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The Third Use of the Law in Martin Luther's
Antinomian Theses and Disputations

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Just over ten years ago, Scott Murray's book, *Law, Life, and the Living God* was published on the third use of the law in 20th-century American Lutheranism.¹ Since this book did not treat a topic of merely historical interest and since it also critically discussed the views of theologians whose students were still alive and active, it is not surprising that the theological echo was lively – so lively, in fact, that an entire theological symposium was dedicated to debating the pros and cons of this book in 2005.² The author, in 2008, six years after his book was published, responded to his critics in writing.³

In the same year also appeared a translation of the complete Antinomian theses and disputations which Martin Luther (1483-1546) held against the theological assertions of John Agricola (1494-1566) and his followers in the late 1530s and early 1540s.⁴ Since the original Latin of these is no longer an accessible theological language and since there existed to date no complete modern-language translation, it is perhaps unsurprising that these works were confined to the now small circle of Luther scholars able to read Latin. They did not seem to have had a noticeable impact on the discussion on the use of the moral law⁵ in preaching and teaching over the past 50 to 200 years.⁶

A Textual Problem with Profound Theological Implications

In fact, since the 1940s, they have effectively been silenced on the issue of the third use of the law. For Erlangen theologian, Werner Elert (1885-1954), decreed that the term “tertius usus

¹ S. Murray, *Law, Life, and the Living God: The Third Use of the Law in Modern American Lutheranism* (St. Louis: CPH, 2002).

² The 2005 Symposium on the Lutheran Confessions hosted by Concordia Theological Seminary, Ft. Wayne, IN. The contributions discussing Murray's book are documented in the July/October 2005 issue of the *Concordia Theological Quarterly* (CTQ).

³ S. Murray, “The Third Use of the Law: The Author Responds to His Critics,” CTQ 72 (2008):99-118.

⁴ *Only the Decalogue is Eternal: Martin Luther's Complete Antinomian Theses and Disputations*, ed. and tr. H. Sonntag (Minneapolis: Lutheran Press, 2008), hereafter referenced as ODE.

⁵ In Luther's judgment, the moral law – as distinguished from the judicial and ceremonial law – is summarized best in the Ten Commandments, the Decalogue (cf. AE 40:98: “Why does one then keep and teach the Ten Commandments? Answer: Because the natural laws were never so orderly and well written as by Moses.”). Materially, this is what “law” here means, cf. ODE, 70: “Paul, when he calls the law a shadow, chiefly talks about the ceremonial and judicial laws. But here we are dealing with the moral law or Decalogue which accuses and condemns all of nature. Because of this it is called the hammer that breaks rocks (Jer. 23:29), as it is stated in our propositions, something which these ceremonial and judicial laws do not do.”

⁶ E.g., C. F. W. Walther's book on the proper distinction of law and gospel does not quote them, as they were not included in the 19th-century St. Louis edition, which offered only the six sets of theses, but not the corresponding four disputations.

legis,” and the context in which it appeared in the Antinomian disputations – the summarizing afterword to the Second Disputation⁷ – was not a genuine expression of Luther but a “plump ... forgery,” inserted into some of the disputation’s manuscripts by some disciple of Philip Melanchthon (1497-1560).⁸

Elert’s judgment from the late 1940s, correcting his own earlier views, still reverberates unchallenged in contributions on the issue to this day. Murray’s answer to his critics is one example.⁹ Another example is L. Green in a contribution meant for the 2005 Ft. Wayne Symposium on Murray’s book that was published first in 2013. While for Murray it is still a somewhat open question, which he, however, concedes to Elert and his followers,¹⁰ for Green it is a settled matter, settled, once again without mentioning him by name, by Green’s teacher, Werner Elert: “Although there is a passage in his theses against the Antinomians in which he appears to embrace a third or didactic use, this statement has been shown to be an interpolation from the Loci of Melanchthon and is therefore a noteworthy rejected reading.”¹¹

But has it been shown – *convincingly*, that is? For one, Green, who apparently did not read the Antinomian theses and disputations in preparation for his 2005 contribution, gives the impression that in these, Luther “appears to embrace” the “third use” only this one time. And, so the argument goes, since this one apparent embrace must be text-critically eliminated, there is nothing in the remaining theses or disputations that should or could alter Elert’s judgment on Luther, namely, that Luther always and only taught two uses of the law, the political and the theological, without any trace of a somehow “domesticated” didactic use.¹²

From Textual Criticism to Christ’s Method of Teaching

⁷ Cf. ODE, 123-124.

⁸ Cf. ODE, 21.

⁹ Cf. Murray, “Third Use,” 110, without mentioning Elert by name. The issue, with naming Elert, is discussed at greater length in Murray’s original book, *Law, Life, and the Living God* (Kindle Locations 444-452). Concordia Publishing House. Kindle Edition.

¹⁰ Murray then launches a wholesale downgrading of Luther’s theology in comparison to that of the Book of Concord, while the latter commends him – obviously under God’s Word (cf. SD RN 9) – as the chief teacher of the Lutheran Church who understood the issues confessed by it in a summary fashion better than anybody else since he first taught them again correctly from God’s Word (cf. SD VII, 39, 41). Therefore, Murray’s statement that “our theology is not Luther’s” requires, to say the least, some clarification in view of the inner-confessional hermeneutic employed by the Book of Concord itself. Reading through the Antinomian theses and disputations could have taught him that, just because a certain term is not found somewhere, does not mean that the thing itself is not found there (cf., e.g., ODE, 76). Murray’s downgrade of Luther’s theology at this point in his argument is actually quite puzzling for two reasons. First, he had just documented in the preceding paragraphs of his essay, that in Luther there is an “informative” or “pedagogical” use of the law (cf. “Third Use,” 109-110). Second, in his original work, he himself, following W. Joest, had made exactly the point made here by me: That Luther might never have used the term “third use” of the law “might be conceded without denying that Luther employed the concept of a third use of the Law or accepted the idea as it was presented in Melanchthon’s Loci during Luther’s life.” *Law, Life, and the Living God* (Kindle Locations 2160-2161).

¹¹ L. Green, “The ‘Third Use of the Law’ and Werner Elert’s Position,” *Logia* XXII, 2 (Eastertide 2013):27.

¹² Green, “Third Use,” 27.

Actually reading the Antinomian theses and disputations presents quite a different picture. To be sure, the second use predominates in Luther's discussion of the application of the law in preaching and teaching sinners. However, specifically in the second disputation, in whose afterword the critical term is found, there are instances in which Luther does speak of a "domesticated" third use.

Consider, e.g., the 21st argument of this disputation. There the "antinomian" thesis presented reads as follows: "The law terrifies those it is not supposed to. Therefore the law is not to be taught, since, when the law is taught, then those are saddened and feel the power of the law who ought to rejoice instead. Contrariwise, those hardened, to whom the law pertains, do not care."¹³

Luther responded in this way:

The law is already mitigated greatly by the justification which we have because of Christ; and it thus ought not to terrify the justified. Yet meanwhile Satan himself comes along and makes it often overly harsh among the justified. This is why it happens that those are often terrified who ought not to be, by the fault of the devil.

Yet the law is nonetheless not to be removed from the temples; and it is indeed to be taught, since even the saints have sin left in their flesh which is to be purged by the law, until it is utterly driven out. For this wrestling match remains for the saints as long as they live here. Here they fight by day and night. There they finally overcome through Christ. Before justification the law ruled and terrified all whom it touched. But the law is not to be taught in such a way among the pious, so as to accuse and condemn, but so as to admonish to good. For I ought not to say or preach: You are not under the remission of sins. Likewise: You will be condemned; God hates you etc. For these sayings do not pertain to those who have received Christ, but address the ruthless and wild. The law then is to be attenuated for them and is to be taught them by way of exhortation: Once you were gentiles; now, however, you are sprinkled and washed by the blood of Christ (cf. Eph. 2:11, 13; 1 Cor. 6:11). Therefore now offer you bodies to obey righteousness, putting away the desires of the flesh, lest you become like this world (cf. Rom. 12:1-2; 6:13; Eph. 4:22). Be imitators of the righteousness of good works (cf. Tit. 2:14) and do not be unrighteous, condemned like Cain etc.; you have Christ.

In other words, there are basically two ways in which the law is to be taught by and in the church. First, in all its sternness to terrify unjustified sinners so as to cause them to seek the gospel's forgiveness and salvation, but then also in the mode of an "attenuated" exhortation to those who are justified already.

¹³ ODE, 115-116.

Given the biblical references to which Luther alludes in this section, it is evident that he considered this method of going about preaching the law to Christians to be the apostolic method found in the New Testament itself. In fact, already in the preface to the first disputation, Luther summarized “this method” as that of “Christ himself, John the Baptist, the apostles and prophets.” He stated:

Christ says in Matt. 5(:17): “I have not come to destroy the law, but to fulfill it,” which means: My office is not to eliminate the law but to fulfill it, and to fulfill it in such a way that those who believe that they are redeemed from the curse of the law because of this, my fulfillment of the law, might also know that the law is now to be fulfilled by them, especially since they have already received the first fruits of the Holy Spirit. Thus Paul says in Rom. 3(:31): “We do not destroy the law by faith but establish it,” and (Rom.) 8(:3, 4): “What was impossible for the law etc., that the righteousness of the law might be fulfilled in us.”

The law, therefore, cannot be eliminated, but it remains, prior to Christ as not fulfilled, after Christ as to be fulfilled, although this does not happen perfectly in this life even by the justified. For it requires that we love God with all our heart and our neighbor as ourselves (cf. Matt. 22:37, 39). This will happen perfectly first in the coming life.¹⁴

In this same disputation, Luther points to the effect of the work of Holy Spirit in this process, stating: “Whoever, therefore, lays hold of this benefit of Christ by faith has by way of imputation fulfilled the law and receives the Holy Spirit, who renders the law, which otherwise is annoying and burdensome to the flesh, enjoyable and gentle.”¹⁵

This renewed enjoyment of the law by the justified is a direct result of Christ’s death for sinners and is the beginning of the reinstatement of mankind in the paradisiacal enjoyment of the law *in this life* that will be discussed further at the end of this study. Luther stated, commenting on the meaning of Ps. 19, first had this to say:

The entire psalm speaks about Christ and his kingdom and the Gospel. Yet Christ is the fulfillment of the law. When he is present, the law loses its power. It cannot administer wrath because Christ has freed us from it. Then he brings the Holy Spirit to those who believe in him that they might delight in the law of the Lord, according to the first psalm (Ps. 1:2). In this way their souls are recreated with [the Law] in view and this Spirit gives them the will that they might do it. In the future life, however, they will have the will to do the law not only in Spirit, but also in flesh, which, as long as it lives here, strives against this delight. To render the law delightful, undefiled is therefore the office of

¹⁴ ODE, 35.

¹⁵ ODE, 55.

Christ, the fulfiller of the law, whose glory and handiwork announce the heavens and the firmament, the apostles and their successors (Ps. 19:1, cf. Rom. 10:18).

Therefore, insofar as there is Spirit in us, so far is there also delight in the law. Insofar as there is flesh, so far there remains the law, yet in such a way as not to be able to drive into despair; just as there remains sin and death, but they are unable either to harm or to condemn.¹⁶

A little later he added this, further expounding on Christ's office:

Thus it is the office of Christ also in this life to reinstate the human race in that lost innocence and joyful obedience to the law, which existed in Paradise in the positive. This he did when he died for us, bore the curses and punishments of the law, and gave us his innocent righteousness. In this way the law obedience becomes joyful to us in some other way; we will render it in the superlative in heaven.¹⁷

Therefore, to connect this to the previous thought, this gentle enjoyment of the law, worked by the Holy Spirit in the regenerate Christian, has to be realized rhetorically by the preacher or pastor who now ought to change into the gentler tone of exhortation like Christ, John, the apostles, and all the prophets, lest he become a tool of the devil "who makes [the law] often overly harsh among the justified."¹⁸

These few texts from the uncontroversial body of the Antinomian disputations show clearly that Luther taught a gentler third use of the law in the mode of admonition. This shows that, even if the portion of text containing the actual term "third use" should not be from Luther himself, it nonetheless correctly summarizes the views expressed by Luther in that very disputation and elsewhere in his writings. For him, the "third use" was part and parcel of the very method used by Christ and all apostles and prophets.

