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A Third Use of the Law:¹ Is the Phrase Necessary?

Larry M. Vogel

Well, if you put it that way, no.

Yes, the phrase is in the *Book of Concord*, in the Formula of Concord, Article VI. Yes, we confess it with that whole corpus to be teaching that is "a true exposition of the Word of God."² However, if the use of the indefinite article in our ordination vows is ever to be emphasized, this is such a place. The Confessions self-consciously stand within the Western catholic tradition of faithful teaching, but they do not delimit that tradition, nor are their articulations the only possible orthodox expressions of the faith. Faithful teachers and preachers of the Scriptures, standing within the catholic, trinitarian faith, and even within our confessional family do not all employ the phrase "Third Use of the Law" in their teaching.

C. F. W. Walther pointed out that "heresy is not so much in the terms one uses as in the matter which one teaches, although the terms are not to be treated as an indifferent matter."³ So, let us take the indefinite article fully to heart and consider that other faithful explications and articulations of the word are possible.

However, where the issue of what pertains to the very being (*esse*) of orthodoxy has been resolved, there remains the question of the well-being

¹ Throughout this article I will capitalize the terms *Third Use* and *Law*. *Third Use* refers to the concept as articulated in the Formula of Concord, Article VI, that the Law is a "sure guide" for the regenerate. Robert Kolb and Timothy J. Wengert, eds., *The Book of Concord: The Confessions of the Evangelical Lutheran Church*, tr. Charles Arand, Eric Gritsch, Robert Kolb, William Russell, James Schaaf, Jane Strohl, Timothy J. Wengert (Minneapolis: Fortress Press, 2000). *Third Use* does not imply that the Law enables any good works. The term *Natural Law* will be capitalized when referring to God's intentions or will for human conduct.

² "Ordination," *Lutheran Worship Agenda* (St. Louis: Concordia Publishing House, 1984), 211.

³ C. F. W. Walther, *The Proper Distinction Between Law and Gospel: Thirty-Nine Evening Lectures* (St. Louis: Concordia Publishing House, 1928), 280.

(*bene esse*) of faithful teaching. And so we may reframe the question: "A Third Use of the Law: Is the phrase beneficial in the twenty-first century?"

Well, if you put it that way, yes. The phrase is potentially of great benefit to faithful teaching. Rightly understood it is conducive to a faithful application of the word of God. However, I must admit that my final answer does not seem as immediately obvious to me today as it did twenty-five years ago when I first entered the ministry. For us in the LCMS, the Third Use looms relatively large in our recent history. Scott Murray's book, *Law, Life and the Living God*, documents that history quite helpfully from the standpoint of a firm advocacy of the phrase.⁴ Reviews of Murray's book illustrate how prominent and controversial the topic of a Third Use for the Law continues to be.⁵ And, although Murray makes a convincing case that the denial of the Third Use in American Lutheran circles is connected to the current drift toward antinomianism, it must be noted that there are also many pastors and teachers today who are not antinomian even while they persist in declining the language of a Third Use. So I will give some time to the possibility that the term *Third Use* may not be the most beneficial way to speak about God's Law.

I. An Argument Against Third Use Terminology

There are two reasons to wonder about the benefit of Third Use terminology. The first pertains to an historical fact: the Third Use is an unwelcome novelty. The second concern is that the Third Use is viewed by many as a potential source for legalism to reenter our theology.

An Unwelcome Novelty

Luther had no Third Use of the Law. William Lazareth recapitulates this position:

The international scholarly consensus on Luther and the Law was summarized in 1965 by Wilhelm Maurer. In contrasting Luther's approach with the title and parts of the later Formula of Concord (1577), Maurer judged: 'In Article VI, however, the Gospel is actually subordinated to the Law.'⁶

⁴ Scott R. Murray, *Law, Life, and the Living God: The Third Use of the Law in Modern American Lutheranism* (St. Louis: Concordia Publishing House, 2002), 11.

⁵ The sainted Louis A. Smith was a friendly critic of Murray's book in his "A Third Use Is the First and Second Use," *Lutheran Forum*, 37 (Fall 2003): 64-67. See Matthew Becker for a vehemently critical review <http://www.crossings.org/Thursday/Thur110603.htm> and <http://www.crossings.org/thursday/Thur111303.htm>.

⁶ William Lazareth, "Antinomians: Then and Now," *Lutheran Forum*, 36 (Winter 2002): 18-19. However, against Ebeling's contention that the concept of Third Use is found in

Please note, this is both a historical assertion and a theological judgment. The historical assertion is that the Third Use is not in Luther, but a novelty later added to his theology. The theological judgment is that the gospel is subordinated to the Law in a Third Use of the Law.

