides, the excursus on the antinomian controversies has already provided some information about the disputes over the law leading up to the *Formula of Concord*.

Good Works

First of all, we need to define what we mean by good works. Here the *Formula* affirms, as do the Confessions generally, that it is God's will and command that Christians do good works, and "that only those are truly good works that God himself prescribes and commands in his word, and not those that an individual may devise according to his own opinion or that are based on human traditions." Furthermore, the *Formula* teaches that only Christians can do truly

good works, because such works presuppose faith and renewal in the Holy Spirit (SD IV, 7).

Since faith and works are inseparably connected, the Confessions use different terms to describe their relation. Both the Confessions and Scripture use words like "necessity," "necessary," "needful," "should," and "must" to indicate what we are bound to do on the basis of God's will and command. The *Formula* rejects the idea that Christians are free to be indifferent about good works, or that one can be a Christian and have the Holy Spirit even if one continues in sin without repentance. A good tree produces good fruit, a bad tree bad fruit (SD IV, 14-15). However, here an important distinction must be made: "When the word 'necessary' is used in this context, it is not to be understood as implying compulsion but only as referring to the order of God's unchangeable will, whose debtors we are, as his commandment indicates when it enjoins the creature to obey the creator" (SD IV, 16).

Works done under compulsion are hypocritical and hence not pleasing to God. Christians, on the other hand, do not act out of fear or compulsion, but spontaneously out of a free and willing spirit. This is the truth of the assertion that good works are spontaneous (SD IV, 18). However, because Christians are both saints and sinners, while they gladly and willingly assent to God's will, insofar as they are righteous, their flesh fights against the spirit and opposes God's will and hence must be coerced and disciplined by the law. Therefore, insofar as they are sinners, Christians must be told that good works are not optional but are commanded by God, and that without them they cannot retain faith and God's mercy and grace (SD IV, 19-20).

To say that good works are necessary, or that good works must follow faith, can therefore mean two things: either, good works will certainly always

flow from faith, or, good works should and must be done by the believer. The first alternative views works from the vantage point of the gospel and sees them as the fruit of faith; the second views them from the standpoint of the law and sees them as God's demand. This law-gospel perspective is in turn related to the fact that Christians are both saints and sinners.[1] As saints, believers will do good works without any compulsion, and "with a free and merry spirit" (SD IV, 12). It is specifically this idea that the Confessions affirm when they speak of good works as being the fruit of faith. Although they are our deeds, they are really the achievement of Christ and the Holy Spirit, who dwell in us through faith. Their purpose is to serve the neighbor and to render honor and glory to God who has been so gracious to us. On the other hand, in this life Christians always remain sinners who have to fight against the old nature. As sinners, believers need to be reminded that God requires good works and that the law urges them. In summary, justification is effected without works *sola fide*, yet by the same token, justification cannot be without renewal and good works.[2]

While the *Formula*, on the one hand, teaches that good works are necessary because they have been commanded by God, on the other, it rejects the proposition that good works are necessary for salvation, because this would be contrary to the central doctrine of justification which teaches that we are saved by faith alone without works (SD IV, 21-24). This is entirely in line with Luther's repeated emphasis in his great *Galatians Commentary* that the law has no place in the conscience, for to demand anything of the tempted and troubled conscience other than faith is to deprive it of the consolation of the gospel.

Not only are good works not necessary for salvation, they are also not necessary to preserve faith and salvation; to say that they are is again contrary to the doctrine of justification. The *Formula* cites Article XX, 13 of the *Apology* as an

excellent example of how to exhort Christians to do good works without undermining the doctrine of faith and justification. On the basis of 2 Peter 1: 10, "Be the more zealous to confirm your call and election," the *Apology* teaches that the reason we should do good works is so that we do not fall away from our calling, by lapsing again into sin, and thus lose the Holy Spirit and faith. (SD IV, 33). Doing good works may safeguard and even confirm our salvation, but only faith preserves it. "Paul ascribes to faith not only our entry into grace, but also our present state of grace, and our hope of sharing the glory of God (Rom. 5: 2)" (SD IV, 34).

Finally, the *Formula* rejects the proposition that good works are actually detrimental to salvation (this was the extreme position advocated by Nicholas von Amsdorf). The only time that this would be true is if good works were used as a means of gaining righteousness or the assurance of salvation. But even then the fault would not be with the works themselves, but with human beings who want to put their confidence in what *they* do, rather than in Christ and his word. Far from being detrimental to salvation, if the good works commanded by God are done in faith, they can even be an assurance of salvation (SD IV, 37-40).

The Third Use of the Law

We turn our attention now to Article VI of the *Formula of Concord* and the third use of the law. Right at the beginning, it describes the three uses of the law: (1) to maintain external discipline; (2) to bring people to a knowledge of their sin; and (3) to teach the regenerate to live in the law[3] (SD VI, 1). The article carefully delineates the two opposing positions in the dispute which the *Formula* resolves. The one party (Amsdorf, Poach, Menius, Otho, Neander) taught that the regenerate do not learn the new obedience (the good works they should do) from the

law, and that furthermore there is no need for such a use of the law, because the reborn have been set free from the law by Christ and are guided by the Spirit, so that they do spontaneously what God requires of them. The other party (Mörlin) taught that, although true believers are indeed motivated by the Spirit and willingly do the will of God without coercion, according to their inner (new) self, "nevertheless, the Holy Spirit uses the written law on them to instruct them, by which even true believers learn to serve God, not according to their own notions, but according to his written law and word, which is a specific rule and norm for godly life and behavior in accordance with God's eternal and unchangeable will" (SD VI, 2-3). The *Epitome* says simply that the question is whether or not the law is to be urged upon Christians who have been born anew (Ep. VI, 1).

The verdict of the *Formula* is that although truly believing Christians have been freed from the curse of the law, they should daily exercise themselves in the law. For the law is a mirror which rightly reflects the will of God and what is pleasing to him. Therefore, it must constantly be held up before believers (SD VI, 4). On the one hand, Paul says that the law is not laid down for the righteous but for the ungodly (1 Tim. 1: 9) yet, on the other hand, the righteous are not without the law, for it is written on their hearts, "just as the first man was given a law after being created, which he should live according to." The difference is that the law is no longer permitted to vex the righteous with its threats and demands, because they have been reconciled to God, and now delight in the law according to their inner self (SD VI, 5).

If Christians were perfectly renewed already in this life through the indwelling Spirit, they would need no law to drive them, but "of themselves and altogether spontaneously, they would do what they are obligated to do, without any instruction, admonition, exhortation, or driving by the law." But since they

re not perfectly holy but are constantly fighting against sin, therefore, the truly believing children of God "require in this life not only the daily teaching and admonition, warning and threatening of the law, but frequently the punishments of the law as well, to rouse them *[aufgemuntert]* to follow the Spirit of God" (SD VI, 6-9).[4]

The *Formula* sets out clearly the respective functions of law and gospel in connection with the good works of believers. The law reveals to us the will of God and tells us how we should live, but does not give us the power or ability to do it. Only the Holy Spirit can do that, but the Spirit is not received through the law, but through the preaching of the gospel. The Spirit has two offices, one associated with the law, the other with the gospel (which is his proper office). He both "kills and brings to life, he brings down to Sheol, and raises up" (1 Sam. 2: 6). Although the law does teach believers the will of God, its proper office is to reprove.[5] But the same Spirit who reproves them through the law will also comfort them through the gospel (SD VI, 12). Clearly, these two offices belong closely together, and it is doubtful if they can ever be separated.

Christians, insofar as they are born anew by the Spirit, live according to the will of God and do "everything with a free and merry spirit." Because they do not act under the compulsion of the law but in the freedom of the Spirit, these works, although they conform to the law, are strictly speaking not works of the law, but works and fruits of the Spirit. As saints, although they are not without the law, they are not under the law, but rather in the law. On the other hand, insofar as believers are still sinners plagued by the old Adam, they must not only be coerced by the law but also driven to obedience by its threats (SD VI, 17-19).