This admonition is necessary, of course, because there is still sin in the Christian. This is why they, by the law, need to be exhorted gently to do what they, in the spirit, already desire to do with joy, as Luther states:

Under Christ, therefore, the law is in the state of being done, not in that of having been done. Here believers need to be admonished by the law. In heaven there will be no debt or any demand, but the finished work of the law and the highest love. Thus, the demand of the law is sad, burdensome, and impossible for those who are outside of Christ. Contrariwise, among those who are under Christ, it begins to be done as something enjoyable, possible in the first fruits, albeit not in the tithes. And therefore it must

¹⁶ ODE, 42.

¹⁷ ODE, 44. As Luther put it in his 1539 work on the councils and the church, Christ earned the grace and gift of the Spirit, the first for forgiveness of sin, the other for increasing cessation of sin, cf. AE 41:114.

¹⁸ ODE, 116.

necessarily be taught among Christians. Not, to be sure, because of faith which has the spirit subject to the law, but because of the flesh which resists the spirit in the saints, Gal. 5(:17).¹⁹

Yet even this gentle admonition can quickly turn into something that accuses and terrifies the believers, something that will first cease completely in heaven: “For as sin and death never rest, but repeatedly perturb and sadden the pious as long as they live, so the law repeatedly returns to the consciences of the pious and utterly terrifies them. Yet when we are raised, it will simply be abolished; it will neither teach us nor exact anything from us.”²⁰

In summary, believers need to be exhorted to struggle against sin in the power of the Holy Spirit as members of the church militant. Luther emphasized this especially in his fifth Antinomian disputation as a wakeup call to Christians, where he addressed also the ecclesiology of the Antinomians,²¹ as well as their anthropology. The latter will be discussed later on.

Following Christ’s Method Instead of False Reliance on the Spirit

Luther offered a prescription for deliberately preaching the law to groups and pastoral care to individuals, depending on their carefully diagnosed spiritual condition (i.e., faith in Christ or faith in works). This is often seen as a problematic approach today. Every deliberate use of the law by the preacher (or the individual Christian) as anything other than stern condemnation is regarded as an attempt to manipulate God’s unchanging Word in order to let the sinner get off easy, a practice that will turn them inevitably into secure Pharisees.²² We just ought to preach “the law” and then just let the Holy Spirit use it as he wills – a view also upheld by Murray.²³

These words of warning concerning the kind of preaching done by “modern preachers who are believers,” spoken by C. F. W. Walther (1811-1887) right at the beginning of his twelfth evening lecture on the proper distinction of law and gospel, come to mind:

The worst fault in modern preaching, my dear friends, is this, that the sermons lack point and purpose; and this fault can be noticed particularly in the sermons of modern preachers who are believers. While unbelieving and fanatical preachers have quite a definite aim, — pity, that it is not the right one! — believing preachers, as a rule, imagine that they have fully discharged their office, provided what they have preached has been the Word of God. That is about as correct a view as when a ranger imagines he has discharged his office by sallying forth with his loaded gun and discharging it into the

¹⁹ ODE, 43.

²⁰ ODE, 44.

²¹ Cf. H. Sonntag, “Christ’s Holy People: Luther’s Ecclesiology of Holiness,” in J. Corzine, B. Wolfmueller (ed.s), *Theology Is Eminently Practical: Essays in Honor of John T. Pless* (Bridgeport, TX: Lutheran Legacy Press, 2013).

²² Cf. Green, “Third Use,” 32, quoting W. Elert.

²³ Cf. “Third Use,” 108-109.

forest; or as when an artilleryman thinks he has done his duty by taking up his position with his cannon in the line of battle and by discharging his cannon. Just as poor rangers and soldiers as these latter are, just so poor and useless preachers are those who have no plan in mind and take no aim when they are preaching. Granted their sermons contain beautiful thoughts; they do not, for that matter, take effect. They may occasionally make the thunders of the Law roll in their sermons, yet there is no lightning that strikes. Again, they may water the garden assigned to them with the fructifying waters of the Gospel, but they are pouring water on the beds and the paths of the garden indiscriminately, and their labor is lost.²⁴

In other words, whenever we speak God's Word, we ought not to "just speak it and let the Holy Spirit do with it as he pleases." While this sounds pious and bold, it is actually wrong and ineffective. And it is hard to believe that an experienced pastor like Murray would actually practice what he, like so many others, preaches here.

Even if there were only two uses of the law, we are already "manipulating" the law in that, in the political sphere, we limit the law to judge external acts, while the theological use examines the whole man inside out. Given the logic that is customarily brought forth only when we speak about the third use, one might as well ask: who gave us permission to execute people only for murder, not also for not believing in Christ in their hearts? Is that not very self-serving of us? Again, who gave us permission just to admonish our children without condemning them into hell for the slightest offense, letting the Spirit sort it out later to prevent them from committing suicide?

Moreover, already the distinction of law and gospel, and Walther's words just quoted refer directly to this task, requires the preacher to make a deliberate effort to divide the word of truth properly, lest he preach the gospel to secure sinners and the law to terrified sinners. The Spirit, evidently, is not some magic power inherent in God's Word that makes things always work out just right, regardless of what we say, so long as we just piously speak "God's Word." The Spirit works in that Word that is rightly preached, and that means, rightly divided according to law and gospel. According to Luther, and Christ, this includes the task of properly distinguishing between condemnation of unbelievers and admonition of believers.

In other words, the Spirit works in sermons that have "point and purpose." The intended "impact and results" of the law should, therefore, definitely be reflected "in the kinds of words spoken as

²⁴ Cf. also a note in his *Pastoral Theology*, where he quotes Augustine as saying: "If somebody were to say that people should not care what and how they might teach since the Holy Spirit himself makes the teachers, that person could also say that we also do not need to pray because Christ says: Your heavenly Father knows what you need before you ask for it" (C. F. W. Walther, *Americanisch-Lutherische Pastoraltheologie*, 2nd ed. (St. Louis: M. C. Barthel, 1875), 77).

law words.”²⁵ This is not postmodern “*autopoiesis*,” as feared by Murray, but faithfulness to God’s Word in the examples of Christ, John, the apostles and the prophets.

God Uses the Law and the Gospel Whenever and Wherever He Wills within Christ’s Method

Evidently, following Christ’s method of preaching faithfully does not “automatically” lead to the intended results in the hearers in terms of repentance, faith, and fruits of repentance. In fact, this was one reason why Luther’s antinomian opponents no longer wanted to preach the law in order to bring about repentance: It seemed ineffective among the impenitent where it needed to work.²⁶ And it seemed to work all too well among the repentant where no such work was needed anymore.²⁷ In other words, the law was perceived to be a loose cannon that, at best, did nothing and, at worst, did only damage and no good. The Antinomians believed that the gospel of the wounds of Christ could move impenitent hearts to repentance in a more effective and less damaging manner.

First of all, Luther was not against using Christ’s suffering and death to lead a person to repentance.²⁸ The controversy between him and the Antinomians was not about how to bring about repentance, or whether the Antinomians actually taught repentance.²⁹ The question was whether using the gospel in such an improper way would truly eliminate the law from the church, which would then also negate sin and eliminate the need for Christ.³⁰ Here Luther denied what the Antinomians affirmed: When the gospel is used in this improper sense, it does the work of the law, whereby the latter is established, not removed. He said:

But from where do we get the poor ones [to whom Christ preaches the gospel]? They answer that grace is preached to them, and they become better. Not so. For Christ did not teach thus. For those who are well do not need the physician, but those who are ill, and

²⁵ Contrary to Murray, “Third Use,” 108.

²⁶ Cf. ODE, 67-68.

²⁷ Cf. ODE, 115-116, quoted earlier.

²⁸ Luther could also harnessing God’s goodness and punishments experienced in life for leading sinners to repentance, cf. ODE, 136: “Scripture teaches four ways of preaching and teaching unto men’s salvation which are gathered from the four works of God. For God terrifies by threats, comforts by promises, admonishes by afflictions, attracts by benefits. *Yet when these four are taught, they do not eliminate the law but establish it.* God’s goodness leads to repentance (Rom. 2:4), that is, that you might acknowledge the law to be the strength of sin. And the terrifying and killing law does this in order to force you to itself or its acknowledgement.”

²⁹ Luther conceded this to them, cf. ODE, 169-170.

³⁰ This is really Luther’s main concern in this whole debate, that the Antinomians would eliminate the law, not by the work of the Holy Spirit in justification, sanctification, and resurrection, but by a smooth theological sleight of hand, which would objectively accomplish nothing and leave sinners secure, and that means: in hell. Before we even preach it, “the law is present previously in reality,” as Luther put it (ODE, 117), because sin is already in us ever since Adam’s fall (cf. ODE, 131), just that we do not know the magnitude of this sin without the preaching of the law (cf. ODE, 160). Terminological tricks do not eliminate the law, cf. ODE, 76, 106-107, because it only ceases to accuse when sin is eliminated, either imputatively or formally, see below.

they cannot be ill without recognition of sin. But the preaching of the law shows sin. From here they see that unbelief, security, despair, disobedience, and lust are sin. And this can also happen when are shown the benefits of Christ, who would suffer so much for you and your crimes. It is the same, whether this happens by the preaching of the benefits of Christ or by the law; it does not matter, it is still the law.³¹

However, as Luther noted based on a 1527 case of suicide in Halle, using God's goodness or the gospel as law to lead a person to repentance, as desired by the Antinomians, is not without its serious pitfalls either: What is to be used to comfort a person struck by God's goodness or the gospel used as law? In the case of God's goodness, one can still use the gospel to comfort a repentant sinner. But what if that gospel is already, as it were, "used up" as law? Then there might be nothing left, so that the devil rejoices, as he can now disguise himself as Christ to drive sinners into despair. Luther stated in the fifth disputation:

I do not know whether any law can strike the mind and press the heart harder than this contemplation of God's goodness. For our hearts are affected not so much by any known sin against God and neighbor, against the First and Second Table, than by that one, when they see that they have scorned God who is so favorable and kind and promises or offers grace. To conquer this scorn of God is by far the most difficult. This ingratitude, if it is once acknowledged, often brings forth death and despair.

What is therefore the place of the remedy, how is he to be healed who has been made a poor man? Certainly not from the law, but from God's goodness, which surely has already become a greater burden for him than the law itself. How will we, I ask, heal him, when neither the law nor the goodness of God can save him, but terrify him more and more? For the more you drive home the goodness of God, the more he despairs, because he has neglected or scorned such goodness. What is to be done?

Here it is time to follow the finger of John the Baptist that shows the Lamb of God who takes away the sin of the world. For here comes Christ with his proper office, Evangelist of the poor ...

But now the Antinomians do not understand any of these things, and they cannot, if they wish to be consistent with themselves, comfort consciences in the most severe temptations. Thus it happened to Mr. Krauss in Halle, who could not judge otherwise concerning Christ than that he would be his accuser before the Father in heaven. For as Christ is presented to such persons, that he came for that reason, and that he shed his blood for him, you will not make enough headway. For they at once protest: "Then this is such a great sin that I have not acknowledged such benefits of Christ, who suffered for me! O what a wretched man I am!" This is why they hurt themselves by force and take their lives either by weapons or by rope, as that Hallensian did.

³¹ ODE, 170, see also ODE, 69. Cf. SD V, 12.