The history seems conclusive. Philip Melancthon actually introduced the Third Use into Reformation theology. Timothy Wengert has proven that the phrase comes to us as early as 1534, but its history goes back to the first Antinomian Controversy with John Agricola during the 1520s.⁷ The debate arose because of the Visitation Articles and their attempt to reign in a growing tide of laxity and lawlessness in churches with a superficial understanding of the gospel. Agricola had replied with the assertion that to insist on good works for the believers was a betrayal of the doctrine of justification. Luther supported Melancthon against Agricola, even though he saw much of the debate as more terminological than substantive. By 1534, when Melancthon published the third edition of his *Scholia*, he formalized his view on the necessity of good works by adding a Third Use to his (and Luther's) previously two-fold categorization of the Law's function.⁸ The Third Use then arose as part of a whole clarification of the relationship of justification and good works.

The theological judgment – that the Third Use subordinates the gospel to the Law – is by no means conclusive. Gerhard Ebeling, who missed the 1534 reference to the Third Use in the *Scholia* and first noticed the term in full development only in the *Loci* of 1535, agrees that the essence of the concept, though not the terminology, appears in the Apology and in *The Articles of Visitation*.⁹ Lazareth disagrees, however, quoting Maurer's assertion: "Recent Luther research has adduced the evidence that the

the Apology, Lazareth also quotes Maurer's assertion: "Recent Luther research has adduced the evidence that the doctrine of the third use is foreign to Luther; nor is it set forth in the Augsburg Confession or the Apology."

⁷ Melancthon's response to developing lawlessness was centered, as Wengert shows, both in his early emphasis on *poenitentia* and, eventually, in his addition of a Third Use to the Law's office. Timothy J. Wengert, *Law and Gospel: Philip Melancthon's Debate with John Agricola of Eisleben over Poenitentia* (Grand Rapids: Baker Books, 1997). Chapter six gives the origins of the Third Use, 177-210.

⁸ Wengert, *Law and Gospel*, 177.

⁹ Ebeling's latter contention fits well with Wengert's development of the history of the first Antinomian debate because it was Agricola's disapproval of the *Articles* which led to the intemperate responses which Luther labeled *anti-nomos*. Gerhard Ebeling "On the Doctrine of the *Triplex Usus Legis* in the Theology of the Reformation," in *Word and Faith*, tr. James W. Leitch, (Philadelphia: Fortress Press, 1963), 69; see also and footnotes on 66-67.

doctrine of the third use is foreign to Luther; nor is it set forth in the Augsburg Confession or the Apology.”¹⁰ Gerhard Forde, also sees the Third Use (together with Melanchthon’s tilt toward a view of justification as only forensic) as an idea that came into full force in the era of Lutheran Orthodoxy.¹¹

Therefore, while rating the significance of the difference variously, all agree on this: the Third Use is an unwelcome novelty because Luther had only two. Luther addressed Agricola’s antinomianism simply by continuing to stress the political First Use (curb) and theological Second Use (condemnation or mirror). Luther’s Law of two uses was the genuine article. Melanchthon’s novel idea of a Third Use evidently did not persuade Luther of its value, and receives no endorsement from these later scholars.

If, however, Melanchthon’s Third Use was a novelty over against Luther, then Luther’s two uses are an even greater novelty. The whole matter of uses of the Law is a new perspective from which to think and speak about God’s Law. Wengert notes: “The notion that the law has uses or functions is a peculiarly Protestant concept with origins deep within Martin Luther’s theology.”¹²

Thomas Aquinas summarizes the catholic consensus on Law after a millennia and a half of history. Note his definition: “Law is an ordinance of reason, for the general good, made by whoever has care of the community, and promulgated.”¹³ Aquinas then refers to a divine eternal law (*lex aeterna*). “The plan by which God, as ruler of the universe, governs all things, is a law in the true sense. And since it is not a plan conceived in time we call it the eternal law.”¹⁴ Finally, Aquinas makes plain that Law in this sense is a way to speak of God’s will. “As to God’s will, if by that we mean the will itself, identical with God, then it is not subject to the eternal law but is itself the law”¹⁵ That is the old teaching about the Law prior to Luther. This essential perspective goes back through catholic tradition to the earliest fathers, such as Irenaeus of Lyons, who wrote: “At first God deemed it sufficient to inscribe the natural law, or the Decalogue, upon the hearts of men; but afterwards he found it

¹⁰ Lazareth, “Antinomians: Then and Now,” 19.