The *Formula* speaks of two positive aspects of the law's work in the life of Christians. First, we need the law so that we do not fall back on our own holiness

and piety, "and, under the guise of God's Spirit, conduct our own self-chosen *Gottesdienst*, without his word or command." The second reason we need the law is so that we can be continually reminded that, even as Christians, our life and works are anything but pure and perfect.[6] "The law of God prescribes good works for believers in such a way that, as in a mirror, it shows and indicates to them that in this life we are still imperfect and impure." When Paul admonishes Christians to do good works, he reminds them of the Ten Commandments (Rom. 13: 9), and he himself learns from the law that his works are still imperfect and impure (Rom. 7: 18, 19) (SD VI, 20-21).[7]

However, the law has an important limitation. We have already seen that it can tell us what to do, but cannot give us the power to do it. Yet that is not all. It also tells us that our works must be pure and perfect if they are to be pleasing to God, but it cannot tell us how this is done. Only the gospel can tell us that; only the gospel can tell us that our spiritual sacrifices are acceptable to God for Christ's sake through faith (1 Peter 2: 5; Heb. 11: 4; 13: 15). By themselves our good works are still imperfect and impure, even though they are the fruit of the Holy Spirit, because we are still sinners.[8] They are acceptable to God only by faith, or, as the *Formula* says, only because, according to our inner self, we do what God wants, not out of compulsion, but willingly and spontaneously from a heart renewed by the Holy Spirit (SD VI, 23-24). In the final analysis, our works are good only because they are forgiven.

Discussion

We begin by making some general observations. Luther and the *Formula* are in fundamental agreement about the nature and role of the law in the Christian life. Although Luther does not talk about a third use, he nevertheless agrees

in substance with what the *Formula* teaches about the law. In essence, this is that Christians need the law because they are still sinners; yet according to their new nature, they know and do God's will spontaneously. The role of the law in the Christian life is both negative and positive. It is negative because it is needed to keep the old Adam in check, to subdue and discipline the flesh, and to accuse and terrify the conscience of sin. In this sense, the third use of the law is the application of the first two uses to the Christian. At the same time, both Luther and the *Formula* know that the law also exercises a positive role by teaching believers what works are pleasing to God; but also here, the law teaches Christians only insofar as they are still sinners. Furthermore, both confess that good works are necessary, but these must always be kept outside the article of justification. In keeping with this, Luther constantly says that the law must be kept out of the conscience and relegated to the domain of the body.

The *Formula* does not specifically say that the law is only for the old Adam but says rather that *Christians* need the law, on account of the old Adam, who inheres in their intellect, will, and all their powers (Ep. VI, 4). In other words, even though the Confessions know that Christians are both saints and sinners, they tend to speak holistically, rather than say that Christians *qua* sinners need the law as opposed to Christians *qua* saints. On the other hand, when the *Formula* states that if Christians were perfectly renewed in this life, they would require no law (SD VI, 6), we are no doubt correct in inferring that the Article VI supports the proposition that Christians only need the law insofar as (or, because?) they are sinners. This view is further supported by the statement that the truly believing and reborn children of God require not only the admonitions and warnings of the law, but frequently the punishments of the law as well, because of the desires of the flesh (SD VI, 9). Furthermore, the *Formula* never says that the "new man" or

saint needs the law. In order to read that out of the text, we would have to interpret terms like "regenerate" and "born anew" as referring, not to the whole person as saint and sinner, but only to the Christian as saint. That however would be contrary to the whole tenor of the article on the third use. Therefore, there can be no doubt that it is the clear teaching of the *Formula*, and indeed the Confessions generally, that Christians need the law, but only insofar as they are still hindered and thwarted by the flesh from doing the very will of God which they themselves know, assent to, and rejoice in, according to their new, inner selves (SD VI, 18).[9]

As we have already said, the Confessions generally teach that the chief office of the law is to reveal, judge, and condemn sin. Yet, on the other hand, we are exhorted by the Confessions to live and walk in the law and to exercise ourselves in it daily (SD VI, 1, 4). How can these two facts be reconciled? How can we be instructed to take delight in a law that condemns and kills us? The solution to this problem is the solution to most problems in theology, namely, to correctly distinguish between law and gospel. Christians, insofar as they have a new heart and a new spirit, delight in the law because they no longer see it as burdensome. God's will, as it is expressed in the written and preached law, corresponds to their own inmost desires, so that they do not have to wait to be told what to do but would do it spontaneously. Since, with the eyes of faith, we can see the law as God's good gift, therefore, it is no contradiction to say that we should daily exercise ourselves in the law of the Lord, and meditate on it day and night (Ps. 1: 2).[10] The reference in the *Formula* to 1 Tim. 1: 9 suggests a similar approach to the problem. It teaches that it is precisely Christians as saints who delight in the law in their inmost self (SD VI, 5). Yet those who are born anew by the Spirit of God and are freed from the law are not really without law, but live "according to the unchangeable will of God as comprehended in the law," and

insofar as they are born anew, they do "everything from a free and merry spirit" (SD VI, 17). It was never Paul's intention to impose on Christians the curse of the law from which they had been redeemed. Therefore, what at first appeared as a serious dilemma, if not a hopeless contradiction, turns out, on closer inspection, to be two antithetical statements, each true in its own way, resulting from the simple application of law and gospel.

We have already seen that the *Formula* speaks mainly of a twofold task of the law in the Christian life. First, the law clearly teaches what good works God desires believers to do. This is a positive, instructional use of the law. Here the Holy Spirit uses the law to instruct the regenerate and to show them, from the Ten Commandments, what is the acceptable will of God (Rom. 12: 2). Whether the regenerate, insofar as they are saints, actually need to be taught the will of God from the Decalogue, or whether they know that already, will be discussed later. One reason that they need to be instructed in works that are pleasing to God is because Christians, insofar as they are still sinners, can easily be seduced by the flesh into doing self-chosen works, which are neither pleasing to God nor helpful to the neighbor. The other reason that the regenerate need the law is to prevent them from imagining that their works--even as the fruit of the Spirit--are pure and holy in themselves or in any way contribute to salvation. However, it is precisely here that the second and third uses of the law merge. This is especially evident in a passage like the following:

> Believers, furthermore, require the teaching of the law in connection with their good works, because otherwise they can easily imagine that their works and life are perfectly pure and holy. But the law of God prescribes good works for faith in such a way that, as in a mirror, it shows and indicates to them that in this life our good works are imperfect and impure, so that we must say with St. Paul, "I am not aware of anything against myself, but I am not thereby acquitted (1 Cor. 4: 4)." Thus, when Paul admonishes those who have been born anew to do good works, he holds up before them precisely

> the Ten Commandments (Rom. 13: 9), and he himself learns from the law that his works are still impure (Rom. 7: 18, 19) (SD VI, 21).

Here the didactic function of the law is closely coupled with its accusatory role. The *Formula* specifically says that the law prescribes good works in such a way that it also acts as a *mirror* which shows us our sins and our failure to do the very works that the law demands. It is the nature of the law that it cannot instruct sinners without at the same time accusing them. The law is God's holy will, which we are guilty of defying. Since we are sinners, it is impossible for us to hear the law as pure instruction, without at the same time hearing its accusation. Therefore, any attempt to separate the law's accusatory role from its didactic role is unwarranted. These two functions of the law, one positive, the other negative, are closely connected. But they are not on an equal footing, for in Lutheran theology the chief function of the law is to accuse and terrify the conscience on account of sin. The accusatory and didactic functions of the law are almost inseparable in actual experience. Therefore, we should not talk about the didactic use of the law for believers in such a way that we fail to remember that since Christians are still sinners, we can never completely isolate the didactic function of the law (third use) from its accusatory role (second use). Although we have emphasized that the law's primary role is negative, also in the Christian life, we reject the notion that the law plays *only* a negative role in the life of the Christian, or that it has no objective content, a view particularly common among existentialist theologians.[11] Even though the law always accuses, it does not only accuse. Because believers are still sinners, they need the law to teach them the will and commandments of God. However, the *Formula of Concord* avoids giving a direct answer to the question of whether the *tertius usus* has to be taught or not; it really does no more than show *how it must not* be taught.[12]