Thus the devil transforms himself into Christ and deceives us and pillages us by the image of a false Christ. For this evil one and foe cannot teach and show any other Christ—if he still presents him—than a lawgiver and accuser and judge, just as the pope also did. But in such struggles, and when we talk about Christ, this one needs to be looked at and presented to us who is called Evangelizer of the poor, who is the Savior, the Mediator and the Comforter of the afflicted and wretched, who came to save those who were dying.³²

Therefore, using the gospel as law, while certainly effective and not wrong, runs the risk of making Christ into a new lawgiver, so that the “good intention” of the Antinomians is really turned on its head.³³

Addressing the concerns of the Antinomians as to the ineffectiveness of God’s law, Luther makes the important distinction between being masters and servants of that law, also by pointing out that, based on experience, the gospel in its proper sense is also not embraced by all who hear it. He states:

First, the law certainly belongs to all, but not all have the perception of the law. Likewise, also the gospel certainly belongs to all, for the forgiveness of sins is offered to all. Yet nonetheless not all have the perception of the gospel and faith. Yet the law is still to be taught, the gospel is to be taught, even if those are few who are touched by the law or assent to, or obey, the gospel, since God has established it to convert men and prepare them to receive Christ in this way. Meanwhile he touches whomever he touches; we cannot do any more. We are servants, not masters who could teach and move hearts at the same time.

It needs to be said, therefore, that all men are under sin and eternal death and are to be liberated by Christ alone. Those who receive this, good. Those who do not go their own way. They have become insensitive, that is, beyond sorrow, as Paul says (Eph. 4:19); they are moved neither by the law nor the gospel. Who can do anything against this? God, however, is the Lord who requires obedience from all his creatures. Whoever obeys, let him obey. Who does not, let him see to it. And nonetheless the law must sound forth (Matt. 5:20): “Unless your righteousness exceeds etc.” For through it God is efficacious and acts powerfully wherever and whenever he wills. And what is that to you, if he is inefficacious?³⁴

³² ODE, 171-172.

³³ Cf. ODE, 170.

³⁴ ODE, 68.

This is to say, we only need to know that “through [the law] God is efficacious and acts powerfully wherever and whenever he wills”³⁵ and then proclaim that Word faithfully according to Christ’s method outlined above. The rest, the success of his Word in law and gospel among those who hear it, we can leave calmly to him who is the Master of this Word.

When discussing the repentance of Cain, Saul, and Judas, in contradistinction from that experienced by Peter, Luther makes this important distinction in reply to those who thought that Peter’s repentance, since it resulted in life, must have come from something other than the law:

To be sure, it pertains to the law to accuse, to convict, to terrify, to damn sins, to lead into hell, and to subject to death. Yet to lead into despair and to kill completely, as Judas, Cain, Saul, and others, this we do not concede to it, since it certainly ought to be a tutor and exactor, not into hell, but unto Christ, as Paul says (Gal. 3:24).

Therefore, if the law appears outside of these bounds, then away with it and it better watch out! I myself would help stone Moses and the law. This is why one has to raise one’s voice against the law that is progressing further: “Away with you, would you, don’t you remember?” That is, “‘until John’ is enough for you, what may be required, what to demand, but please, I do not want you to condemn or remove Christ. It is not you alone who pertain to us, but Christ himself does as well, as Christ says: ‘I want that sin is shown to you but, after sin has been shown to you already, I want also that you may not die.’ Very well, this is my will, but you, law, accuse. But more do I delight in life than in death.” From here come also those sweetest voices in the gospel (John 16:33): “Be of good cheer, I have overcome the world.”³⁶

That Peter lives on comforted by Christ while Judas dies without consolation is not the result of something within them or within someone speaking to them, but the free work of the Holy Spirit through the gospel,³⁷ as Luther points out a little later in the same disputation:

Yet these things take place not by the power of the law, but by that of the gospel and the Holy Spirit who interpret the law in such a way. For the law by itself can only cause terror and lead down into hell. Yet afterward the gospel comes and removes the sting of the law and makes out of it an instructor. The law ought to be interpreted in this way by the gospel and be reduced through the impossible supposition to a salutary use, to Christ. And the gospel, by its power, makes an instructor out of a robber, and carries off him who was slain by the law and leads him back to Christ.³⁸

³⁵ In other words, the law is not some ineffective “dead” letter that might lead to either no or unpredictable results. It is the letter that “deadens,” kills, by the finger of the Spirit “in his majesty,” cf. ODE, 40-41, 55-57.

³⁶ ODE, 72.

³⁷ Cf. ODE, 73.

³⁸ ODE, 99.

The work of the Holy Spirit consists not only in “bending” the law toward Christ before faith (cf. Gal. 3:24), thereby giving it a purpose that does not inhere the law itself, but also in making the law into an enjoyable admonition for those who believe, as already quoted above: “Whoever, therefore, lays hold of this benefit of Christ by faith has by way of imputation fulfilled the law and receives the Holy Spirit, who renders the law, which otherwise is annoying and burdensome to the flesh, enjoyable and gentle.”³⁹

Therefore, “method” is no guarantee for success, even if it is the method used by Christ and his prophets and apostles. The fact that they, in their time and to this day, are rejected by most is sufficient evidence of this. This experience, however, should not mislead us into abandoning this method as fundamentally inefficacious and adopt either a “no-method” stance or some other sure-fire thing. Instead, basing our method on God’s Word, not our experiences, we should faithfully employ it, and leave its success to the one who came up with it, Christ himself.⁴⁰

The Law Accuses – Always but not Exclusively

Speaking of an admonishing use of the law seems to contradict what is stated in the Apology, namely, that “the law always accuses.” Is not hereby a “purely” didactic application of the law excluded from the outset? Does “always” mean even as much as “exclusively”?⁴¹ Of the seven times this expression is used in the Apology, all of them are found in the fourth article on justification. Five of them are, significantly, found in the article’s subsection on love and keeping the law (cf. Ap. IV, 128, 167, 204, 285, 295). The first reference, based on Rom. 4:15, is juxtaposed to the philosophical righteousness taught by the papal theologian (cf. Ap. IV, 38). The last reference is found in that subsection where the arguments of the papal opponents against the biblical teaching on faith and love are discussed (cf. Ap. IV, 319).

Important for this question is Ap. IV, 167, which reads in context (Ap. IV, 160-161, 166-167):

When this keeping of the law and obedience to the law is perfect, it is indeed righteousness; but in us it is weak and impure. Therefore it does not please God for its own sake, and it is not acceptable for its own sake. From what we have said it is clear that justification does not mean merely the beginning of our renewal, but the reconciliation by which we are later accepted. Nevertheless, it is more clearly evident now that this incipient keeping of the law does not justify, because it is accepted only on account of

³⁹ ODE, 55.

⁴⁰ Preaching God’s Word is thus fundamentally like all human activities commanded by God. In each and every case, their success depends on God’s “abundant grace and blessing,” as the hymn says (*Lutheran Service Book* 732, 1). After all, God, not human ingenuity, is the efficient cause in all these activities, as Luther pointed out in his exposition of Ps. 127, cf. WA 40.3:202.

⁴¹ This is W. Elerts position, as reiterated by Green, “Third Use,” 30: “Elert insists over and over that there is no *usus didacticus* without an *usus elencticus: lex semper accusat!*” True enough. But is there any *usus didacticus*, an instructing use of the law, for Elert that does not just instruct man about his sinfulness? That does not seem the case. It is always, and exclusively, the *usus elencticus*, the accusatory use of the law.

faith. We must not trust that we are accounted righteous before God by our own perfection and keeping of the law, but only because of Christ. . . . All the Scriptures and the church proclaim that the law cannot be satisfied. *The incipient keeping of the law does not please God for its own sake, but for the sake of faith in Christ. Without this, the law always accuses us.* For who loves or fears God enough? Who endures patiently enough the afflictions that God sends? Who does not often wonder whether history is governed by God’s counsels or by chance? Who does not often doubt whether God hears him? Who does not often complain because the wicked have better luck than the devout, because the wicked persecute the devout? Who lives up to the requirements of his calling? Who loves his neighbor as himself? Who is not tempted by lust?

The extent of the meaning of the phrase “the law always accuses” for the Christian is clear: While the necessary⁴² incipient keeping of the law – beginning with new spiritual impulses in our hearts, such as the fear and love of God⁴³ – is not only weak and imperfect but also impure and therefore cannot constitute the Christian’s righteousness before God, this righteousness is nonetheless not condemned before God but pleases him. Why? Because it is done in faith in Christ.

Considered by itself, apart from faith in Christ, this imperfect righteousness would be condemned by God’s law. But as being such that is done, not by unbelievers, but by those who believe, not in their good works for God and neighbor, but in Christ’s work for them, “they are nevertheless holy and divine works, sacrifices, and the reign of Christ” (Ap. IV, 189).

Putting it differently, the Apology states (IV, 305):

We must speak technically because of certain carping critics: faith is truly righteousness because it is obedience to the Gospel. Obedience to the edict of a superior is obviously a kind of distributive righteousness. Our good works or obedience to the law can be pleasing to God only because this obedience to the Gospel takes hold of Christ, the propitiator, and is reckoned for righteousness. We do not satisfy the law, but for Christ’s

⁴² Cf. Ap. IV, 187-189: “If the forgiveness of sins were conditional upon our works, it would be completely unsure and the promise would be abolished. Therefore we call upon devout minds to consider the promises, and we teach them about the free forgiveness of sins and the reconciliation that comes through faith in Christ. *Later we add the teaching of the law.* And we must distinguish between these, as Paul says (2 Tim. 2:15). We must see what the Scriptures ascribe to the law and what they ascribe to the promises. *For they praise works in such a way as not to remove the free promise. Good works should be done because God has commanded them and in order to exercise our faith, to give testimony, and to render thanks. For these reasons good works must necessarily be done. They take place in a flesh that is partly unregenerate and hinders what the Holy Spirit motivates, fouling it with its impurity. Because of faith they are nevertheless holy and divine works, sacrifices, and the reign of Christ, whereby he shows his rule before the world.* For in these works he sanctifies hearts and suppresses the devil. And in order to keep the Gospel among men, he visibly pits the witness of the saints against the rule of the devil; in our weakness he displays his strength.”

⁴³ Cf. Ap. IV, 125, 170.

sake this is forgiven us, as Paul says (Rom. 8:1), “There is now no condemnation for those who are in Christ Jesus.”

Faith in Christ, therefore, silences the accusation of the law. As Luther states in his Antinomian disputations:

... one ought not to impose or preach the law to the righteous as to be fulfilled but as fulfilled, for the righteous already have that which the law requires, namely, in Christ; this is how Paul solves this argument: “The law is not given the righteous” (1 Tim. 1:9). Likewise: “Now there is no condemnation for those who are in Christ” (Rom. 8:1); likewise: “Christ is the end of the law” (Rom. 10:4). Thus *the demand and the accusation of the law, because of what it demands, ends among the pious when Christ is present* who says: “Look at me who do for them what you demand—so stop it!”⁴⁴

While the law therefore always accuses us when considered outside of Christ, it does not only accuse because Christ’s gospel brings Christ’s perfect fulfillment of the law and therefore fills with his forgiveness and righteousness what we lack.

Freedom *from* the Law’s Condemnation but *for* the Law’s Admonition

This leads to a related point: Given that the law’s constant accusation against those outside of Christ is its main purpose or use, would this not also speak against teaching the law as “mere” admonition? To begin with, in the second set of theses, Luther wrote:

[T]he law is not given in order to justify and vivify or help anything to righteousness (cf. Gal. 3:21) [b]ut in order to show sin and work wrath (cf. Rom. 3:20; 4:15), that is, accuse the conscience. ... For sin and death are to be shown as strongly as possible to [the haughty man], not that they are necessary for life and innocence [b]ut that man might acknowledge his unrighteousness and his lost state and be humiliated thus.