¹¹ Gerhard O. Forde, *The Law-Gospel Debate: An Interpretation of Its Development* (Minneapolis: Augsburg Press, 1969); see especially 175–199 for his response.

¹² Wengert, *Law and Gospel*, 191.

¹³ Thomas Aquinas, *Summa Theologiae, A Concise Translation*, ed. Timothy McDermott, (Allen, TX: Christian Classics, 1989), 90:4, 281.

¹⁴ Aquinas, *Summa Theologiae*, 91:1, 281.

¹⁵ Aquinas, *Summa Theologiae*, 93:4, 285.

necessary to bridle, with the yoke of the Mosaic Law, the desires of the Jews."¹⁶ Augustine is credited with the most extensive early development of the concept. Throughout the tradition is a view of God's Law which sees it as his eternal will, with the understanding that God can and does variously apply that Law with changing ordinances or statutes (positive law).

Over against this tendency to think of Law as an enduring ordinance of reason or *lex aeterna* and thus in relatively static or theoretical terms, there is something novel in both Luther's two uses and Melancthon's third. In both, the Law is understood relationally or dialectically.¹⁷ The use, not the fixed order, is emphasized; or, in other words, the office of the Law is given new attention over against a prior focus on its nature. That blessed novelty recovers the scriptural focus on what God does rather than a more philosophical focus on ideas about God's Law. In their emphasis on the office or uses of the Law, however, neither Luther nor Melancthon lost the nature of the Law.¹⁸ Both showed an obvious awareness that the relational functioning of the Law flows from its inscription on the human heart (Ps 37:31; 40:8; Rom 2:14).

Luther's rejection of Agricola, *Against the Antinomians*, is grounded in the fact that God's Law is unable to be abolished for it cannot be removed from the human heart.

Whoever abolishes the law must simultaneously abolish sin. If he permits sin to stand, he must most certainly permit the law to stand; for according to Romans 5 [:13], where there is no law there is no sin. And if there is no sin, then Christ is nothing. Why should he die if there were no sin or law for which he must die? It is apparent from this that the devil's purpose in this fanaticism is not to remove the law but to remove Christ, the fulfiller of the law. For he [Satan] is well aware that Christ

¹⁶ St. Irenaeus of Lyons, *Adversus Haereses*, Book IV, Chapter 15.

¹⁷ For a brief but focused insight on the dialectical-relational aspect of Law and Gospel, see Smith, "A Third Use Is the First and Second Use," 67.

¹⁸ One of the many helpful aspects of Murray's book is his argument not only for an emphasis upon the notion of *simul justus et peccator* in teaching and practice, but also upon the need to emphasize again the eternal *given-ness* of the Law as *lex aeterna*; see Murray, *Law, Life, and the Living God*, 91-165.

can quickly and readily be removed, but that the law is written in the depth of the heart and cannot be erased.¹⁹

Pastoral concern led Luther and Melancthon to the dialectical office of the Law and its two uses. No less a pastoral concern caused them also to hold fast to the eternal dimension of the Law or will of God in the lives of believers. In so doing, both men enabled the new, evangelical emphasis upon the Law's relational functioning to be in the service of conserving the unanimous catholic understanding of the Law's continuing validity, seen clearly in the enduring notion of Natural Law. This is yet another area where Luther's Reformation sought not to repudiate the catholic consensus but to correct and complement it. Melancthon's Third Use is not a betrayal of the evangelical catholic spirit, but an example of it, seeking to purify, not recreate, the church.

Potential Legalism

There is a second, corollary argument against Third Use terminology which demands even more critical examination—the charge that it fosters legalism. By the term *legalism*, I specifically mean the teaching that one's salvation is to any degree dependent upon one's fulfillment of God's Law.²⁰

¹⁹ Martin Luther, *Luther's Works*, Vol. 47: *The Christian in Society IV*, American Edition, ed. Jaroslav Jan Pelikan, Hilton C. Oswald, and Helmut T. Lehmann (Philadelphia: Fortress Press, 1971), 110.