If our argument is correct so far, and Christians, insofar as they are already saints, do not need the instruction and guidance of the law to tell them what to do, but do it gladly and willingly of their own accord--just as trees do not need to be told to grow or planets to orbit the sun--then the question remains, How do God's saints know his will? Although the *Formula* does not specifically address this issue, it does allude to the fact that we have the law written on our hearts, and that this guides our conduct just as the law written on Adam's heart guided him (SD VI, 5). The *Epitome* appeals to the law written on the heart as proof that our first parents did not live without law, and understands it as belonging to what it means to be created in the image of God (Ep. VI, 2). We could also refer to Paul's words in Rom. 2: 15 to further support the view that all human beings are born with the law of God written on the heart (implanted law). However, when sin entered the world, this natural knowledge of God became so obscured that Paul can argue in Romans 1 that human beings ought to know what is right and wrong, yet because of sin they do not--and now cannot, because God in his wrath has handed them over to their own wickedness. Consequently, while it may still be possible for people to know that there is a God, they do not know who God is unless he first reveals himself to them. Christians know who God is, preeminently through the revelation of himself in Jesus Christ, as attested in the words of Scripture. But in addition to that, they are heirs of the promise spoken through Jeremiah, that when God makes a new covenant (testament) with his people, he will write his law upon their hearts (Jer. 31: 33-34; cf. the promise of the new heart and new spirit, Ezek. 36: 26-27). Even more, as believers in Christ we have a new nature, created in the image of God (Eph. 3: 24), and yet at the same time, we are also being gradually transformed into that image (2 Cor. 3: 18). While unbelievers may have some vague knowledge of God by virtue of creation,

Christians have God's law inscribed on their hearts by virtue of redemption, as he himself promised through Jeremiah. However, Christians *in concreto* are still sinners, and even though they know God's will in their inmost self, sin prevents them from carrying it out. Therefore, the knowledge of God's will written on the heart is never enough; Christians also need to hear it preached from the written word. However, when believers hear it, inasmuch as they are God's true saints, they rejoice and delight in it, because it strikes a chord with them, and tells them something that they already know.[13] Thus the law written on the heart (implanted law), which was first inscribed with creation, and which subsequently was either entirely lost or fatally distorted through the fall, is now restored through baptism (recreation) and the preaching of the gospel, and will continue being restored until it is perfected with the resurrection of the body. However, it is through the gospel, not the law, that the Holy Spirit writes his law on our hearts in fulfillment of his own promise, and renews us in the image of God.[14] Even so, both law and gospel will only last as long as this aeon, until the old Adam, "that intractable and recalcitrant donkey," has finally been destroyed and we are completely renewed in the resurrection (SD VI, 24). Then, through God's indwelling Spirit, we will do "his will spontaneously, without coercion, unhindered, perfectly, completely, and with sheer joy, and rejoice in it forever" (SD VI, 25).

It is important at this point in our discussion to examine the distinction made between God's implanted law and his proclaimed law, particularly with reference to Adam. The former refers to the law that Adam was given when God created him, and the latter to the law that he received forbidding him to eat from the fruit of the tree of the knowledge of good and evil (Gen. 2: 16-17). The *Formula* makes reference to the law written on the heart (implanted law), although it does not specifically mention Jer. 31: 33-34. The reason it is mentioned is to show

that, even though Christians *qua* saints are no longer under the law, they are not entirely without law, for "just as the first man immediately after his creation received a law according to which he should conduct himself," so too God has also implanted his law in our hearts by virtue of our new creation (Ep. VI, 2; SD VI, 5). What then is the difference between these two laws? Since Scripture is silent about the nature of the command given to Adam we must be cautious. First of all, we can see no reason why the law inscribed on Adam's heart should be any different from the law which God promised to write on the heart of his new testament people (Jer. 31: 33-34). This law inscribed on the heart, according to Jer. 31: 34, ensures that all true believers will know God's will by heart--their new heart, which they receive in baptism (Ezek. 36: 26-27).[15] Therefore, it does not seem unreasonable to posit that the implanted law given to Adam was simply the pre-fall counterpart to the promise of the law written on the heart in connection with the new covenant. In other words, the eschatological promise of the law written on the heart is simply a restoration of the implanted law that was lost through the fall. Furthermore, since the law written on the heart, promised to God's new covenant people, is an interiorization of the law given by God to Moses, and since the Mosaic law itself is summed up by the twofold command to love, we can conclude that the implanted law also was nothing other than the command to love God and the neighbor. If this is granted, then God did not need to orally instruct Adam, by means of his proclaimed law, in how to lead a holy life, because he knew that already, by virtue of the law that God had implanted in him when he first created him. What function then did the proclaimed law of Genesis 2: 16-17 serve? Here we cannot be certain. Since it is without parallel it is all the more difficult to interpret. By setting limits to Adam's freedom, it appears that this is God's way of helping him understand his position as creature

vis-à-vis himself as creator. Since it is basically negative and confined to one prohibition, there is scarcely any basis for understanding it as a moral norm. Nevertheless, regardless of how it is to be interpreted, we have to admit that Adam was given an objective command.[16] Undoubtedly, it is the transgression of this divine command that Paul has in mind in Romans 5 when he develops his Adam-Christ contrast. When Adam disobeyed this command, he was not guilty simply of some moral transgression, but, prompted by the tempter, he tried to usurp the place of God and become like God himself (Gen. 3: 1-5). This distinction between the implanted law and the proclaimed law is of the utmost importance, because those who defend the traditional understanding of the third use of the law (specifically, that it applies to Christians *qua* saints) invariably draw a parallel between the first creation and the new creation, and argue that just as Adam in his state of innocence needed the proclaimed law, so too the "new man" in Christ needs the instruction of the law.[17] However, that line of argumentation has been shown to be typically Reformed.[18] The position that we are defending is that even though Adam was given an objective instruction by God (proclaimed law), it was not a guide or norm for life, since he had that already in the implanted law, but it was given for the purpose of defining the boundary between the creature and the creator. By the same token, if Christians were perfectly sinless and holy like Adam in paradise, they too would need no law to guide them. The reason that they need the law is because they are still sinners.

So far we have argued that Christians, to the extent that they are truly born anew, do not need the positive instruction of the external moral law (proclaimed law) but already know God's will from the law written on their hearts (implanted law). However, because they are not yet perfectly renewed but are still sinners, they need the proclaimed law to instruct them in the good works

that God wants them to do: works that are done to his glory and in the service of the neighbor. Not only does the law remind them that even their best works are still sinful and imperfect, it also makes it plain that it is impossible for them to be Christians and not to be doing good works, or to remain in sin.[19] The law in the form of the Decalogue is a norm and rule for life against which we can test all the decisions that we make in our freedom as Christians to see whether they are done out of love for God and the neighbor. F. Hebart comments: "The *Formula of Concord* claims that when we make decisions as believing Christians, we need a standard and a guideline. We need God's commands to prevent us from falling back and becoming slaves of our selfish nature again."[20] This does not mean that as Christians we are living under the law. Rather, it mean that the law is now taken into the service of the gospel and used by the Spirit, who sanctifies us through the means of grace. However, when view the good works that God wants us to do as a means of increasing our own holiness and gaining favor in his sight, then we are no longer living under the gospel but under the law, and the works that we do are no longer the fruit of the Spirits but the works of the law. Therefore, whether the Ten Commandments are used in the service of the gospel for sanctification, or in the service of the law as works of the law, will depend on whether or not they are done in faith. Works done under the law are never pleasing to God, no matter how good they may be outwardly, for they are seen anthropocentrically as a demonstration of one's own holiness. Such works draw attention to themselves and are hypocritical (cf. the Pharisee's prayer in Luke 18: 11-12: "I fast twice a week, I give tithes of all that I get"). On the other hand, works done under the gospel are good because they are done in faith as the fruit of the Spirit and stand under God's forgiveness. Such works are good, for the very reason that they are not intentionally done to merit anything from God;

they are not even regarded as good but merely as one's duty (Luke 17: 10); they are done out of genuine love for the neighbor, and not with a view to impressing God (see Matt 25: 37-40, where the righteous ask out of surprise, "Lord, when did we see you hungry and feed you . . .").