When sin is ignored, a false innocence is presumed, as is seen in the Gentiles and later in the Pelagians. When death is ignored, it is presumed that this life is the only life and that there is none other in the future.

Since in reality nothing but the law teaches both, it is sufficiently clear that the law in itself is highly necessary and useful. Whatever shows sin, wrath, and death exercises the office of the law, be it in the Old or in the New Testament. For to reveal sin is nothing

⁴⁴ ODE, 119, cf. also ODE, 38, 63, as well as ODE, 74: “Mortification before faith is contrition. But it happens through the law, since the law kills. *The power of sin is the law, always accusing and killing us. Yet mortification in the justified is not contrition, since I am free from the law (Rom. 7:3; 8:2), as Paul said (Gal. 3:13): “Who redeemed us from the curse of the law.” But, nonetheless, the law remains, also mortification, since our flesh is always rebellious.* Therefore the Holy Spirit or faith always impresses the law on its flesh so that it may cease, lest sin would be permitted to rule, lest it would accomplish what it wills (Rom. 6:12). Yet such mortification is tolerable and belongs to the One who justifies.”

else—nor can it be anything else—than to be law or to be the effect and power of the law in the most proper sense. The law and the showing of sin, or revelation of the wrath, are synonymous terms as are man and risible and rational.⁴⁵

In the second disputation itself, Luther summarized all this by stating simply that “the office of the law is to show sins, cause sorrow, and lead into hell.”⁴⁶ Evidently, if this is read in an exclusive manner, there is only a single “use” of the law for Luther, the theological use. Yet this is obviously not how Luther meant it. Instead he, here as, e.g., in his second *Lectures on Galatians*,⁴⁷ called this “the law in the most proper sense.” This proper sense is the best sense in that it is preached into order to crush that which stands in the way of faith in Christ’s promises, presumed righteousness before God based on good works.⁴⁸

However, when there is a “proper sense” of the law, there is also an improper sense. Besides the chief use and office there are also other uses and offices of the law, namely, the use to curb sin, but also the use as exhortation and admonition to those who already believe but are still wrestling with sin.

In a long response to an antinomian counter-thesis, Luther explains this very clearly. The counter-thesis read: “After the effect has ceased, the cause in an act ceases. The effect of the law has ceased. Therefore, the law itself has ceased, and consequently it is to be abolished and removed.” Before he launched into his refutation, Luther himself rephrased this argument as follows:

This is a good and pertinent argument. When the active matter ceases, then the effect ceases as well, as the craftsman ceases, after the house is finished and the matter done. But the effect of the law, that is, because of which there was a law, has ceased, since Christ has removed all sin. Therefore the law has ceased.⁴⁹

⁴⁵ ODE, 79-80.

⁴⁶ ODE, 117. See also ODE, 100: “This is why you always ought to remain in the chief definition of the law, that it works wrath and hatred and despair, not joy, salvation, or mercy.”

⁴⁷ Cf., e.g., AE 26:309: “[T]he true function and the chief and proper use of the Law is to reveal to man his sin, blindness, misery, wickedness, ignorance, hate and contempt of God, death, hell, judgment, and the well-deserved wrath of God.” See also SA III.II:1, 4: “[W]e maintain that the law was given by God first of all to restrain sins by threats and fear of punishment and by the promise and offer of grace and favor. ... However, the chief function or power of the law is to make original sin manifest and show man to what utter depths his nature has fallen and how corrupt it has become.”

⁴⁸ Cf. once again from Luther’s work on Galatians (AE 26:310): “Therefore the proper and absolute use of the Law is to terrify with lightning (as on Mt. Sinai), thunder, and the blare of the trumpet, with a thunderbolt to burn and crush that brute which is called the presumption of righteousness. ... For as long as the presumption of righteousness remains in a man, there remain immense pride, self-trust, smugness, hate of God, contempt of grace and mercy, ignorance of the promises and of Christ. The proclamation of free grace and the forgiveness of sins does not enter his heart and understanding, because that huge rock and solid wall, namely, the presumption of righteousness by which the heart itself is surrounded, prevents this from happening.”

⁴⁹ ODE, 90.

How did he respond? By conceding the entire argument, first in view of the future life of the believers in heaven: “Where sin ceases, there the law ceases. And to the extent sin has ceased, the law has ceased, so that in the coming life, the law ought simply to cease, since at that time it will be fulfilled. For at that time there will be nothing left to excite sins, or any sin that could be accused by the law.”⁵⁰

For the present life of the believer, however, matters are not that simple, because here sin ceases in two different ways and, therefore, to different degrees. There is first the ceasing of sin that comes from the imputation of Christ’s righteousness. It is complete, and in this sense also the accusatory, proper office of the law has come to an end completely. Yet then there is also the “purging” ceasing of sin in the believer, which he elsewhere calls “formal,” evangelically appropriating the Scholastic terminology of the day.⁵¹ By this Luther means the increasing active righteousness and holiness in them that is a fruit of the Holy Spirit and that purges sin from their lives. Once again, to the extent they are “actively” righteous, the law’s accusatory office has ceased.

Yet because this process of increasing active sanctification will not be complete on this side of death, Luther noted that the law must not be eliminated from the church’s proclamation, as the Antinomians concluded from the above-mentioned thesis. Not only does “the crowd” need it. The saints need it too, but in a different way than the wild crowd:

[E]ven [they] need the law as a kind of admonisher, since there is in them a constant war between spirit and flesh, according to Rom. 7:(23): “I feel another law in my flesh which

⁵⁰ ODE, 90-91.

⁵¹ Cf. his own explanation of the Scholastic terminology offered in his 1531 *Lectures on Galatians*, AE 26:127-128. Luther’s own use of this terminology varies somewhat in 1530s. On the one hand, the way he adopted it in these lectures is different from the way he employed it in the Antinomian disputations: Since the Scholastic theologians insisted that it is formal righteousness that gets a man saved, and that its key component is love, Luther polemically held against this claim that *faith* must be this “formal righteousness” since we are saved by faith, not by love. Yet faith is a “formal righteousness” not in itself but only in relation to Christ because *Christ* is “the form of faith” (AE 26:130). In the terminology of the time this means that Christ, the form, gives faith, the matter, its characteristic shape so that it does what it is supposed to do, namely, in the case of faith: justify. In other words, faith justifies only as that which appropriates Christ and his merits. It is not some idle, infused quality that needs to be “formed” or enlivened by love. Without this “form” or, really, object, faith is worthless. There is thus no question that Luther here, as elsewhere, carefully upheld the critically distinction between passive and active justification because he has faith in view, not as the good work it also is, but exclusively as that which lays hold of Christ, the only one who is formally righteous before God (cf. AE 26:132), cf. also K. Marquart, “Luther and Theosis,” *CTQ* 64 (2000):203-204, discussing related texts from Luther’s work on Galatians. – On the other hand, in Luther’s later *Genesis Lectures* (1535-1545), held at about the same time as his Antinomian disputations, a very similar usage of the terminology appears, e.g., AE 5:213 on Gen. 28:12-14, where Luther stated: “For there are two kinds of saintliness [*sanctitas* = holiness, cf. WA 43:575]. The first is that by which we are sanctified through the Word. The second is that by which we are saintly [*sancti sumus* = are holy, cf. 1 Peter 1:16] on the basis of what we do and how we live.” While the former is that perfect one of imputation by faith in the Word (i.e., the gospel promise), the latter is that imperfect, “formal” one, which is by love of God and neighbor according to the Ten Commandments and the Lord’s Prayer. While the latter is “something,” even “necessary,” the former is still to be preferred because it alone saves (cf. AE 5:214, 232-233).

wars against the law of my mind etc.” Yet only to the saints or believers this is not imputed because of Christ. And since he fights against sins, they do not allow sin to rule. Thus the saints are under the law and without the law.⁵²

Unlike the angels and the saints in heaven, for whom the law is “empty,” that is, devoid of threats and accusation, the saints on earth are not simply without the law in this sense. They are under the accusatory, stinging law insofar as they are still sinners. They are without the law because Christ’s fulfillment of the law is imputed to them and insofar as they battle sin in their lives in the power of the Holy Spirit:

[W]e are free even from this law in a twofold way, and it ceases through Christ, since he fulfills that emptiness, and I do so in him. First, imputatively, since sins against the law are not imputed to me and are pardoned on account of the most precious blood of the immaculate Lamb, Jesus Christ my Lord. Then, in a purging manner, because the Holy Spirit is given me. After receiving him, I begin to hate wholeheartedly everything that offends his name and I become a pursuer of good works. What is left in me of sin, this I purge until I become totally pure, and this in the same Spirit who is given on Christ’s account.⁵³

Admonition of the Law, Admonition of the Gospel, Christ’s Example, or All of the Above?

When talking about the third use of the law, there is naturally the question raised as to what terminology should be used: Given that it is not the main, accusatory use of the law, should it be called something other than “of the law”? Paul Althaus suggested “command.” Werner Elert spoke of inviting “grace” or “gospel imperatives.”⁵⁴ In the second half of thesis 23 of his evening lectures on the proper distinction between law and gospel, Walther used the term “admonitions of the gospel.”⁵⁵ The Antinomians of Luther’s day preferred “following Christ’s example.”⁵⁶

As seen above, Luther did not have those qualms. Even though he strongly emphasized the condemning use of the law as its primary use in the church, he then could also speak of the same

⁵² ODE, 91.

⁵³ ODE, 92.

⁵⁴ Cf. Murray, *Law, Life, and the Living God* (Kindle Locations 502-521).

⁵⁵ “In the nineteenth place, the Word of God is not rightly divided when an attempt is made by means of the demands or the threats or the promises of the Law to induce the unregenerate to put away their sins and engage in good works and thus become godly; on the other hand, when an endeavor is made, by means of the commands of the Law rather than by the admonitions of the Gospel, to urge the regenerate to do good.” Interestingly, G. Forde briefly entertains this terminology, but then goes on to reject it for reasons that will be discussed below, cf. Murray, *Law, Life, and the Living God* (Kindle Locations 2926-2927).

⁵⁶ Cf. ODE, 110: “[Y]ou say: The law is not necessary, since it is enough for us to have Christ as gift, and later as example, which is to be imitated in all good works, since examples are more effective than the laws themselves. We have it all without the law: remission of sins, eternal life, and furthermore the example—and an especially excellent one at that—which rightly is to move me.”

moral law as being presented in the attenuated mode of admonition to those who believe already. Instead of dreading and fleeing it in anger and despair, they now enjoy and love it.

Beginning with the last alternative first, Christ as example. Just as in the case of using the gospel as accusatory law, so here too, Luther has no problem with using Christ as example, but did not grant the Antinomians' conclusion, that the law is not to be preached. His argument went like this:

Even though the argument is true, this consequence nonetheless is not valid. I have the example or footsteps of Christ. I can follow this. Likewise, I can be taught by the example of Christ. Indeed, the law is not necessary nor to be taught—this is not valid. *Therefore the law is to be taught all the more because, since it teaches the same as Christ's example, I am moved by the testimony of two, so that I obey more willingly and freely.* ... Secondly, the very thing we said—that Christ is placed before us as example and as Redeemer—means to teach the law. And it is a true preaching of the law. For if the Redeemer and Savior comes to you, it is necessary that you have sin; and redemption itself includes sin. It is not known which kind of sin it is except by the law. But by the Christ given for us it is declared to us that we have sin.