²⁰ Current dictionaries give as the first definition of the word *legalism* something along the lines of "strict adherence" to a law or code, e.g., *American Heritage Dictionary*, online at <http://dictionary.reference.com/search?q=legalism> or s.v. *Random House Webster's College Dictionary*, (New York: McGraw-Hill, 1991). Theological resources provide a little more clarity in the use of this slippery term. "A theological position which demands strict conformity to laws, codes, rules as the 'way' of salvation; a moralistic interpretation of the Scriptures; adherence to the letter rather than to the spirit of the Law;" Julius Bodensieck, ed., "Legalism" in *The Encyclopedia of the Lutheran Church*, Vol. II (Minneapolis: Augsburg Publishing House, 1965), 1282. More helpful though is Watson: "In ethics, legalism is the idea that strict conformity to prescribed rules of conduct is the hallmark of moral goodness, even though the claims of compassion or even commonsense are thereby inhibited. In theology, it is the idea that man's fulfillment of God's law is the indispensable foundation of man's standing with God. It makes no difference whether the requirement of the law is understood in terms of outward conduct or inward motivation, or whether the fulfillment is brought about by man's unaided efforts or by the assistance of divine grace. *The point is that the religious relationship is governed by the law;*" P. S. Watson, ed., "Legalism" in *A Dictionary of Christian Theology* (Philadelphia: Westminster, 1969), 191; emphasis mine.

Gerhard Forde has passionately argued against common notions of sanctification.²¹ Forde defines sanctification, as “the art of getting used to the unconditional justification wrought by the grace of God for Jesus’ sake” and, secondarily, as “being salvationed,” in an attempt to put the German noun *Die Heiligung* into English.²²

[S]anctification has been sharply distinguished from justification, and thus separated out as the part of the ‘salvationing’ we are to do We become the actors in sanctification. This is entirely false. According to Scripture, God is always the acting subject, even in sanctification.²³

Since “talk about sanctification in any way apart from justification is dangerous,” Forde distinguishes the gospel’s unconditional promises from the Law’s conditionality.²⁴ Even faith is no condition: “The unconditional promise, the divine decree of justification, grants everything all at once to the faith it creates”²⁵

A gospel which bespeaks us righteous forces radically different thinking about sanctification. Conditional thinking, where sanctification is viewed as “making progress in cutting down on sin,” is denied.²⁶ Justification is incompatible with most ideas of progress.

There is a kind of growth and progress, it is to be hoped, but it is growth in grace—a growth in coming to be captivated more and more . . . by the totality, the unconditionality of the grace of God As Luther put it, “To progress is always to begin again.”²⁷

All of Forde’s points about sanctification echo the worries many recent Lutherans have regarding the Third Use of the Law. The Third Use is viewed as part and parcel of a sanctification scheme that brings salvation to its fullness with our part of the equation. The worry seems valid: “Did you receive the Spirit by works of the law or by hearing with faith? Are you so foolish? Having begun by the Spirit, are you now being perfected by the flesh” (Gal 3:2b–3 ESV)?

²¹ Donald L. Alexander, ed., *Christian Spirituality: Five Views of Sanctification* (Downers Grove: InterVarsity Press, 1988). Forde’s view is followed by Reformed, Wesleyan, Pentecostal, and Contemplative perspectives.

²² Alexander, *Five Views of Sanctification*, 13.

²³ Alexander, *Five Views of Sanctification*, 15.

²⁴ Alexander, *Five Views of Sanctification*, 16.

²⁵ Alexander, *Five Views of Sanctification*, 23.

²⁶ Alexander, *Five Views of Sanctification*, 23.

²⁷ Alexander, *Five Views of Sanctification*, 27–28.

To paraphrase Paul, the enduring worry about the Third Use is this: Having begun by the gospel, are you now perfected by the Law? C. F. W. Walther shared this concern: "If these two doctrines are not kept separate, the merit of Christ is obscured; for when I am afraid of the threatening of the Law, I have forgotten Christ . . ." ²⁸ For the Law is dangerous. It slays the old man and his proud thought that he needs no savior. But it may also slay the new man if the gospel is silenced, and he looks to his perfection or progress as the means of completing a salvation that justification has left incomplete.

Any doubt about the potential of legalism entering theology via the Third Use is laid to rest by evangelical-Protestant teaching on the subject.²⁹ Despite the diversity of Protestant thinking on the Law, John Calvin's theological influence continues to be a dominant force. John P. Burgess, attempting to ground a theology of Law in the gospel, distinguishes between Luther and Calvin. For Luther, the emphasis in his understanding of the Law is its continuing accusation while obedience and good works flow spontaneously from faith.