Only the gospel enables us to grow into and to live out our new life in Christ, because it was the gospel in the first place that gave us life through the word and water of baptism. No discussion of sanctification can ever ignore baptism. The Christian life is nothing else than a living out of our baptism, or, better, the *Christus in nobis* living out *his* life in us (Gal. 2: 20). Ultimately, sanctification is Christ's action in us.[21] Before justification, all that the law can do is to prepare the ground of the heart for the gospel, which alone gives life and fosters growth. However, after justification, when the gospel takes the law into its own service, even the Ten Commandments can be used by the Holy Spirit in his work of sanctification. However, that does not mean that the preaching of good works (third use of the law) is a preaching of the gospel. Rather, it presupposes the gospel, but itself remains a preaching of the law. Strictly speaking, anything that cannot be correlated with the forgiveness of sins is law. Yet while the preaching of good works remains law, when it is heard in faith it is seen as God's good gift. Even though Christians are painfully aware that they will never live up to its demands, yet in repentance they agree with its accusation, confess their sin, and cling to God's mercy and forgiveness. Therefore, Christians are no longer condemned by the law, but begin to delight in it, knowing that whatever they cannot fulfill, on account of the weakness of the flesh, will be fulfilled through faith and the forgiveness of sins. No longer is the law seen as onerous but as the light yoke that Christ promises all who follow him. However, because the flesh ("old man") remains unconverted, it still fights against the law and therefore must be con-

demned by the law so that, through the power of the gospel, the "new man," born of water and the Spirit, might finally have his way, which ultimately is the way of the Spirit (Gal. 5: 25).

We said earlier that it is only through the gospel that God's law is written on the hearts of his new testament people, and that his image is renewed in us. This raises the question, Can the preaching of the third use of the law ever promote sanctification. First, we should point out that, technically, we do not preach a use of the law but law and gospel, nor can we assume that the third use is ever going to be heard in isolation from the second use. However, the answer to the question would be that everything will depend on how such preaching is heard. If the admonitions of the New Testament are heard in faith and seen as ways in which faith can express itself in love, then the Holy Spirit can use the preaching of good works for our sanctification. However, if the admonitions are heard by a person still living under the law, such works will be seen as ways of meriting God's favor and approval and will consequently not be the fruit of the Spirit but merely the works of the law. Only a good tree can produce good fruit, and only the gospel can make people into good fruit-bearing trees. Although the Spirit can use the law in sanctification, it ultimately plays second fiddle to the gospel, for the gospel alone is the power of God, not only in regeneration (salvation) but also in sanctification. When this is forgotten the result is moralism.[22]

As long as we understand sanctification as that which God works in us through the means of grace, it is perfectly correct to speak about progress in sanctification. In this sense Luther can say that we are only halfway pure and holy (LC II, 58). However, this does not mean that our sanctification is empirically verifiable or quantifiable. That is the error of pietism, which identifies the "new man" with the converted person so that one's progress in sanctification can

be measured against the objective standard of the Decalogue. The problem with pietism, among other things, is that it arises from a faulty anthropology, which fails to realize that the Christian remains *simul iustus et peccator* and that for precisely this reason no area of life can ever escape the reach of the law. Since sanctification is God's action in us, like all his activity this side of the grave, it too remains hidden under the old life, and hence is an article of faith. It is God's good work in us through the Spirit, which he began at our baptism and will complete with the resurrection of the body at the day of Jesus Christ (see Phil. 1: 6).

Perhaps it is fitting to finish this chapter by referring to the remarks of Chemnitz who, as we know, was one of the principal authors of the *Formula of Concord*, and is therefore likely to be its best interpreter. First of all, as we might expect, Chemnitz follows the *Formula* in talking about three uses or purposes of the law. He acknowledges that Luther works with basically a twofold use in his *Galatians Commentary*, but surprisingly, he claims that Luther constructs a threefold division of the uses of the law based on Galatians 5, where "there is one use of the law in justification and another for those who have been justified." He cites Rom. 13: 8 (the obligation to love) and Gal. 5: 14 (the whole law summed up in the command to love the neighbor) as the scriptural basis for a use of the law among the regenerate, and alludes to Jer. 31: 33 (the law written on the heart) and Psalm 119, in which the writer exults in the Torah.[23] At first this comes as a surprise because, to the best of our knowledge, we know that Luther did not use the terminology of the *triplex usus legis*. However, on closer inspection, the difference is purely formal. Chemnitz's remarks should not be construed as meaning that he has documentary evidence of a literal threefold division of the law in Luther. Rather, he is ascribing to Luther nothing more than we, together with the *Formula*, unreservedly teach and confess, namely, that Christians also need the

law because they are still sinners. The word "regenerate" is used here in the same way as in the Article VI of the *Formula*, and refers not to the true believer as saint but to the Christian as both saint and sinner. Chemnitz makes it clear that the real issue that lies behind the battle over the law in his day is the question of whether the law shows the regenerate how they may learn good works. The First Antinomian Controversy dealt with the question of whether it is the law or the gospel that reveals sin. Chemnitz affirms that there is now no longer any debate over that in Lutheran circles; all agree that it is the law that reveals sin. The debate has shifted rather to the question of whether the law is needed to teach Christians good works. This falls right into the area of the third use of the law and, as we saw in the excursus, formed the background to the *Formula's* article on the *tertius usus*.

Chemnitz further elucidates exactly how he understands the use of the law for the regenerate, and claims to be teaching according to "the true and correct 'form of sound words.'" He lists three uses of the law in the regenerate: (1) that believers should know "what kinds of works are pleasing to God, so that they do not devise new forms of *Gottesdienst* without the Word" and may learn that God at least wants them to begin obeying the commandments; (2) the law as a norm is meant to keep Christians mindful of the imperfection of their works because of their abiding sin; (3) due to the constant battle between "the outward and the inner man," the regenerate need the law to discipline and coerce the "old man." It is also needed because "the beginnings of the new obedience are weak and not supported by our whole spirit and mind" (Rom. 7: 25). The question now is, What does one do to stimulate these very weak beginnings of the new obedience--preach law or gospel? The answer, of course, is both. The flesh must be disciplined with the law, on the one hand, and the weak beginnings encouraged

with the gospel, on the other. "For we experience that the new obedience is not so voluntary a thing as a good tree which brings forth its new fruit without any command or exhortation" (Loci, 441).

We see then that, in spite of the fact that Chemnitz attributes to Luther a threefold use of the law, including a use for the regenerate, as we have it in the *Formula*, in actual fact it is nothing more than Luther's twofold use. We can be confident of this assertion because, as we have seen, Luther certainly applies the law to Christians, and firmly rejects the claim that the regenerate no longer need the law. Luther's answer (and this becomes especially clear in the *Antinomian Disputations*) is that Christians are certainly no longer under the curse and condemnation of the law, but they need the law because they are still sinners. By not only revealing to people their sin, but also the enormity of their sin in the light of Christ's passion and death, the law keeps them dependent on Christ and gospel. Luther makes the point very forcefully in his treatise *Against the Antinomians* that to remove the law means simultaneously to abolish sin, and to abolish sin means to remove Christ, the fulfiller of the law.[24] In the final analysis, the antinomian position is anti-gospel and anti-Christ. In other words, the law must be retained finally, not for its own sake, but for the sake of Christ and the gospel.[25]

Conclusions

We have argued in this chapter that although Luther did not adopt the threefold use of the law introduced by Melanchthon and taken up by the *Formula*, there is no disparity in doctrine between his theology of the law in his great *Galatians Commentary* and the substance of the *Formula*, particularly Article VI. The Confessions, and the *Formula of Concord* in particular, agree with Luther that Christians, insofar as they are truly God's saints, do not need the law but, guided

by the Spirit, do spontaneously and without coercion the very works that the law demands. However, Christians, insofar as they are still sinners, need the law in order to discipline and coerce the flesh since it is always opposed to the Spirit. Christians, insofar as they are at once saints and sinners, do not live under the law nor without the law but in the law. In other words, they live under grace in the freedom of the gospel, but need the law as a norm to guide their actions and decisions in order to ensure that they are not self-centered but are done out of love for God and the neighbor. The law does not motivate them to do good works, for this comes from the gospel and Spirit; yet the law disciplines them if they fail to do good works.

Good works are necessary because they are commanded by God; at the same time, they automatically follow justification as the fruit of faith. Christians are not free to do just any works they please, but are called to do those specifically commanded by God and taught in the law. As well as teaching them what works are pleasing to God, the law, acting as a mirror, also keeps believers mindful of the imperfection and unholiness of their works--even if they are the fruit of the Spirit--and thus ensures that they do not become secure in themselves by trusting in their own works, but continue to place their trust solely in Christ's promise of forgiveness.