The same does also the other, the example. *For to present Christ as example is nothing else than showing how to live in obedience to God and parents and superiors and to be a follower of all good works and virtues, as they are recited by Paul and Peter at the end of almost all their epistles. In both ways the example of the law is shown to us as it is fulfilled and as it is to be fulfilled.* Therefore the law is not abolished by Christ, but rather firmly established. Should they not teach this way: “My man, Christ fulfilled the law, and now it is certainly appropriate that we follow his footsteps by living piously and saintly; that you not be an adulterer, a thief, a robber, as Christ says to the Pharisee (Luke 10:37): ‘Go and do likewise’?”⁵⁷

In other words, preaching Christ as Redeemer proclaims not only that redemption as gospel but also teaches the law by indicating that there is a need for his redemption from sin. Preaching Christ who fulfilled the law as example means not only that we are caused to realize that we have not kept this law by the stern accusatory law, but also that we are gently admonished by the apostles “to be a follower of all good works and virtues,” and by Christ to begin to fulfill the moral law “by living piously and saintly.” While it is the same moral law – fulfilled by Christ for us and to be fulfilled by us in the power of the Spirit – it is applied in different ways, according to Christ's method outlined above.

As to the other terminological proposals, Luther would probably not be in principle opposed to the suggestion by Althaus, so long as it is clear that we are materially talking about the same

⁵⁷ ODE, 110-111.

moral law summarized in the Ten Commandments and expounded by Christ, the prophets, and apostles all over Scripture, and so long as it is presented as admonition or exhortation based on the grace received by the believers.

Even Elert's terminology, which seems akin to Walther's, is acceptable, so long as it is understood that "gospel" or "grace" comes in view here as motivation, not norm, as the gospel, properly defined, is not a norm for human action at all.⁵⁸ This norm is, once again, the Ten Commandments. While Walther would agree, Elert would vigorously disagree.⁵⁹ According to Ed Schroeder, one of his American students, he instead pointed to "Christ's Lordship," to "what the indwelling Spirit with His imperatives of grace prompts [those connected to Christ by faith] to do."⁶⁰

Walther, for his part, developed the topic of admonition in some detail in the homiletics section of his pastoral theology text book.⁶¹ There he lists as the two most important requirements for sermons that they contain nothing but God's Word in its truth and purity, and that they must apply it properly.⁶² The right distinction of law and gospel, to which his more famous 39 evening lectures are dedicated, is here included under the first requirement.⁶³

When it comes to the application of God's Word, Walther, based on 2 Tim. 3:16-17 and Rom. 15:4, presented five different applications – or "uses"(!)⁶⁴ – of that Word: Teaching the true doctrine; refuting the false doctrine; rebuking sins; discipline or admonition; and comfort. The primary one is teaching.⁶⁵ While this sounds self-evident, Walther observed: "Countless

⁵⁸ Cf. ODE, 54: "According to the proper definition, the gospel is the promise concerning Christ which liberates from the terrors of the law, from sin and death, gives grace, remission of sins, righteousness, and eternal life." See also ODE, 174: "The Gospel, properly speaking, is not what we do, but it is the preaching of the free forgiveness of sins for Christ's sake by faith."

⁵⁹ Cf. Murray, *Law, Life, and the Living God* (Kindle Locations 471-481).

⁶⁰ Cf. E. Schroeder's 1965 *Concordia Theological Monthly* article "The Relationship Between Dogmatics and Ethics in the Thought of Elert, Barth, and Troeltsch" (<http://www.crossings.org/archive/ed/RelationshipBetweenDogmaticsEthics.pdf>), 12. This is exactly the kind of ethical enthusiasm rejected by SD VI, 2-5, 12, 15, 17, 20, 26. Elert falsely believed that FC VI, despite its title, only taught a twofold use of the law, cf. Green, "Third Use," 32.

⁶¹ Cf. Walther, *Pastoraltheologie*, 76-109.

⁶² Cf. Walther, *Pastoraltheologie*, 76.

⁶³ Cf. Walther, *Pastoraltheologie*, 79.

⁶⁴ Cf. Green, "Third Use," 28: "As the word *usus* was introduced by Melancthon in connection with law and gospel, it had the connotation of purpose or application of the law in society or in the life of the individual." For a different interpretation, see Murray, "Third Use," 106-107: "The uses of the law are a description of what the law actually does," its "function." This agrees with Murray's rejection of any method-driven, purposeful "use," i.e., *application* of the law by the preacher or the fellow Christian. Walther, clearly, would side with Green on this one.

⁶⁵ Luther would agree. Consider his instruction on how to pray. There Luther, applying God's Word to himself, fashions "a garland of four strands" out of both the law (Ten Commandments) and the gospel (the Creed), by putting it in a fourfold use, so to speak. He first meditates on each commandment or article as instruction ("which is really what it is intended to be"), then as thanksgiving, then as confession, and finally as prayer (cf. AE 43:200).

preachers sin in this respect in countless ways” by jumping right into the other applications without first laying the necessary doctrinal foundations for all of them. The result?

People are preached to death, any possibly existing hunger for the bread of life is killed, and a disgust and loathing of God’s Word is created methodically. By necessity, every hearer must be turned off when he, time and again, finds himself admonished, rebuked, or also lukewarmly comforted, before the doctrinal foundation has been laid.⁶⁶

Some preachers, according to Walther, engage in this reckless behavior because they have not themselves grasped the doctrinal foundations of the practical applications they wish to offer. Others fear that “doctrine” will be considered as too dry a subject matter, unable to create a living faith. “Yet this is a big mistake,” Walther observed: Especially “the divine truths, counsels, and mysteries of the faith” that once were hidden from the world but have now been revealed by Scripture “are the heavenly seed that must be implanted in the hearts of the hearers, if the fruit of true repentance, sincere faith, and genuine, active love is to grow in them.”⁶⁷

Jumping ahead to the application as discipline or admonition now for the sake of brevity, Walther presented it as follows:

To be sure, the greatest shortcoming of a sermon consists in not first applying God’s Word before all else for teaching. However, the sermon is also lacking not a minor element, but rather an essential ingredient, if God’s Word is not also used educationally “for discipline in righteousness,” or for that instruction that takes place by means of admonition. Even most Christians are such that, since they all still carry the flesh around with them in good measure, even the most glorious and richest doctrinal sermons go mostly past them without making any impression unless the preacher constantly connects admonishing to teaching, not only pointing out the proper use but also constantly seeking to entice them in the most moving manner. Conversely, however, all true Christians are such that one can accomplish, as it were, everything with them by an urgent admonition. This is exactly why so many preachers accomplish so little with their Christians, when they want to move them to do good works or to forsake evil deeds, that they, instead of using admonition, demand, command, threaten, and rebuke. After all, honest Christians, even though they are burdened by many a weakness, do not want to reject God’s Word; they would like to live for him who died for them; they no longer want to serve sin, the world, and the devil, but would rather like to be fully renewed according to the image of

⁶⁶ Walther, *Pastoraltheologie*, 81.

⁶⁷ Walther, *Pastoraltheologie*, 81-82.

their God. Therefore, if they hear the voice of their gracious God in the admonishing preacher, they neither want to nor are able to resist it.⁶⁸

After quoting a lengthy passage from Luther's *Church Postil* on Eph. 4:22-28 for the 19th Sunday after Trinity, he references Rom. 12:1, the same verse referenced by Luther above. He then concludes this section on admonition by reprinting another section from Luther's *Church Postil*, this time on Rom. 12:1-6 for the First Sunday after Epiphany.⁶⁹

Pertinent is here also Walther third requirement for sermons, that they teach the whole counsel of God (cf. Acts 20:27). He described a third shortcoming in this area as follows:

[W]hen a preacher, to be sure, again and again preaches on repentance and faith, but not about the necessity of good works and sanctification, or at least does not give a thorough instruction concerning good works, Christian virtues, and sanctification. A detailed, graphic, calm description of a truly Christian life and behavior does more than the constant assurance, presented as mere threats and warnings, that the same is necessary.⁷⁰

This Walther then follows up on by a lengthy quote from Luther's 1539 book on the church and the councils – a key sentence of which has been quoted above already – where Luther accuses the Antinomians, who want to preach only justification but never sanctification, of being fine Easter preachers but poor Pentecost preachers. In general, Walther, warmly commends, next to Scripture, the epistle section of Luther's *Church Postil* as “a glorious pattern” for learning how to give a thorough account “of a truly Christian life according to its inner foundation and its external form.”⁷¹

Considering only Walther's homiletical teaching in his pastoral theology by itself, it is difficult to see how a recent interpreter of Walther on the third use of the law, D. Scaer, could say that there is not much to report in terms of the third use of the law in this work. This perceived lack of “third use” might be due to the fact that Scaer looked for it in all the wrong places, not in the homiletics chapter but in the section containing “standards for pastoral conduct and procedures for exercising discipline.”⁷² Church discipline, for Walther at least, is prepared and accompanied

⁶⁸ Walther, *Pastoraltheologie*, 86. Evidently, this is exactly what the second half of thesis 23 of his evening lectures on law and gospel is driving at.

⁶⁹ Cf. Walther, *Pastoraltheologie*, 86-87. A few pages later, Walther would briefly revisit the topic of admonition under another requirement for sermons, that they consider the concrete needs of their hearers as well as their spiritual maturity, cf. Walther, *Pastoraltheologie*, 101-103.

⁷⁰ Walther, *Pastoraltheologie*, 92.

⁷¹ Walther, *Pastoraltheologie*, 93.

⁷² D. Scaer, “Walther and the Third Use of the Law,” *Concordia Theological Quarterly* 75 (2011):334.

by carefully teaching and preaching the whole counsel of God,⁷³ which is why “the third use” is really discussed, without using the term, in the homiletics part of his book.⁷⁴

A Threefold Use of the Law Leads to a Threefold Righteousness or Justification

Since Luther distinguished between three modes of fulfilling the law, he taught a threefold justification or righteousness.⁷⁵ One takes place in the civil realm:

[The righteousness of the law is] the one that comes about by human powers, being driven and helped by the law, or brought about by the law, as is the political righteousness or that of the lawyers, extorted by threats and promises or also by enticements and benefits. This one ought to be condemned, but not by itself. For this political righteousness is good and worthy of praises, even though it cannot stand in the sight of God.⁷⁶

This external or carnal righteousness, which in Luther’s understanding nonetheless encompassed the entire moral law summarized in the Decalogue,⁷⁷ is condemned by the law itself, as the latter is spiritual, according to Rom. 7:14, demanding the joyful obedience of a heart renewed by the Holy Spirit.⁷⁸

⁷³ Cf. only Walther, *Pastoraltheologie*, 77: “Preaching is and remains the main tool for a blessed administration of the holy office.” Church discipline is nothing but the most serious rebuke and condemnation of sin, if all else – including patient preaching with its fivefold application of God’s Word and individual rebuke according to Matth. 18 – has not led to repentance in the person in question.

⁷⁴ One should also not look for “a developed doctrine of the third use of the law” in Walther’s evening lectures on the proper distinction of law and gospel, as Scaer does, turning up nothing (cf. Scaer, “Walther,” 329). While they might be considered a “homiletical classic” among us today, those evening lectures were not all students at Concordia Seminar heard about law and gospel in general and the “third use” in particular. In fact, if they did not study there during 1884-1885, they did not have them available at all until their German print edition in 1897, ten years after Walther’s death, which, according to W. Dau’s 1928 preface, Walther might not have even permitted. Yet Walther’s *Pastoral Theology* was there, in several editions; and so was Baier’s *Compendium* for the dogmatics classes. These were the context and belonged to the sources, from which the evening lectures were drawn.

⁷⁵ Already in 1518, in his *Sermon on the Threefold Righteousness*, Luther had presented a threefold division of righteousness based on three kinds of sin (cf. WA 2:43-47): Crime is juxtaposed to civil righteousness (motivated by threats and rewards of the law; external; not proceeding from love of God; servile, not filial; having its reward in this world but being accursed before God due to original sin). Original, alien sin (from Adam) is juxtaposed to original, alien righteousness (from Christ, apprehended by faith, our “substance,” saves from condemnation, God’s eternal favor and mercy for Christ’s sake). Actual, proper sin (from original sin in us) is juxtaposed to actual, proper righteousness (in us flowing from faith and essential righteousness; pleasing to God only for the sake of Christ, not in and by themselves; not self-chosen; combating and diminishing original sin in us). In keeping with Luther’s then-prominent “theology of the cross” and its emphasis of (self-)humiliation (cf. his 1517 *95 Theses* and the 1518 *Heidelberg Disputation*, cf. AE 31:52-53, 85-91, 93-95), he viewed the actual deeds of righteousness opposing actual sins, not primarily as serving the neighbor, but as serving self-mortification, therefore consisting in prayer, alms, fasting, self-mortification, and enduring illness, suffering, shame, and death imposed by God (which is why Luther rejected indulgences as easing suffering which instead should be patiently endured).