But Calvin, having once noted that our flesh is sinful and lazy, insists that we cannot do without an external pattern of righteousness. We need to be reminded of God's will and we need to be spurred into action . . . [Therefore, f]or Luther, the "principal use" of the law is its spiritual, accusing use, whereas for Calvin it is the third use.³⁰

Burgess notes how, unlike Luther, Calvin thinks "we really can grow in righteousness."³¹ The focus of Christian life becomes one of Law. Burgess asserts:

To live by the commandments, then, is to enter more fully into the life of God, as it has been mediated to us by Christ. The commandments are not a futile exercise in external religiosity. They cannot be opposed to a truer, more genuine piety of the heart. *The commandments set forth Christ to us*—not only by telling us more concretely and specifically of his way of life, but also by *communicating his living presence to us. To live by the law*

²⁸ Walther, *The Proper Distinction Between Law and Gospel*, 64.

²⁹ Evangelical, Protestant, Evangelical Protestant, and Protestant Evangelical are used interchangeably. They are capitalized to denote a tradition apart from the (Eastern) Orthodox, Roman Catholic, or Lutheran communions.

³⁰ John P. Burgess, "Calvin's Third Use of the Law: An Assessment of Reformed Explications of the Ten Commandments," (paper delivered to The Society of Christian Ethics, 2001), 7; it is available online at://faculty.samford.edu/~whbunch/Chapter9.pdf.

³¹ Burgess, "Calvin's Third Use of the Law," 7-8.

is like feeding on the eucharist (or, as Reformed theology would emphasize, also like hearing the preached word). *Obedience, like receiving the bread and wine, strengthens faith.* Law and eucharist can become forms of works-righteousness, but need not be.³²

Despite his laudable desire to oppose antinomian forces from a standpoint of grace, to say that living "by the law is like feeding on the eucharist," or that "[o]bedience strengthens faith" are crass examples of legalism, possible only from one with fatally marred views both of the Law of God and, more importantly, the Holy Sacrament. Law is viewed as having the power to enable good works. More troubling, the Eucharist is an ordinance we obey, not a gift we receive.³³

While Burgess makes a significant, albeit failed, attempt to avoid legalism, other Evangelicals seem to have little ability even to discern the danger of a legalistic view of our relationship with God. Rick Warren, for example, while he makes no claim to present a Third Use of the Law per se, consistently goes wrong in his *Purpose Driven Life* precisely in his understanding of the Law in a believer's life.³⁴ Indeed, his central focus is an implicit theology of Third Use shaped by a Reformed mindset. The Bible is an "Owner's Manual" and Warren's view of the Christian life centers in knowing what you are here to do, and not on faith in Christ.³⁵ Justifying faith rates only occasional, decision-focused mention. Warren asserts that on judgment day

"God will ask us two crucial questions: First, 'What did you do with my Son, Jesus Christ?' . . . did you accept what Jesus did for you and did you learn to love and trust him? . . . Second, 'What did you do with what I gave you?' . . . The first question will determine *where* you spend eternity. The second question will determine *what you do* in eternity."³⁶

³² Burgess, "Calvin's Third Use of the Law," 10; emphasis mine.

³³ Clearly, Burgess's view of the Lord's Supper is purely Calvinistic. It is primarily an ordinance to be kept rather than a saving act of God to be received. The emphasis is so skewed toward the "Do this" of the Words of Institution that the reality of the Sacrament is lost and its gracious character abrogated. Those who believe today's battles over the doctrine of the sacraments are mere verbal battles might reflect on the significance of Burgess's perspective.

³⁴ Rick Warren, *The Purpose Driven Life: What On Earth Am I Here For?* (Grand Rapids: Zondervan, 2002).

³⁵ Warren, *The Purpose Driven Life*, 20: "[The Bible] is our Owner's Manual, explaining why we are alive, how life works, what to avoid, and what to expect in the future."

³⁶ Warren, *The Purpose Driven Life*, 34, emphasis original.

Another book, *Five Views on Law and Gospel*, provides a fascinating look at the internal debates regarding the Law among Evangelicals.³⁷ With views ranging from a classical Reformed perspective to a modified Lutheran view, five authors provide their perspective on how the Christian is to view the Law, or, more specifically, what role the Old Testament is to play as Law in the life of the Christian. Three of the five authors assert some form of endorsement of the continuing validity of the Mosaic Law. From a classical standpoint emphasizing moral Law only,³⁸ to a reconstructionist view denying only ceremonial obligations,³⁹ the authors assert to one degree or another that Christians live under obligation to obey the Old Testament.⁴⁰ All of Paul's warnings about the deadly power of the Law are references only to a legalistic misunderstanding that works could justify rather than references to the Law itself.⁴¹ Apart from ceremonies, the Old Testament provides the standards for Christian life.⁴²