Since the law always accuses, and Christians are still sinners, the accusing function of the law is always going to be closely coupled with its didactic function. The law that teaches good works from the Decalogue and confirms the law written on the heart is not some toothless tiger, but it is the same law which, with one hammer blow, destroys both open sinners and false saints. When we agree with its judgment that we are guilty sinners, and trust God's promise of forgiveness, the law ceases to be an enemy and becomes a friend, for then we see it as

God's good gift, which shows faith how it can best serve both God and the neighbor; this in turn corresponds to faith's inmost desire and intention. However, if we remain impenitent and do not acknowledge our sin but attempt to justify ourselves before God, then we will never see the law as any thing more than an enemy and a burden.

While we have our doubts about the concept of the third use of the law as defined in chapter one, namely, the specifically positive, didactic use of the law for the Christian *qua* saint, we affirm with Luther and the Confessions that Christians still need the law to reveal sin, discipline the flesh, and to teach them the works commanded by God. More important than the term is the way in which it is understood. On the one hand, it will be used properly if it is seen as necessary for Christians, insofar as they are sinners, in order to show them the works that are pleasing to God, and to keep reminding them of the fact that they are sinners, so that they put their trust in Christ and not in their good works. This in turn means that the third use of the law is very closely connected with the second and chief use, which reveals to us our sin and again and again drives us to Christ. On the other hand, the third use will be misused if it is isolated from the second and allowed to overshadow it. The result will be moralism and legalism, a charge which Lutheran orthodoxy has not been able to escape. The confessional position is rather that Christians, motivated by the Spirit and living in the freedom of the gospel, willingly look to the Commandments as a norm, to guide their actions and decisions, so that all that they do may be done to the praise of God and for the love of the neighbor. Precisely because Christians live in the freedom of the gospel and not under the law, the "third use of the law" is somewhat unfortunate as a term to describe the role of the law in the Christian life because it accents the law rather than the gospel. Although we have affirmed that the law is necessary

for the Christian, it is there to serve the gospel. Joest has tried to clarify this with the term "practical use of the gospel," while others have suggested the "second use of the gospel" (Lazareth).[26] However, these terms are also problematical. Since the law is subordinate to the gospel and actually serves the gospel in the life of the Christian, perhaps it would be better to speak of the Gospel's use of the law rather than the practical use of the gospel. This also makes it clear that, in the final analysis, we are not the real "users" of either the law or the gospel but are simply the servants of him who uses both for his gracious purposes.

The term "third use of the law" suggests that in the Christian life it is the law as rule, norm, and guide which ultimately accomplishes our sanctification, whereas we have argued that this is the task of the gospel, and that when the law (specifically, the Decalogue) is used by the Holy Spirit for our sanctification, this happens precisely because the law is now taken into service by the gospel so that the gospel remains the power of God both in justification and sanctification. In sanctification and the preaching of good works, no less than in justification, the law serves its ultimate purpose when it is pressed into the service of the gospel.

NOTES

[1]This twin perspective of law and gospel is reflected in Article VI of the *Augsburg Confession* on the new obedience where it says: "It is also taught among us that such faith should *[soll/debeat]* produce good fruits and good works, and that we must *[musse/oporteat]* do all such good works as God has commanded (CA VI). While this passage is specifically intended to remind us as Christians that good works are not optional but necessary *[soll/debeat; muss/oportet]*, it is also a pointer to the fact that, insofar as we are born anew, good works will follow spontaneously. Paul Althaus, *Gebot und Gesetz: Zum Thema "Gesetz und Evangelium,"* (Gütersloh: C. Bertelsmann Verlag, 1952), 33, n. 1, is correct in asserting, *contra* Elert, that when the Lutheran Confessions speak of the necessity of good works, they refer not only to the nature of faith, but also to God's commands (cf. Ap. IV, 189).

[2]Cf. Luther's remark in WA 43, 255: 38, recorded in SD III, 41: "There is a beautiful agreement between faith and good works; nevertheless, it is faith alone that grasps the blessing without works." See BKS 928, n. 1 for other references to Luther. Edmund Schlink, *Theologie der lutherischen Bekenntnisschriften*, 3d ed. (Munich: Chr. Kaiser Verlag, 1948), 156-8, shows that this is consistent with the teaching of the Confessions generally.

[3]The German has no words corresponding to the Latin *lege docentur* which means that the German simply says that those born anew also live and walk in the law, whereas the Latin states that they are taught in the law how to live and walk in true piety. Without delving into the problems of textual transmission, this variant alone indicates the reluctance of some to say that the law actually teaches believers good works,

[4]The Confessions attest that our sanctification and renewal is inchoate and imperfect because sin still dwells in the flesh (SD III, 23). Even regenerate people cannot keep the law because of the old nature and its evil desires, although the Spirit in us struggles against the flesh (Ap. IV, 146). The new obedience is something that begins and grows, is manifested "*magis magisque*" (Ap. IV, 124, 136), but also more or less. Again, Luther can say that "holiness has begun and is growing daily," that we are "halfway pure and half holy" *[halb und halb reine und heilig]* and will remain this way until the flesh is completely destroyed in the resurrection (LC II, 57-58). Therefore, when it comes to speaking about regeneration, the Confessions use quantitative language to express its partiality and

incompleteness. However, this is not meant to imply that God has only done half a job. Those whom God justifies he also sanctifies, but when seen from the perspective of the Christian who is both saint and sinner, it is still incomplete and will only be perfected in the resurrection of the body. In this sense, even faith can be spoken of quantitatively: as a living, joyful, confident thing, it can "grow and be strengthened" (Ap. IV, 142, 350), "grow and increase" (Ap. IV, 189), as well as decrease. Although the Confessions can use quantitative language to describe the partiality and incompleteness of sanctification, they are united in affirming (1) that sanctification remains wholly God's work, and (2) that justification is whole and complete, and that the only righteousness that avails in the sight of God is that of Christ--not our own inchoate righteousness--which is imputed to us by faith (SD III, 32-36). This, as we saw, is precisely Luther's position in his great *Galatians Commentary*. Werner Elert, *The Structure of Lutheranism*. Vol. 1: *The Theology and Philosophy of Lutheranism Especially in the Sixteenth and Seventeenth Centuries*, trans. Walter A. Hansen (St. Louis: Concordia Publishing House, 1962), 151, notes that, although Luther more than anyone else stressed the pure passivity of faith and justification, at the same time he viewed faith as very concrete, empirical reality.

[5]Luther says that the hammer of God's law (Jer. 23: 29) daily works true contrition in the believer and "with one blow destroys both open sinners and false saints" (SA III, 3, 2).

[6]Schlink, Theologie, 175, n. 11, notes that while the arrangement of the chief parts of the *Small Catechism* highlights the fact that the law is to be a disciplinarian (I) to drive us to Christ (II), the exposition of the Ten Commandments in the *Large Catechism* makes it clear that the Commandments in the first chief part are not only meant to be a disciplinarian, but also a comfort and an occasion for doxology, as well as a demand for external civil discipline. This is nothing more than the realization that the *Catechism*, in all its parts, is intended for the instruction of the baptized.

[7]Luther, in his conclusion to the Ten Commandments in the *Large Catechism*, says:

> Here, then, we have the Ten Commandments, a summary of divine teaching on what we are to do to make our whole life pleasing to God. They are the true fountain from which all good works must spring, the true channel through which all good works must flow. Apart from these Ten Commandments no deed, no conduct, can be good or pleasing to God, no matter how great or precious it may be in the eyes of the world (LC I, 311).

Again, at the end he says that the Commandments are to be extolled "above all *Stände*, commands, and works otherwise taught and practiced," and he defies

anybody to come up with anything that can compare with them. God takes them so seriously that he accompanies them with threats of wrath and punishment as well as promises of great blessings. "Therefore, we should prize and value them above all other teachings as the greatest treasure God has given us" (LC I, 353).

[8]Even the best of our works are to be regarded as altogether sinful. When it comes to sin and repentance, there is no room for calculations and casuistry. Partial obedience is total disobedience. Thus, as Luther says, Christians in daily repentance realize "that we are utterly lost, that from head to foot there is no good in us . . . . Repentance . . . lumps everything together and says, 'We are wholly and altogether sinful . . . . One thing is sure: we cannot pin our hope on anything that we are, think, say, or do" (SA III, 3, 35-36).