⁷⁶ ODE, 108.

⁷⁷ He therefore included some external form of worship or confession of (the one true) God, cf. LC I, 66.

⁷⁸ Cf. ODE, 108-109.

The beginning of this joyful obedience takes place in Christ's righteousness which becomes the believer's in the mode of imputation. This second justification of the Christian is perfect, and alone saves, because it credits Christ's complete fulfillment of the law to the believer. The third justification takes place in the mode of activity in the believer. It is imperfect, in that our fulfillment of the law on earth will by necessity be imperfect due to sin remaining in us, even though this incipient fulfillment is a fruit of the Holy Spirit given by the gospel and pleasing to God.⁷⁹

Luther put it this way, once again referring to Rom. 8:3-4, like in the preface to the first disputation:

Therefore, since we were unable to fulfill the law due to the sin that was reigning in our flesh and holding it captive, Christ came and killed that sin by sin, that is, by the sacrifice which was offered for sin, so that the justice of the law may be fulfilled in us (Rom. 8:3-4) first by way of imputation, then also formally (i.e., actually); yet not by our efforts, but by the grace of God who sent his Son into the flesh. He gives the Spirit to those who believe this so that they may heartily begin to hate sin, to acknowledge this immense and incomprehensible gift, to give God thanks for it, to love, worship, and call upon God, and to expect everything from him. For if he gave the Son, and this certainly for the sins, then he will certainly give with him everything (Rom. 8:32).⁸⁰

A little earlier he had stated: "The law certainly requires and points out what is to be done. But where is the will that obeys and does what the law requires? Who gives it? Christ, who comes to

⁷⁹ On this teaching, Luther had been consistent over the past 20 years, since he preached his 1519 sermon on *Two Kinds of Righteousness*, where he distinguished these two kinds of righteousness *among Christians* – one from the outside, the other emerging in us – as follows (AE 31:297, 299): "The first is alien righteousness, that is the righteousness of another, instilled from without. This is the righteousness of Christ by which he justifies through faith ... The second kind of righteousness is our proper righteousness, not because we alone work it, but because we work with that first and alien righteousness. This is that manner of life spent profitably in good works, in the first place, in slaying the flesh and crucifying the desires with respect to the self ... In the second place, this righteousness consists in love to one's neighbor, and in the third place, in meekness and fear toward God." The differences to the 1518 *Sermon on the Threefold Righteousness* are evident, especially in the direction these works now take: to kill one's flesh, to serve the neighbor, to serve God. Luther would go on to elaborate on the basic ideas set forth here in his 1520 *The Freedom of a Christian*. Therefore, while our alien righteousness consists in faith in Christ, i.e., in a new relationship to God, our proper righteousness consists also in a new relationship to the old Adam in us and to God outside of us, not only in a new relationship to the neighbor (and nature), as claimed in R. Kolb / C. Arand, *The Genius of Luther's Theology: A Wittenberg Way of Thinking for the Contemporary Church* (Grand Rapids, MI: Baker Academic, 2008), 25-29. In other words, this distinction of the Reformer is not identical to that of faith and love or to that of *coram deo* and *coram hominibus*. This remains true even though Luther distinguishes the two righteousnesses in his 1531/35 *Lectures on Galatians* by the adjectives of "heavenly" and "earthly" (cf. AE 26:8). For the righteousness of Moses according to the Ten Commandments – "We, too, teach this, but after the doctrine of faith" (AE 26:4) and in the mode of exhortation (cf. AE 27:47-48), just like Paul – definitely commands faith and love toward God (cf. AE 26:181; 27:63), just that this faith is now considered as our work of love (earthly), not as our way of apprehending Christ's work (heavenly).

⁸⁰ ODE, 50-51.

fulfill the law, he gives the will that you might fulfill the law; imperfectly, to be sure, in this life because of the remnants of sin dwelling in the flesh; yet above, perfectly.”⁸¹

Due to the imperfect nature of our current active, cleansing fulfillment of the law, our active justification is also imperfect while it is still praiseworthy, according to Luther:

Since, on the one hand, the law ought to be fulfilled, it is necessary that both justification and fulfillment take place in us. Yet if, on the other hand, the argument contends that our fulfilling of the law is justification, it is utterly false, because we do not fulfill it. But this is true: To the extent we fulfill it, we are justified. But we fulfill it imperfectly, therefore we are justified imperfectly.

In Christ, however, we have perfect fulfillment by way of imputation (*imputative*), as in this life we cannot be perfectly cleansed by way of casting out sin (*expurgative*) due to the sin living in our flesh. Nor is also that righteousness of the law in us, as our proposition stated, simply poison by itself.⁸² But in the case when a man, whoever he might be, makes assumptions concerning himself and his salvation because of that righteousness, there it becomes poison. In the saints, on the other hand, it is highly commended, because they have the Holy Spirit who works in them such virtues according to his own way.⁸³

In other words, there is a big difference between those who seek to keep the law without the Holy Spirit in order to be justified before God and those who, having been justified before God already by faith in Christ and imputation, now in the power of the Holy Spirit drive out sin more and more. In the former case, the righteousness resulting from man’s own efforts become a “poison,” that is, it damages him more instead of helping him, as he intended. In the latter case, it is commended by God, even though it is imperfect in itself.

Excursus: The Keeping of the Law, Beginning with Faith, Is the True Worship of God

A related thought has to do with the notion expressed by some “in our circles,” namely, that good works are needed by the neighbor, not by God. Intuitively, for one who does not believe in works righteousness, this sounds like a correct statement. What is more, this notion has some support in a stanza of the Paul Speratus (1484-1551) Reformation hymn, *Salvation unto Us Has Come*.⁸⁴ However, it could also be that the seemingly correct statement leaves out important dimensions about good works. In other words, it should not imply that God is indifferent to our

⁸¹ ODE, 42-43.

⁸² Cf. ODE, 98: “Those, however, who serve the law in order to be justified, to them it also becomes a poison and plague concerning justification.”

⁸³ ODE, 98.

⁸⁴ “Faith clings to Jesus’ cross alone / And rests in him unceasing; / And by its fruits true faith is known, / With love and hope increasing. / For faith alone can justify; / *Works serve our neighbor* and supply / The proof that faith is living.” Note that it does not say that those works do no more than serving our neighbor.

good works; that he is not affected by our good works (or the absence thereof); or that we do not do good works also in relation to God.⁸⁵

As quoted earlier, Luther stated: “He gives the Spirit to those who believe this so that they may heartily begin to hate sin, to acknowledge this immense and incomprehensible gift, to give God thanks for it, to love, worship, and call upon God, and to expect everything from him.”⁸⁶ In his Genesis Lectures, Luther remarked that man’s original purpose was to worship God.⁸⁷ As Christians are restored to this original purpose by the office of Christ, their true worship of God becomes more central in his life.

Chief part of this worship is, of course, faith in God’s Word, commanded in the First Commandment. In his 1520 work on Christian freedom, Luther wrote this about faith in the gospel:

[W]hen the soul firmly trusts God’s promises, it regards him as truthful and righteous. Nothing more excellent than this can be ascribed to God. The very highest worship of God is this that we ascribe to him truthfulness, righteousness, and whatever else should be ascribed to one who is trusted. When this is done, the soul consents to his will. *Then it hallows his name* and allows itself to be treated according to God’s good pleasure for, clinging to God’s promises, it does not doubt that he who is true, just, and wise will do, dispose, and provide all things well.⁸⁸

Along these lines, he stated in his 1520 book on the Babylonian captivity of the church:

God does not deal, nor has he ever dealt, with man otherwise than through a word of promise, as I have said. We in turn cannot deal with God otherwise than through faith in

⁸⁵ Cf. G. Borghard, “One Hundred Percent Free – One Hundred Percent Servant,” *Higher Things Magazine* (Spring 2013):7, where he stated: “God is pleased in Christ’s work alone, not your work. In fact, God doesn’t need you to do the Law. The Law can’t make you better in God’s eyes. In Baptism you have already been covered in Jesus before God.” While the last two sentences are certainly correct, the first two are problematic, to say the least. The first sentence, since Borghard here talks to *Christians*, seems to contradict directly 1 Peter 2:5; Hebr. 13:15-16, and the confessional texts that teach the same thing, e.g., Ap. IV, 140, 166, 252, 269. It also contradicts Luther’s Morning Prayer, where he teaches us to pray to our heavenly Father, among other things: “I pray that You would keep me this day also from sin and every evil, *that all my doings and life may please You.*” As for the second sentence, well, it turns out that God does need us to do the law, as will become clear in this Excursus – not for justification, to be sure, but for our sanctification and his glorification, not just for serving the neighbor. For even in this area, on which Borghard concentrates, God’s spiritual worship still rises to him as an aroma that is pleasing to him by faith, even as we help out our parents and other needy folks around us (cf. Rom. 12:1). Borghard, in summary, seems to have fallen prey to the kind of fallacy Luther exposes frequently in his Antinomian disputations: X is not the efficient cause of justification; therefore, X can be eliminated from the church’s doctrine, cf. ODE, 130.

⁸⁶ ODE, 51.

⁸⁷ Cf. AE 1:131.

⁸⁸ AE 31:350. In light of this quote, it is more than ironic that Borghard, “Free,” 6, should preface his remarks with a key quote from this treatise of Luther.

the Word of his promise. *He does not desire works, nor has he need of them;*⁸⁹ *rather we deal with men and with ourselves on the basis of works. But God has need of this:*⁹⁰ *that we consider him faithful in his promises [Heb. 10:23], and patiently persist in this belief, and thus worship him with faith, hope, and love. It is in this way that he obtains his glory among us, since it is not of ourselves who run, but of him who shows mercy [Rom. 9:16], promises, and gives, that we have and hold all good things.*⁹¹

Faith, hope, and love of God, however, are the chief works fulfilling the chief commandment, the First. Based on and flowing from its fulfillment, the fulfillment of the remaining nine commandments is rendered pleasing to God as well.⁹² In this way, all good works done increasingly out of faith according to the Ten Commandments in our vocations in church, city, and family, no matter how humble, become part of our worship and glorification of God.⁹³ In the Confessions, these works are the “eucharistic sacrifices” offered to God by the redeemed in gratitude for their redemption.⁹⁴

After all, “God’s name is kept holy when the Word of God is taught in its truth and purity, and we, as the children of God, also lead holy lives according to it. . . . But anyone who teaches or lives contrary to God’s Word profanes the name of God among us.”⁹⁵ *Against* this kind profaning and dishonoring of God’s name (cf. Rom. 2:23) and *for* this kind of hallowing of God’s name we pray in the First Petition of the Lord’s Prayer.

This is the kind of worship and glorification that *God needs*, according to Luther, first and foremost faith, hope, and love of God, but then also all good works that flow from this fulfillment of the First Commandment. He needs all this, not in an absolute sense, but because it pleased him to need it according to his will, just like Christ “needed” a donkey with her colt to

⁸⁹ Cf. WA 6:516: “Opera ille nihil curat nec eis indiget . . .” Works here understood in opposition, or as replacing, the word of promise, that is, works as means for self-justification before God, cf. Ap. XXIV, 28-30, and therefore directed to the neighbor, away from God.

⁹⁰ Cf. WA 6:516: “Indiget autem . . .,” i.e., he needs, lacks, or requires.