Two other authors see discontinuity between the Old Testament and New Testament, denying that the Old Testament law remains obligatory. One contrasts the Law as the means of Old Testament sanctification with the Spirit sanctifying in the New Testament.⁴³ The last, Douglas Moo,

³⁷ Greg L. Bahnsen, ed., *Five Views on Law and Gospel*, (Grand Rapids: Zondervan, 1996). This book contains essays by Willem VanGemenen (classic Reformed), Greg L. Bahnsen (Theonomic Reformed), Walter C. Kaiser, Jr. (OT exegete), Wayne G. Strickland (dispensational), and Douglas J. Moo ("modified Lutheran").

³⁸ Willem VanGemenen, "The Law is the Perfection of Righteousness in Jesus Christ," in *Five Views on Law and Gospel*, 29-30. He stresses that the Law's purpose "is Christian growth in grace, not justification or merit" (42) and sees the Ten Commandments as the summary of God's will and "the basis of the other codes" in both OT and NT.

³⁹ Bahnsen defends the theonomic (reconstructionist) perspective, "committed to the transformation or reconstruction of every area of life, including institutions and affairs of the socio-political realm, in accord with the holy principles of God's revealed Word . . ." [emphasis mine]. Greg L. Bahnsen, "The Theonomic Reformed Approach to Law and Gospel," in *Five Views on Law and Gospel*, 118, 124-139, 142.

⁴⁰ See Walter C. Kaiser, Jr., "The Law as God's Gracious Guidance for the Promotion of Holiness," in *Five Views on Law and Gospel*, 177-203. His discussion of the broad meaning of *torah* is somewhat helpful, but lacking the clarity of H. D. Hummel and other Lutheran exegetes. See Horace D. Hummel, *The Word Becoming Flesh: An Introduction to the Origin, Purpose, and Meaning of the Old Testament* (St. Louis: Concordia Publishing House, 1980).

⁴¹ Kaiser, "The Law as God's Gracious Guidance for the Promotion of Holiness," 188.

⁴² Kaiser, "The Law as God's Gracious Guidance for the Promotion of Holiness," 198-199. Kaiser sees the civil laws primarily from the standpoint of continuing validity because of their moral core while disputing the continuing acceptance of their penalties.

⁴³ Wayne G. Strickland, "The Inauguration of the Law of Christ with the Gospel of Christ," in *Five Views on Law and Gospel*, 229-279.

defends what he calls a "modified Lutheran" view, rejecting Calvin's emphasis on the Third Use of the Law, but also rejecting a primarily theological understanding of Law. Therefore, his rejection of the Law of Moses does not preclude legalism, for his emphasis on love as the focus of Christian sanctification leaves believers with yet another, more impossible standard of condemnation.⁴⁴ In the end, this five-way dialog is less about Gospel than Law, and primarily about a rather narrow legal question: Which laws apply?

It is not that we can avoid this question altogether, but Luther addresses another, more important, question: How shall we promote the Law?⁴⁵ His warning from the *Heidelberg Disputation* cannot be ignored: "The works of the righteous would be mortal sins if they would not be feared as mortal sins by the righteous themselves out of pious fear of God."⁴⁶

Even when Luther encountered Agricola's antinomianism, he was acutely aware of a two-front war. He saw the antinomian danger: "the devil devotes himself to making men secure, teaching them to heed neither law nor sin, so that if sometime they are suddenly overtaken by death or

⁴⁴ Douglas J. Moo, "The Law of Christ as the Fulfillment of the Law of Moses: A Modified Lutheran View," in *Five Views on Law and Gospel*, 319-376. While Moo's position is perhaps closest to a confessional Lutheran perspective (focusing on the accusing role the OT Law plays and refusing to redefine Paul's assertions that we are no longer "under the Law" as simply meaning that we are no longer to try to be justified by keeping the Mosaic Law), his salvation-historical view of Law leads him toward a position that the "Law of Christ" is an evolved understanding that love fulfills the Law.