[9]Some examples will illustrate the point. The third reason for the law cited by the *Epitome* is that Christians, "after they are reborn, and although the flesh still inheres in them," need "on that account a definite rule, according to which they should pattern and regulate their entire life" (Ep. VI, 1). It is clear from this passage that the law is given to believers on account of the flesh which still inheres in them. Again, "on account of this old Adam, who inheres in people's intellect, will, and all their powers, it is necessary for the law of God constantly to light their way lest in their merely human devotion they undertake self-decreed and self-chosen acts of serving God" (Ep. VI, 4). The *Solid Declaration* offers a similar testimony. Again, in connection with the third function, we read that those "who have been converted to the Lord and from whom the veil of Moses has been taken away, learn (from the law) to live and walk in the law" (SD VI, 1). The persons being spoken of here are Christians, who are both righteous and sinners.

[10]In fact, we need to remember that the law extolled in the Psalms is not the law in the narrow sense, but rather the Torah, which also includes the gospel. Therefore, it is not simply the law, but the word of God, with all its admonitions as well as promises, which becomes the Christian's delight and object of meditation. It is because of the ambiguity of the word "law" that some, like Althaus, distinguish terminologically between the command, as God's eternal will, and the negative form of that will in the law that accuses.

[11]This point of view is quite common among those who reject a third use of the law. As an example, we cite Gerhard O. Forde, *The Law-Gospel Debate: An Interpretation of Its Historical Development* (Minneapolis: Augsburg Publishing House, 1969), 175-97. This may be the place to make some comments on the existential interpretation of the law in Luther's theology, which Forde defends. He builds on the work of Lauri Haikola, who argues that the major difference

between Luther and later Lutheran orthodoxy lies in the understanding of the law, particularly the idea developed in orthodoxy that the law is an objective order, a *lex aeterna*, which embodies the moral law. Forde rejects the notion that the law of God has an objective, abiding *content* which can be taught and known. Instead, he emphasizes the *function* of the law and defines as law anything that terrifies the conscience and threatens my existence. The knowledge of God's will is not mediated through a timeless law but is something that I must determine for myself in each concrete, existential encounter in this life. Therefore, for Forde the law cannot be identified with any code like the Decalogue. In this way, he can maintain that the law is not eternal but purely temporary. It is limited to the old aeon. He stresses the eschatological character of the law rather than seeing it in terms of a continuous or timeless scheme: eschatological in the sense that the reign of the law in this aeon comes to an end when the gospel breaks in and gives me the possibility of a new existence in Christ. It is not difficult to see why this view allows no room for a third use of the law. The major criticism that we have with this position is that it denies any positive function to the law at all, and that it completely evacuates it of objective content and talks only of its function.

[12]This point is made by Ragnar Bring, "Gesetz und Evangelium und der dritte Gebrauch des Gesetzes in der lutherischen Theologie," in *Zur Theologie Luthers: Aus der Arbeit der Luther-Agricola Gesellschaft in Finnland*, Schriften der Luther-Agricola Gesellschaft in Finnland 4 (Helsinki: Akateeminen Kirjakauppa, 1943), 88.

[13]Werner Elert, Structure, 36, refers to Luther's remarks on the reciprocity between the two different forms of revelation, one in the conscience (implanted law), the other in history (written law). Luther says: "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" (WA 24, 10: 3; *How Christians Should Regard Moses*, 1525/1526). Elert remarks that the "correspondence of the written or proclaimed law to the implanted law is not accidental. The former would leave us untouched if the latter did not exist. If it is proclaimed, man's heart replies: 'So it is!' But the opposite is also true: Satan's opposition blinds the heart to such an extent that the proclaimed Word must first awaken that voice of the heart" (WA 16, 447: 10; *Sermons on the Second Book of Moses*, 1524-1527).

[14]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 agrees that the law is inscribed by the preaching of the gospel. In a very instructive note, Pieper (p. 18, n. 18) rejects Baier's exegesis of Gal. 5: 16, in which he attributes the suppression of the flesh to

the law, and instead ascribes it 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. The inscription takes place solely through the Gospel. Solely that which regenerates us renews us; now, we are born again solely by the Gospel; ergo, we are also renewed solely by the Gospel. This statement does not deny that the Law does some service in the work of sanctification." Pieper is right as far as he goes, but he has not quite pressed far enough to be able to say that the law sanctifies when it is taken into the service of the gospel.

[15]Although Jer. 31: 34 specifically says that no longer will people have to teach each other who God is ("know the Lord")--First Table--we can no doubt assume--on the basis of *pars pro toto*--that the matters embraced by the Second Table are also included in the content of this written law. This would be consistent with Christ's teaching that the whole law (and even the prophets) can be summed up in the command to love God and the neighbor (Matt. 22: 34-40).

[16]Luther also acknowledges that, but in his own peculiar way specifically sees the command as God's mandate to establish the church and external worship located at the tree of the knowledge of good and evil. However, Luther says nothing about God's proclaimed law being given to Adam as a guide for life, nor does he conclude from the fact that God gave his proclaimed law to Adam that the "new man" in Christ also needs the proclaimed law. Luther also addresses the seeming contradiction that, on the one hand, God gives his law to Adam in his innocence, and yet that, on the other, Paul says that the law was not given for the just (1 Tim. 1: 9). Some deduced from this that the law given to Adam was merely an exhortation, and that Adam's disobedience was not really sin, because where there is no law sin is not reckoned as sin (Rom. 5: 13). Luther shows that the weakness in this syllogism lies in the fact that Paul is talking about the law given by God after sin, which in fact was given, not for the just, but for the unjust, as the rest of the First Timothy passage shows. Therefore, Luther concludes that it is fallacious to try to use that text to argue that God did not really give Adam a law. Rather, the law that he was given was of an altogether different type than that after the fall, which accuses and condemns. However, as we said before, Luther does not use Gen. 2: 16-17 to make what might seem to be the obvious application to the life of the believer, but rather holds that the reason Adam needed this command concerning the tree was in order to establish an outward form of worship and an outward form of obedience to God. The anti-*schwärmerisch* thrust of Luther's exegesis is not hard to detect (WA 42, 80: 1-82: 29; *Lectures on Genesis*). As noted by Julius Köstlin, *The Theology of Luther in Its Historical Development and Inner Harmony*, trans. Charles E. Hay, vol. 2 (Philadelphia: Lutheran Publication Society, 1897), 501-2, Luther's comments do not finally answer the most pressing question in the debate about the third use of the law, and that is whether the Christian, as a new creation, acts from an inner inclination or

in response to the externally imposed "ought" of the taskmaster. Köstlin's own position seems to call into question the need for the law to instruct the Christian *qua* saint in the knowledge of God's will for life.

[17]This position is typified by David P. Scaer, "Formula of Concord Article VI: The Third Use of the Law," *Concordia Theological Quarterly* 42 (April 1978): 145 -55. For Scaer the original positive function of the law is replaced by a negative prohibition. In paradise it served as "a description of man's positive relationships to God, to his fellowmen . . ." (151). He sees the law having two components, a positive and a negative, a didactic and an imperative. In the state of innocence the indicative merged with the imperative. "There was no tension between what man *did* and what man *could, must,* and *should* do. Now in the state of sin what man *must* do and *should* do is not what he can do and does do" (151). The negative prohibition spoken to the first Adam is today applied to the old Adam. In the third use, according to Scaer, "the tension between law and gospel is finally resolved," and the believer "grows constantly in the knowledge of God's positive requirements for his life" (155). One problems with Scaer's argument, in our opinion, is that he does not distinguish between the implanted and proclaimed law. Hence, he sees the proclaimed law (our terminology), which was originally good but became negative after the fall, return to its originally intended purpose as a guide to the life of the regenerate, by which he means the Christian as saint. We however would argue that the reason Christians, insofar as they are saints, freely and spontaneously do what the law requires is because the law is written on their hearts, and Christ dwells within them. The proclaimed law, on the other hand, in the form of parenesis based on the Decalogue, simply reinforces what they know already. It is not a question of either-or but both-and insofar as Christians are both saints and sinners. The other problem that we have with Scaer's position is that it does not reckon sufficiently with the *Anfechtung* arising from the constant attempt on the part of the law (in cahoots with Satan) to rob the conscience of its peace and freedom in Christ by reminding it of its sin and God's righteous anger. Again and again, Luther says that distinguishing between law and gospel is easy in theory but very hard in practice--and it is hard for this reason, because the law is continually challenging the liberating words and promises of the gospel, and, already like the serpent in Eden, trying to sow doubt by always asking: Did God really say?--did he really say that you are forgiven? did he really say that you are free from the law? free from the consequences of breaking his commandments? It is precisely in the midst of this kind of *Anfechtung* that the Christian conscience, which now belongs to Christ alone and cannot be shared with the law, must learn to send the law packing, and in faith appeal to God against its accusations in the name of the gospel, which has the final word. Luther's stress on the struggle in the conscience, which arises directly from the fact that we are simultaneously saints and sinners, flesh and spirit, reminds us that while in our inmost self we delight in the law as God's good gift, Satan can

also use it in times of temptation to afflict our conscience in an attempt to bring us back into slavery.