⁹¹ AE 36:42.

⁹² Cf. AE 44:30, from his tract on good works, also from 1520.

⁹³ As Luther put it briefly, commenting on Matth. 6:5: “Through faith we are justified; through good works God is glorified” (AE 29:57). A little longer quote explains why this is so (AE 44:379): “The church is the kingdom of God, and is so described because God alone reigns in her: God alone rules, speaks, works, and is glorified in her. If, therefore, a man teaches and works something in us which God does not teach and work, then in that case God is not glorified in us through Jesus Christ. It is the man whose word and work it is who is glorified. God is not glorified by an alien word and work. And so it necessarily follows that if an alien word and work rules in us, God loses the glory and the kingdom in us: for the man whose word and work it is will have the glory and the kingdom.”

⁹⁴ Cf. only Ap. XXIV, 25, where it says after discussing the one atoning sacrifice, Christ: “The rest are eucharistic sacrifices, called ‘sacrifices of praise’: the proclamation of the Gospel, faith, prayer, thanksgiving, confession, the afflictions of the saints, *yes, all the good works of the saints.*”

⁹⁵ *Luther’s Small Catechism with Explanation* (ESV) (Kindle Locations 133-135). Concordia Publishing House. Kindle Edition. Cf. SC III, 5.

enter Jerusalem – because he was pleased to need it according to his will (cf. Matth. 21:3).⁹⁶ What he does not need are sacrifices offered to him by men in order to atone for their sins (cf. Acts 17:25) because these he does not want because they trample the promise of the gospel underfoot in which the fruit of the sacrifice of his Son is offered.

The Triumphant and the Militant Christian – Thomas Christian as the Anthropological Expression of Imputed and Formal Righteousness

Luther explored the relationship between the imputed and the formal righteousness in greater detail to show their causal relationship. It is best to discuss in this context briefly also Luther's anthropology that undergirds it all.⁹⁷ Since the Antinomians taught that the law was not the way to bring about repentance among Christians, Luther concluded from this that they must think that there is no sin left in Christians anymore. Otherwise, the law would not only have to be preached; it would simply be present in sinners before any preaching could “proclaim” it to them, by virtue of that sin in human nature, as was pointed out earlier.

This is to say, Luther believed that the Antinomians had practically given up on the fundamental distinction between imputed and formal or inherent righteousness, claiming that Christians are formally righteous, that is, righteous in themselves, only in need to warned concerning future, not present, sin.⁹⁸ Against this view that must lead to carnal security, Luther articulated his anthropology of the Thomas Christian.

The transition from the militant unbeliever who fights against God and hates his law to the militant believer who love God's law and fights against his sinful nature in the power of the Holy Spirit with prayer is worked in conversion by the Holy Spirit by means of the gospel. In other words, justification by imputation was not understood by Luther to be a game stopper or soft

⁹⁶ For the same reason, God needed Mary to be a virgin to be born without sin (cf. AE 45:206) and to this day needs preachers to humble wild and arrogant men (cf. AE 32:271-272): He was pleased to will it so.

⁹⁷ For greater detail on Luther's anthropology and its historical development leading up to the Antinomian disputations, see P. Strawn's 2013 presentation, “The Lord's Prayer as a Prayer of Repentance in the Antinomian Disputations of Luther.”

⁹⁸ Cf. ODE, 141. At this time, Andrew Osiander (1498-1552) had already formulated the basic ideas of his heterodox theory of justification, according to which man is made righteous formally by the indwelling of Christ's divine nature with its essential righteousness. While this was said to be “by faith,” it still ignored the important distinction between imputed and formal righteousness: While the former is by faith in Christ, the latter is by love, that is, it is a growing fruit of the former in man. Besides, the vicarious life and death of Christ is reduced to merely winning our forgiveness, a mere preparatory step in Osiander's grand scheme of things. The controversy broke out in the open in the 1550s while Osiander was teaching at Königsberg and was decided in FC III. Cf. F. Bente, *Historical Introductions to the Book of Concord*, para. 176-178. Marquart, “Luther and Theosis,” 202, correctly identifies the decisive point when it comes to our righteousness *before God*: “The central issue is whether justification is the forgiveness of sins – with everything else coming after (logically, not temporally) – or whether it is also the internal renewal. Imputation or transformation – that is and remains the watershed question.” In this article he also discussed A. Osiander's version of the doctrine of justification in view of modern attempts to blur the line between forensic and effective justification via the concept of “theosis” or deification.

cushion made for spiritual sleep, but rather as the beginning of the Christian's life-long battle against himself.

Thus we are righteous by reputation, but still in such a way that we are placed in alien territory and we have to fight against the remaining sin which clings to the flesh, as Paul says (Hebr. 12:4): "You have not yet resisted to flesh and blood." Likewise (Rom. 7:23): "I feel another law in my members." This is why God wants us to be strong soldiers against the sin which is still present in, and clings to, man's flesh, as Job says (7:1): "Warfare is man's life on earth." Several times Paul wants us to take up the weapons of light.⁹⁹

A little later he stated:

By this divine reputation—that your sins are forgiven you freely for Christ's sake—you are sent, as it were, into lifelong military service and battle array, in order to fight and combat sin, the world, the devil, and your own flesh. These enemies will never cease nor rest. By day and night they will call you to do the worst within and without, against God and man, in the First and Second Table, in order to lead you away from that reputation and Christ—because of whom you are righteous and whole before God—so that they might bring you into the kingdom of darkness and so that you might follow those things which pertain to the carnal man and the old Adam.¹⁰⁰

Therefore, by virtue of the fact that you are completely justified by the imputation of Christ's righteousness, you are sent out to do battle against "sin, the worlds, the devil, and your own flesh," to expel sin against God's law in you more and more.

How does the law and its accusation fit into this scenario? Luther here restated that, insofar as we are completely justified by Christ's righteousness, we are completely free from the law's accusation. In Christ, we triumph over sin and the condemning law. However, in our concrete persons, we are not such because we are not free from sin yet, no matter how hard we strive to be such. Therefore, we are also not free from the law's accusation insofar as we must still struggle against sin:

This is why the law needs to remain and to be sharpened carefully in the militant part, that is, insofar as we live and act here in the flesh and here among people. For as long as we live in this life we will never be so pure that the law will not find some blemish—indeed many of them!—in us. For from youth we are inclined to evil. Thus the

⁹⁹ ODE, 141.

¹⁰⁰ ODE, 142.

law belongs to the militant, not the triumphant, part, that is, when justification and peace of conscience are treated, because here we are in the Lord, who is our bridegroom.¹⁰¹

But had not Luther said before that the law is not to be imposed on the Christian? He answered this question as follows:

As you heard above, the Christian is a veritable Thomist Thomas or twin (cf. John 11:16), namely, a militant and a triumphant Christian. Insofar as he is triumphant, and dwells under the shadow of the wings of his Lord (cf. Psa. 36:7), as it is said (Psa. 32:1-2), “Blessed are those whose sins are covered and whom the Lord did not impute their sins” so far there is nothing about law. Here let Moses depart, let him go away to the ravens with his stuttering tongue, here I do not hear anything, neither heaven nor earth. . . . Insofar as the Christian is a Christian, leave him in peace and unconfused. For being accused and convicted, and being—or being regarded—righteous, cannot stand at the same time. Yet the Christian is righteous by faith in Christ. In himself, however, he still has inherent sin.

Here now I come to another area, which is widely different from that above, to the militant Christian, who still lives in the flesh, and I come to me and my person. Alas, how much wretchedness I see here! Here I, and you, insofar as we as such, would do all shameful acts in our power, if only they could be done secretly, without the knowledge of people,

Evidently, the distinction between triumphant and militant Christian is not the same as the more familiar one between saint and sinner in the Christian because the sinner in the Christian is not a militant Christian – in fact, he is no Christian at all! The key for understanding this unusual manner of speaking seems to lie in the expression Luther uses when he begins to talk about the militant Christian: “Here now . . . I come to me and my person.”

Therefore, while the triumphant Christian is indeed the one who is completely righteous *in God’s judgment by faith*, the militant Christian is the Christian as he concretely exists *in his person* and as he is *both* incipiently, but inadequately righteous in himself *and* still filled with “much wretchedness” that just waits for an opportunity to come to the fore unless vigorously combated by the new man in the Christian.

In other words, the concrete person of the Christian is here not described as totally sinful *man* before God, an expression which Luther can also use in the Antinomian disputations, but as a *Christian*, that is, as a believer who, while already justified and triumphant over all sin and

¹⁰¹ ODE, 146.

condemnation before God for Christ's sake, still battles his way forward on the path of progressive sanctification.¹⁰²

This means that Luther here conflates, without any confusion of faith and works in the article on justification, two related ways of describing the Christian as, on the one hand, totally righteous and totally sinful (*totus iustus, totus peccator*)¹⁰³ and as, on the other hand, partly righteous and partly sinful (*partim iustus, partim peccator*).¹⁰⁴ He does so in order to be able to express anthropologically what happens in the battle in us that is progressive sanctification.¹⁰⁵ In other words, Thomas, the Christian twins in us, corresponds to the two kinds of Christian righteousness, the imputed and the formal one. Or, using different terminology, he corresponds to the forensic and effective justification or justification and sanctification. In all these different terminological expressions of the same truth, the former sustains the latter while the latter without the former is worthless.

The good works done by this believer, although inherently stained by original sin, are regarded by God as good and please him for Christ's sake, while the actual sins are forgiven for Christ's sake. These actual sins *of the Christian* will be venial sins, which, regardless of their inherent magnitude, are done *against* the renewed will of the Christian. They are ruled sins. Mortal sins, regardless of their inherent magnitude, are done with the full consent and pleasure of those who either *never had* or who *have now lost* Spirit, faith, and therefore also their renewed heart and are thus no (longer) Christians. These are ruling sins.

[A]s soon as these things take place, and as soon as this law or this carnal nature infected by the venom of Satan in Paradise rears its head and incites the poor Christian to lust, to greed, to despair, or to hatred of God, there, I say, the Christian stirs himself up and says, as if in wonder: "Look! And you are still here! Welcome, Mr. Sin. Where were you?"

¹⁰² Cf. ODE, 153: "How, after all, do you know that there are sins in you and that you displease God? From the law: You shall not kill, you shall not covet, etc. In that part you are not a Christian. But meanwhile, who fights and does not allow himself to be overcome by sin and to be ruled by sin, is, and is called, a Christian because of faith in Christ, because of which it is not imputed to him what is still evil in him."

¹⁰³ Cf., e.g., ODE, 186.

¹⁰⁴ Cf., e.g., ODE, 174.

¹⁰⁵ This means that there is a new reality created by the Spirit in the Christian. On the one hand, its existence is entirely dependent on the existence of faith. If faith is lost, nothing of the new heart remains, other than perhaps some acquired good manners, which, however, are of no use before God. On the other hand, the new man is not simply identical with "Christ in us," "Christ's imputed righteousness," or the Holy Spirit. Both in their ways have an impact in those who believe, beginning with repentant faith itself and the other new "spiritual impulses" listed by the Apology, as observed earlier. In other words, progressive sanctification is not about "reforming" the "recalcitrant donkey" that is the old Adam in us (cf. SD VI, 24), as L. Pinomaa opines, quoted approvingly by Green, "Third Use," 33, as "generally" Elertian. After the old man is slain by faith, he also needs to be pushed out of our lives more and more and replaced by the new man (cf. Eph. 4:22-25: just as the old man is also a kind of conduct, so the new man is also a kind of conduct that can be seen and touched, contrary to Pinomaa's statement: "[t]he new man never becomes a creature whom we might touch and see"). As Luther stated repeatedly, we are justified in a twofold manner as Christians – perfectly and for our eternal salvation by faith and imputation, imperfectly and for the benefit of others by love in a formal way. The Christian is a twin, triumphant and militant at the same time.