⁴⁵ Much of Luther's teaching dealt precisely with the question of what laws should be promoted under the Gospel. One need only recall the vehement disputes of the Reformation over human traditions displacing God's commands as well as later debates with the Radical Reformation over the role Moses should play to know how important that question was for Luther. See his "Sermon on the Three Kinds of Righteousness" (1521) with its indictment of the false righteousness based on obedience to the laws of man rather than the laws of God at work in the Roman church in *Luther's Works, Vol. 44: The Christian in Society I*, American Edition, ed. Jaroslav Jan Pelikan, Hilton C. Oswald and Helmut T. Lehmann (Philadelphia: Fortress Press, 1966), 235-242. On the other hand, see "How Christians Should Regard Moses" (1525) in *Luther's Works, Vol. 35: Word and Sacrament I*, American Edition, ed. Jaroslav Jan Pelikan, Hilton C. Oswald, and Helmut T. Lehmann (Philadelphia: Fortress Press, 1960), 164-166; and "Against the Heavenly Prophets" (1525) in *Luther's Works, Vol. 40: Church and Ministry II*, American Edition, ed. Jaroslav Jan Pelikan, Hilton C. Oswald, and Helmut T. Lehmann (Philadelphia: Fortress Press, 1958), 97, which address the abrogation of Moses and improper urging of Old Testament Law by the sectarians.

⁴⁶ Martin Luther, *Luther's Works, Vol. 31: Career of the Reformer I*, American Edition, ed. Jaroslav Jan Pelikan, Hilton C. Oswald, and Helmut T. Lehmann (Philadelphia: Fortress Press, 1957), 40, 45-46.

by a bad conscience, they have grown so accustomed to nothing but sweet security that they sink helplessly into hell."⁴⁷ But he also saw the irony that antinomianism does not avoid the Law: "they want to do away with the law and yet teach wrath, which is the function of the law alone. Thus they merely discard the few letters that compose the word 'law,' meanwhile affirming the wrath of God, which is indicated and understood by these letters."⁴⁸ But none of this led Luther to adopt Third Use terminology.

It is also noteworthy that Walther, in his greatest work, pointed focus elsewhere than the Third Use of the Law. In *Law and Gospel* he never uses Third Use terminology or quotes from Article VI of the Formula. When he explains how to promote good works and godly living, he pointedly turns his hearers' attention away from any use of the Law to the Gospel.⁴⁹

Indeed, the danger of legalism is real. To make Law the center of Christian life is to forget the Gospel. And, ironically, it is to promote deadly sin. The recognition of this critically important truth is Luther's most profound insight. No wonder so many of his students have questioned any formulation that might be understood to encourage godly living by focusing on the Law of God.

"He is not righteous who does much, but he who, without work, believes much in Christ," warns Luther.⁵⁰ A misunderstood Third Use becomes the great misuse of the Law where it is thought to teach that the really important thing for a Christian is to get busy and "do all the great things God intends for me to do," or where it implies that the regenerate child of God now needs nothing but an instruction manual to finish the salvation that was started by faith. All the busyness of Christian life becomes a blasphemous elevation of my purpose while the simple worship of faith is forgotten. After all, it is "The Law [that] says, 'do this,' and it is never done. [While g]race says, 'believe in this,' and everything is already done."⁵¹

If antinomianism is less an eternal danger than legalism, and if the Third Use as a phrase is potentially confusing, perhaps we should let it go. After

⁴⁷ LW 47:111.

⁴⁸ LW 47:115.

⁴⁹ Walther, in Thesis XXIII, opposes any confusion of Law and Gospel with regard to Christian living: "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." *The Proper Distinction between Law and Gospel*, 381–390.

⁵⁰ LW 31:55.

⁵¹ LW 31:56.

all, it is arguable, as William Lazareth and Louis Smith have pointed out, that the Third Use, from a Lutheran standpoint, is “not so much a different use of the Law of God as it is a different user.”⁵²

Yet, I am not convinced. Indeed, perhaps the most important reason that the arguments against Third Use are unpersuasive is the confusion, terminological and theological, that has ensued in our era where Third Use has been widely rejected. In many cases, antinomianism has resulted. But, more importantly, those teachers and theologians who have recognized the danger of antinomianism while also declining Third Use language have inevitably sought other words to express the continuing call to good works for believers. As Murray points out so well, a desire to uphold the enduring character of ethical norms shows itself in a cacophony of new terms—*Gebot*, *paraklesis*, gospel imperative, imperatives of grace, second use of the gospel—none of which finally resolve the problem of effectively communicating God’s truth.⁵³ Terminological confusion, rather than being resolved, abounds.

What must be emphasized is that the real point of confusion is not so much centered in the uses of the Law—either their numbering or a particular phrase—but in the very doctrine of divine Law itself. Neither adopting nor rejecting the phrase Third Use of the Law will necessarily save us from the dangers of antinomianism on one side or legalism on the other. But the concept of the Third Use as it is confessionally defined will help us.