[18]This has been noted by August Pieper, "The Difference Between the Reformed and the Lutheran Interpretation of the So-called Third Use of the Law," *Wisconsin Lutheran Quarterly* 87 (Spring 1990): 108-22. He points out that in the Reformed view both the first man and the "new man" are under the law. The law in question is not the implanted law, but the proclaimed law. For Adam it existed as an external norm, which he was obligated to live by. Furthermore, the law is seen as the means of bringing about Adam's perfection, which in Reformed thinking, was not given with his creation in the divine image, but is seen as something that he had to progressively develop into. The prescriptions of the law in fact provide the motivation for action. Lutherans however view Adam as having been created perfectly without any real need for development. Hence, there was no discrepancy between God's will and Adam's will before the Fall, for he lived in complete harmony with God.

[19]In WA 50, 599: 18-600: 19 (*On the Councils and the Church*, 1539), Luther asserts against the antinomians that to make a hiatus between the forgiveness of sins and the cessation of sins is to grant the premise and deny the conclusion. Christ earned for us both *gratia* and *donum*, so that we may not only be forgiven, but also empowered to case from sin. In the same treatise Luther also touches on how the Holy Spirit sanctifies us according to the Ten Commandments:

> We need the Decalogue not only to tell us of our lawful obligations, but we also need it to discern how far the Holy Spirit has advanced us in his work of sanctification, and by how much we still fall short of the goal, lest we become secure and imagine that we have now done all that is required. Thus, we must constantly grow in sanctification and always become new creatures in Christ. This means "grow" and "do so more and more" [2 Peter 3: 18] (WA 50, 643: 19-26).

There is a world of difference between Luther's understanding of progress in sanctification and that common in pietism and Calvinistic circles. Luther does not use the Decalogue to check his progress in holiness so that he can become proud of himself or self-righteously compare himself with others. Rather, he uses the Decalogue primarily as a *mirror* to keep him humble by reminding him of how far short he falls from keeping the Commandments properly. Luther knows that the more we submit ourselves to the Spirit through the word, the more he will effect in us a daily sanctification and vivification in Christ, according to the First and Second Tables of the Law.

[20]Friedemann Hebart, *One in the Gospel: The Formula of Concord for Our Day* (Adelaide: Lutheran Publishing House, 1979), 70.

[21]Harold L. Senkbeil, *Sanctification: Christ in Action: Evangelical Challenge and Lutheran Response* (Milwaukee: Northwestern Publishing House, 1989), 184-5, rightly points out that the Christian life is not the Christian in action but Christ in action, and that finally Christ is to be found, not in the human heart, but in the gospel.

[22]This is stressed by Armin W. Schuetze, "On the Third Use of the Law, Luther's Position in the Antinomian Debate (FC VI)" in *No Other Gospel: Essays in Commemoration of the 400th Anniversary of the Formula of Concord 1580-1980*, ed. Arnold J. Koelpin (Milwaukee: Northwestern Publishing House, 1980), 227.

[23]Martin Chemnitz, *Loci Theologici*, trans. J. A. O. Preus, vol. 2 (St Louis: Concordia Publishing House, 1989), 439.

[24]WA 50, 471: 14-21 (*Wider die Antinomer*, 1539).

[25]Luther asks, How will we know what Christ did for us, if we do not know what the law is, which he fulfilled for us, and what sin is, for which he made satisfaction. He insists that it is only when we hear how much Christ the Son of God had to suffer on our behalf that we realize the magnitude of our sin. This is an example of how the preaching of Christ's death can be a preaching of the law, even if the term "law" is never mentioned. "For in the Son of God I behold the wrath of God in action, while the law of God shows it to me with words and with lesser deeds (WA 50, 473: 20-25). FC SD V, 12 affirms the same thing when it says, with reference to the passion and death of Christ, "as long as all this proclaims the wrath of God and terrifies human beings, it is not yet the gospel nor Christ's own proclamation, but it is Moses and the law pronounced upon the unconverted." The antinomians claimed a new method of preaching: they first preached grace, which they said leads to repentance, and only then did they proclaim the revelation of God's wrath. Luther however insisted that in fact repentance is brought about by the preaching of law *and* gospel, for although Paul says that God's kindness is meant to lead us to repentance (Rom. 2: 14), he also says that the law brings wrath (Rom. 4: 15). On this see, WA 50, 474: 9-27.

[26]William H. Lazareth, "Foundation for Christian Ethics: The Question of the 'Third Use' of the Law," in *Confession and Congregation*, ed. David G. Truemper. The Cresset, Occasional Paper: III (Valparaiso: Valparaiso University Press, 1978), 55, uses the term "second" use of the gospel in the sense of "justifying faith active in sanctifying love." He rejects the third use of the law in the traditional sense as Calvinistic, and asserts rather that if the term must be used, "such a so-called 'third' use does not essentially differ from the first and second uses. It is merely the pastoral application of the first and second uses of God's law to Christians as well as to non-Christians." Lazareth does not see the "third" use differing

in either kind or function, but only in the area of its application--i.e., it applies to Christians as well as to non-Christians. In denying that there is a special, positive use of the law exclusively for reborn Christians, he follows Bring, while in distinguishing between *Gebot* and *Gesetz*, applying the *tertius usus* to the former and not to the latter, he is a disciple of Althaus.

CONCLUSIONS

Our aim in this thesis was to examine Luther's understanding of the role of law in the Christian life, based mainly on his *Galatians Commentary* of 1531, and then to compare that with the teaching of the Confessions, in particular Article VI of the *Formula of Concord.* This has been done against the background of the modern debate over the third use of the law, and in the light of some of the questions that it raises. When we speak about law in the sense of the *tertius usus,* we follow the *Formula* in defining it as the eternal, unchangeable will of God, which is normative for the Christian life.

Since the third use can be understood in different ways, we defined it, for the purposes of discussion, as a positive, didactic use, specifically for the Christian *qua* saint. We have called this the traditional view because it came to the fore in the period of Lutheran orthodoxy. We saw in our survey that most modern Luther scholars reject the idea that Luther taught a third use of the law. It is almost universally agreed that Luther did not use the terminology of the *triplex usus legis,* first introduced by Melanchthon, but consistently spoke of the *duplex usus legis.* However, the problem of Luther and the third use of the law cannot be solved merely on the basis of terminology, but only by inquiring into how he understands the theological function of the law when applied to the preaching of good works.

Our research has led us to the conclusion that, although Luther does not employ the terminology of the *tertius usus,* he teaches the doctrine of the

third use as confessed by the *Formula of Concora*. However, neither say that the law is intended specifically for the Christian *qua* saint; rather both agree that the law is for the Christian *qua* sinner. Article VI of the *Formula* agrees with Luther in teaching that Christians, insofar as they are saints, have no need to be instructed by the law but know by nature (the new nature born of water and the Spirit in baptism) what God requires, and do it with a free and willing spirit. According to Luther, faith does not wait to be told what to do but does it immediately, because it can do nothing else. Just as God inscribed the law on Adam's heart when he created him, Christians also know God's law, in the sense of his unchangeable will, because they have been recreated in the image of God, and through the preaching of the gospel the law is reinscribed on their heart. On the other hand, insofar as Christians are still sinners, they need to be taught what good works are pleasing God; not only that, the flesh must be coerced into doing them, by all manner of threats. But even more importantly, because they are still sinners, Christians need the accusation of the law (second use) to convict them of sin and to drive them again and again into the arms of Christ. Therefore, because Christians are *simul iustus et peccator*, although they already know God's will through the law inscribed on the heart, and through the indwelling of Christ and the Spirit by faith, they also need the proclaimed law to instruct them in that will. These two must not be played off against each other. Believers know God's will through faith, and yet they also need to be reminded of it through the preaching of the word.