Where did you spend your time so long? Are you still alive now? From where do you come to us? Away with you to the cross! It will absolutely not be so! I will protect my virgin and will do what is just, even against your will. And the more you torture me, even challenge and incite me to dishonor, lust, despair, the more I will laugh at you with a spirit that is both confident and strong! Trusting in the help of my Christ I will scorn you and crush your head (cf. Gen. 3:15). What do I have to do with you? I have another Lord in whose camp I am now a soldier. Here I will stay, here I will die.” This one is that glorious soldier and strong George who makes a great massacre in the army of the devil and wins gloriously, as Paul says (Rom. 8:37): “In all these things we overcome through Jesus Christ,” and he does not permit sin to devour in his flesh.

Indeed we, each in his age and situation, cannot but encounter a great number of sins and evil desires. But with God’s help, we will nevertheless not permit them to rule. I witness my flesh having a taste for the same things as the Turk, the pope, and the entire world, but don’t assent! Let him not allow the lice to build nests in the coat. Thus Paul has sin, but conquered and faint. The impious have living, ruling, triumphant sin.¹⁰⁶

In this life-long struggle and military service, the believer is not left to his own devices, but has been provided by God with the powerful weapons of the Holy Spirit, including prayer, as Luther points out a little later:

[T]here is now no youth, or adolescent, who is not moved more strongly than an old fool when he sees some beautiful girl, even if this pious man were to fight day and night. The impious, however, follows every lead, not thinking whether it is just or unjust. Christ fulfilled the law, but it needs to be added: “Later see to it that you lead a holy, pious, and irreproachable life, as it is fitting for a Christian. This is what you have heard so far: Be forgiven. But lest you complain that you are utterly forsaken, I will give you my Holy Spirit, who makes you a soldier; he will even produce mighty and unspeakable cries against sin in your heart, so that you thus finally do what you wish.” But am I not unable? “Pray that I may hear you, and I will make you able.”¹⁰⁷

Here the most appropriate petitions are taken from the Lord’s Prayer: Hallowed be thy name, thy kingdom come, and lead us not into temptation:

If you are a saint, why do you cry? Because I feel the sin clinging to me, and this is why I pray: “Hallowed be thy name, thy kingdom come.” “O Lord, be merciful to me.” But you are a saint. But you are a saint? In this way, insofar as I am a Christian, because to that

¹⁰⁶ ODE, 151-152, cf. also ODE, 148.

¹⁰⁷ ODE, 164. See again ODE, 148: “These and such words are not man’s, but Christ’s and the Holy Spirit’s, who says in the heart: “Let the girl in peace. I will give you another in due time, whom you will easily love.” This Christian, even if he is affected by sexual desire, nevertheless obeys the Spirit, averts by prayer the evil he feels, and prays that he might not enter into temptation.”

extent I am righteous, pious and belonging to Christ, but insofar as I look at me and my sin, I am wretched and a very great sinner. Thus, in Christ there is no sin, and in our flesh there is no peace and quiet, but perpetual battle as long as this old Adam and this corrupt nature last. They are destroyed only by death itself.¹⁰⁸

This dovetails nicely with what Luther wrote in at the beginning of the Third Chief Part of his *Large Catechism* (III, 1-2):

We have heard what we are to do and believe. The best and most blessed life consists of these things. Now follows the third part, how we are to pray. Mankind is in such a situation that no one can keep the Ten Commandments perfectly, even though he has begun to believe. Besides, the devil, along with the world and our flesh, resists our efforts with all his power. Consequently nothing is so necessary as to call upon God incessantly and drum into his ears our prayer that he may give, preserve, and increase in us faith and obedience to the Ten Commandments and remove all that stands in our way and hinders us from fulfilling them.¹⁰⁹

The Decalogue – God’s First and Last Word to Man

G. Forde (1927-2005) would ask this question: So, is the law then getting the “final word” after all, trumping the gospel and its glorious eschatological freedom, returning Christianity to the sorry company of all the legalistic religions of this world?¹¹⁰ To put it in a slightly different way, is the gospel here not reduced to a means to the purposes of the law?

To answer briefly, the law would get the “last word” only if it is mixed into the article on justification, that is to say, only if man’s salvation would be made dependent on his incipient renewal. This, however, cannot be shown from Luther’s Antinomian disputation. The trivial fact alone that – according to Christ’s method outlined above and explained in the course of this paper – the gospel, e.g., in a sermon, is followed by admonitions from the law, does not give the law the final word before God.

¹⁰⁸ ODE, 153. Consider also theses 17-30 from the third set of theses, ODE, 126-127. More on this can be found in P. Strawn’s paper.

¹⁰⁹ Green, “Third Use,” 28-29, quotes Erlangen theologian G. v. Zezschwitz (1825-1886), warning against a legalistic interpretation of Luther’s catechisms that puts the Creed before the Ten Commandments. While that would be wrong, if “legalism” here means works righteousness, what is clear is that the gospel, according to the catechisms, serves not only the justification of the sinner but also active sanctification according to God’s law of the Ten Commandments. In addition to the passage just cited, see also LC II, 2-3: “[The Creed, i.e., the gospel] is given in order to help us do what the Ten Commandments require of us. For, as we said above, they are set on so high a plane that all human ability is far too feeble and weak to keep them. Therefore it is as necessary to learn this part as it is the other so that we may know where and how to obtain strength for this task. If we could by our own strength keep the Ten Commandments as they ought to be kept, we would need neither the Creed nor the Lord’s Prayer.” See furthermore my ecclesiology essay referenced above.

¹¹⁰ Cf. Murray, *Law, Life, and the Living God* (Kindle Location 2908-2929).

In a concrete homiletical situation in a given congregation, or in a concrete pastoral care situation, one must obviously, as Walther emphasized in his homiletics, be aware of that particular situation and the particular spiritual needs of the hearers. Letting the gospel predominate is certainly a must because the gospel saves alone, and it alone provides the Spirit who alone sustains the militant Christian on his prayerful path of sanctification. However, this too obviously does not mean that, in every sermon or in every pastoral conversation, there the gospel literally gets the “last word.”

After all, even Walther concluded his final evening lecture, dedicated specifically to the need for the gospel to predominate every sermon, with a quote from a Luther sermon in which he spoke about the fruit of faith. To be sure, there the emphasis was on faith, but nonetheless, its fruit was discussed last. In other words, the gospel will predominate in every sermon if it is proclaimed clearly, without any admixture of the law. Then everything else – whether accusing or admonishing law – preached in this sermon, or said in a given pastoral conversation, will be in its proper place and dimension.

G. Forde brought up the issue of eschatology. Luther would certainly agree that we live in the end of times, and he expected the actual end of the world either during his lifetime or soon thereafter. Yet this did not lead him to discard the law as an ontologically outmoded doctrine no longer fitting the eschatological age we live in. In fact, it led him to affirm it without falling into legalism.

Christ and creation come to mind as chief reasons, based on Luther’s Antinomian disputations: First, as mentioned frequently above, Christ fulfilled the law so that we might begin to fulfill it too, according to Luther. He set the example and we as his holy people begin to follow it, albeit in weakness, but always under the wings of his saving grace by faith.

Second, Christ was sent to restore all that was lost by Adam’s fall.¹¹¹ In other words, there is creation and the place of God’s law in it. As already mentioned, because sin is now a natural reality in all men, the accusing moral law of God is always with us. However, while it was not always accusing, it was always with man from the creation of our first parents Adam and Eve. Luther put it this way: “When Adam was first created, the law was for him not only something possible, but even something enjoyable. He rendered the obedience the law required with all his will and with gladness of heart, and did so perfectly.”¹¹²

The law was not only enjoyable to Adam. It was something that was not alien to him because, while of God, it was in him and is in all men after him:

¹¹¹ Cf. ODE, 66.

¹¹² ODE, 36.

Moses was not the author of the Decalogue. *Rather, from the foundation of the world the Decalogue was inscribed in the minds of all men*, as we said above. For no nation under the sun was ever so cruel or barbarian and inhuman that they did not understand that God is to be worshiped, loved, and that praises should be give to his name—even if they erred in the way and means of worshiping God. The same is true concerning the honor and obedience toward parents and superiors. Likewise, vices have been shunned, as it can be seen in the first chapter to the Romans.

But later, since men finally arrived at a point where they cared neither for God nor for men, God was forced to renew those laws through Moses and, written by his own finger on tablets, *to place them before our eyes so that we might be reminded of what we were before Adam's fall and of what we shall be in Christ one day*. Thus, Moses was merely something like an interpreter or illustrator of the laws written in the mind of all men wherever they might be under the sun in the world.¹¹³

“What we shall be in Christ one day” begins in the conversion of sinners to the living God in the power of baptism¹¹⁴ and is first completed in our death and resurrection, as Luther pointed out:

[I]n this way sin is removed in a formal and purging manner, since here, day by day, I purge and mortify more and more the sin that still remains in my flesh, until finally all that belongs to the old man is removed and consumed and a pure and glorified man without any blemish and defect comes forth.¹¹⁵

Luther describes this process also as Christ's rising in his people. He is not risen completely yet, but one day, he will be:

In the risen Christ there certainly is no sin, no death, no law, to all of which he was subject while living [b]ut the same Christ is not yet perfectly risen in his believers, he rather begins to be raised from death in them, as firstfruits. In the impious, however, whose larger number is mingled among the Church, he is still completely dead, yes, utterly nothing. And they are simply under the law, and they must be terrified by the law, if it were possible, as by a physical lightning bolt. To the extent Christ is risen in us, we are without law, sin, and death. To the extent, however, he is not risen in us yet, we are under law, sin, and death.¹¹⁶

When Christ is risen completely in us, then we will be like the angels and the saints who have gone to heaven before us. Then for us too, the law will be once again simple, empty, that is,

¹¹³ ODE, 104-105.

¹¹⁴ Cf. SC IV, 10-12; LC IV, 64-76.

¹¹⁵ ODE, 91.

¹¹⁶ ODE, 135.

devoid of all its coercion, threats, and admonitions. The Christ will have brought us back into paradise, to where Adam was before he fell.

[T]he law itself ceases formally when what the law demands is done in us, and we render it freely and willingly, not because the law demands it, but out of love of righteousness and of goodness and of God himself. The law is empty because it does not have anything to demand or accuse of, since “they do by their nature what the law requires” (cf. Rom. 2:14). In the same way, the law ‘Yield fruit!’ is empty to the fertile and fruit-bearing tree, since it yields fruit by its own nature. Here the law has no greater efficacy than wax or ciphers made of chalk in paying the debt. Such is the law for the angels.¹¹⁷

Then God’s first word to man will be heard once again, simply as the eternal, unchanging will of his it is:

The Decalogue, however, is greater and better because it is written in the hearts and minds of all and will remain with us even in the coming life. Yet not so circumcision, as baptism also will not remain, but only the Decalogue is eternal—as such, that is, not as law—because in the coming life things will be like what the Decalogue has been demanding here.¹¹⁸

In summary, while in eternity the gospel will have run its course, there is no *eschaton* without God’s moral law. However, on the Last Day, when the Holy Spirit “will raise me and all the dead, and give eternal life to me and all believers in Christ,” there will begin for those “believers in Christ” an *eschaton* devoid of the moral law’s condemnation and admonition but filled with joyful delight in God’s eternal law, the Ten Commandments (Ps. 1:2), in the church triumphant.

¹¹⁷ ODE, 93, cf. ODE, 91-92: “For this too must be observed carefully that there is a difference between the law that is empty, or quiescent, or taken simply, and the law that accuses us or is the handwriting of the decree (Col. 2:14) written on our hearts (Rom. 2:15), which reaches to the angels and saints in heaven. The law is empty speech, because they do with joy the things of the law.”

¹¹⁸ ODE, 75, cf. SD VI, 24-25.