The term *tertius usus legis* is somewhat unfortunate and often results in the Christian life being seen as a life of obedience to the law instead of a life of faith lived in the freedom of the gospel. For that reason it would be better

to speak about the use of the law in the service of the gospel rather than the third use of the law. However, any rejection of the substance of the third use as defined in Article VI of the *Formula of Concord* cannot be justified if it is predicated on the assumption that Christians no longer need the law. This cannot be supported either by Luther or the Confessions. Christians certainly are free from the law in their conscience--free primarily from the curse, accusation, condemnation, and compulsion of the law. However, insofar as they are still sinners, they remain bound by the law in their bodies, that is, in the sphere of their relationships, vocation, and service in this world. That qualification must be clearly made, otherwise simply to assert that Christians are free is at best ambiguous or at worst antinomian. Christians *in concreto* are free from the condemnation of the law and no longer live under the law (in their conscience), but neither do they live without law (in their bodies); rather they live *in* the law; that is, Christ the fulfiller of the law lives in them by faith (Gal. 2: 20), and this manifests itself in love (Gal. 5: 6).

Christians are never absolutely free but always remain slaves. But we who have been redeemed from the tyranny of Satan are now the willing slaves of Christ, for he is our gracious master who became a slave himself for our sake, to free us from the curse and condemnation of the law, which falls on all who disobey it. Now that the onus of salvation is no longer on us but on Christ, we are free to serve the neighbor in love. However, since we are not yet perfect but are constantly fighting the old Adam, it is easy for us to be deceived into thinking that God is pleased by whatever pious works we choose to do. In reality, however, all self-chosen works inevitably end up being either an escape from the concrete needs of the neighbor or purely self-serving, and thus idolatrous. This is the reason for Luther's continual insis-

tence that believers must be taught the good works commanded by God. Of course, he knows that Christians, insofar as they are reborn saints, do not need this instruction, because they do good works spontaneously, just as a tree produces fruit. Faith without works is not faith. The problem is the flesh, which wants to hinder believers from doing good works. Hence, the law finally must be preached to Christians in order to compel the flesh to do the will of God. At the same time, it needs to be continually held up to believers as a mirror, so that they remember that they are still sinners, that even their best works are sinful, and that ultimately they are "good works" only because they are forgiven. The law then not only teaches Christians what works God wants them to do, but at the same time accuses them of not doing them; thus, it continually reminds them that they are sinners and that their only hope of salvation lies, not in their good works, but in God's mercy and forgiveness. Therefore, the second and third uses of the law belong together. Insofar as Christians are already *iusti*, they will delight in the exhortation of the law and see it as a means of praising God and serving the neighbor in love; on the other hand, insofar as Christians are still *peccatores*, they will hate the law and falls under its condemnation, because the law reveals their pride and self-righteousness, and magnifies their sin. So even though the law guides the Christian to do those works that are pleasing to God, it never *only* guides or instructs, but also *always* accuses, insofar as the saint is never without the old Adam.

Our research has clearly shown that both Luther and the Confessions teach that the law plays an important positive role in the Christian life by teaching believers the good works that are pleasing to God. For that reason, we cannot accept the view, common among existentialist theologians, that

the *only* role that the law plays for Christians is the purely negative one o. accusing and condemning the conscience and driving them again and again to Christ. On the other hand, it is the clear teaching of both Luther and the Confessions that it is the *chief* role of the law to accuse and convict people of sin. This is an important distinction between the Lutheran and Reformed understanding of the law, the Reformed stressing that the didactic use of the law is the chief use. However, these two offices, that of accusing and teaching, while theoretically distinct, in actual practise remain closely connected. The law that teaches believers the good works that God wants them to do is the same law that convicts them of failing to do them. However, even though the law may still accuse their conscience, it can no longer condemn them, for as long as they remain in Christ through faith they are covered by his forgiveness.

Whether we continue using the terminology of the *triplex usus legis* or go back to Luther's *duplex usus* is finally only a matter of nomenclature, provided we uphold the doctrine of he law as taught by article VI of the *Formula of Concord*. However, we have drawn attention to some of the problems that occur when the third use of the law is overemphasized at the expense of the second and chief use, or even worse, when the Christian ethic is based on the law rather than the gospel. A patently false understanding of the role of the law in sanctification developed during the age of pietism, which inherited an "un-Lutheran" emphasis on the *tertius usus* from Lutheran orthodoxy. We learned from this that when the third use is isolated from the second, and coupled with an unbiblical anthropology--specifically, the failure to recognize that Christians are at one and the same time flesh and spirit, saints and sinners--the result is a distinctly Calvinistic doctrine of sanctification with its

attendant dangers of moralism and legalism. This kind of error can easily be fostered by an overemphasizing the informatory, didactic, and hortatory role of the law while forgetting that the law's chief use is to accuse people of sin and drive them again and again to Christ, so that they remain totally dependent on him and the Spirit for their sanctification, and not think that their good works make them more holy in the sight of God. When the "new self" is empirically identified with the converted self, as in pietism, it easily happens that one's progress in sanctification is measured against the norm of the Commandments and becomes an occasion for spiritual pride and fleshly security, rather than humility, as in the case of Luther, who used the Commandments as a reminder of how little he had progressed in sanctification and of how far he still had to go.

The perception that the law plays a basically positive role after justification compared with beforehand has led to various attempts to situate the law in the Christian life more on the side of the gospel than of the law. It is on this basis that some say that the "third" use of the law is so "unlaw-like" that it would be better to refer to the law in the *vita christiana* as the practical use of the gospel (Jüngst), or the second use of the gospel (Lazareth). The position that we have taken however is that this may lead to a confusion of law and gospel. It is not so much the law that changes (*contra* Althaus, who speaks of the change from *Gebot* to *Gesetz* after the fall and its reversal in Christ) as people--from unbaptized unbelievers to baptized believers. The law remains law; for that reason when the Decalogue, like parenesis, it is addressed to Christians, is still law, even though it functions differently than the second use. What has changed is the people it addresses. Parenesis--which is basically the appeal to Christians to be what they are--is directed to people who

have been justified and who now have a new heart and mind. While it is not the gospel, it is addressed to people who have heard the gospel and live under the gospel. Since believers now see the law with new eyes, they see it as God's good and gracious gift and therefore delight in it with all their heart, for it shows them the way to do precisely what their new self want to do: to praise God for his gift of salvation, and to serve the neighbor in love. In the final analysis then, the third use of the law is not simply a use of the law for its own sake, but a use of the law in the service of the gospel. For this reason, it is probably better to talk about the gospel's use of the law rather than the practical use of the gospel. This also makes it clear that, in the end, *we* are not the real "users" of either law or gospel, but simply the servants of him who uses both for his gracious purposes.

A proper application of the third use of the law always presupposes a careful distinction between law and gospel. Even though Christians greet the Decalogue with joy, because it corresponds to their own inmost intentions, yet because they are still sinners struggling against the flesh, the law will still try to accuse their conscience, rob it of its freedom and comfort in Christ, and take it back under bondage. At such times, when the conscience is assailed by *Anfechtung*, we need to say with Luther that we want nothing to do with Christ as example (law) but only with Christ as gift (gospel). Luther expresses this very well in a sermon he preached on January 1, 1532, where he says that, when law and gospel are battling head to head to control of the conscience, it is very difficult to distinguish between law and gospel; we cannot simply say that the law is for the old Adam and the gospel is for our timid and terrified conscience. Rather, we must believe the promise of the gospel in spite of the

demands and accusations of the law, for to allow the law to get the upper hand in the conscience would amount to a denial of the gospel (WA 38, 8-42).

We have shown that Christians need the instruction of the law because they are still sinners. The challenge however facing the *tertius usus* is how to "use" it without falling prey to the twin dangers of moralism and legalism. These errors will only be avoided (1) provided that the third use is never isolated from the gospel, for the gospel alone provides the basis and motivation for the new life; and (2) provided that the third use is never used apart from the second and chief use, for it is only when Christians, in the full knowledge of their sin, despair of their own attempts to keep the law and look to Christ in faith, that they will more and more take delight in the Commandments, and prize them as God's gracious gift to guide us in his ways.

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