II. Third Use of the Law: Benefits of the Terminology

Antinomianism: A Continuing Challenge

The obvious reason to retain Third Use terminology is the purpose for which it was originally developed. Few will disagree that Western civilization and, more specifically, popular American culture have changed dramatically in recent years. Samuel P. Huntington reminds us what civilization and culture are all about.

Civilization and culture both refer to the overall way of life of a people, and a civilization is a culture writ large. They both involve the “values,

⁵² Lazareth, “Antinomians: Then and Now,” 20. See also Smith, “A Third Use Is the First and Second Use,” 67: “The first and second uses are directed to actual believers as much as to anyone and my denial of a third use is not at all a denial of a place for the Law in the lives of Christians.”

⁵³ Murray, *Law, Life, and the Living God*, 107-111. Smith also grants this point; “A Third Use Is the First and Second Use,” 66.

norms, institutions, and modes of thinking to which successive generations in a given society have attached primary importance" Of all the objective elements which define civilizations, however, the most important usually is religion⁵⁴

It is in these areas where the most obvious cultural changes are occurring both in Western civilization and in popular American culture.⁵⁵ While American culture is far more religious than European, to ignore the level of cultural change pertaining to religion in America would be blindness. One can clearly see a dramatic shift taking place, less in terms of external identification with Christianity than in moral beliefs and behavior. George Barna's continuing studies strongly suggest that a growing percentage of Americans view such personal conduct as drunkenness, pornography, adultery, fornication, and homosexual conduct as morally acceptable. Most troubling, but not surprising, is that the rates of change are highest in the age groups from 18 to 38.⁵⁶ A decade long study of American teens by the Josephson Institute of Ethics reveal a generation of young people in which a growing majority cheat, lie, and engage in violence with little or no sense of guilt.⁵⁷

Sexual conduct may elicit the most frequent commentary regarding changes in moral attitudes and behavior. If reality television is in any way an indicator of American culture, then shamelessness in general—indeed, an arrogant shamelessness incapable of embarrassment—is the prime indication of a moral sea-change. After all, it is morality, an inner sense of right and wrong, that produces shame. To lose morality is to glory in shame (Phil 3:19).

⁵⁴ Samuel P. Huntington, *The Clash of Civilizations and the Remaking of World Order* (New York: Simon & Schuster, 1996), 41–42. Huntington incorporates the definition of Adda B. Bozeman, see endnotes 1 and 4 on 325.

⁵⁵ One must distinguish between the concepts of Western civilization and popular American culture, especially with respect to religion. If we divide Western civilization into two major foci, European and American culture, then religious change is most dramatic in Europe and, at least arguably, rather minimal in America. Europe is, by all accounts, essentially irreligious. America, on the other hand, continues to be broadly (if not deeply) religious, and, by self-identification, strongly Christian. See the evidence presented by one who puts the very best construction on the level of religiosity still present in the Western world; Philip Jenkins, *The Next Christendom: The Coming of Global Christianity* (Oxford: Oxford University Press, 2002), 94–105.

⁵⁶ See, e.g., "The Barna Update: Morality Continues to Decay," Nov. 3, 2003, <http://www.barna.org/FlexPage.aspx?Page=BarnaUpdate&BarnaUpdateID=152>.

⁵⁷ Josephson Institute of Ethics, "2002 Report Card on the Ethics of American Youth: Press Release and Data Summary," <http://www.josephsoninstitute.org/Survey2002/survey2002-pressrelease.htm>.

Make no mistake, this is not only a secular problem. Barna does maintain that those Christians he identifies as evangelical (by his criteria, this would include members of the LCMS and perhaps many Roman Catholics), have both convictions and behavior significantly different from the norms. Nevertheless, it is clear that in American Christianity theological confusion and antinomianism both abound. Ours is a culture with ever-expanding laws coupled with growing lawlessness. Rights are everything to us, restrictions are for others.

Yet, with all our moral confusion, Satan has not quite extinguished the sickening feeling in our gut that something is wrong—at least with others—if not myself. For, in the midst of our antinomianism, there is also a raging flood of anomie. Lawlessness indeed means pointlessness. As much as we hate it, we long for some moral bounds and for a consequent sense that there is a reason, order, and point to human existence. So, in pharisaical irony, while we insist that greed is good and fornication an inalienable right, we also hiss at the sins *du jour* and console ourselves with our moral decency: I'm not a Martha Stewart or a pedophile priest.

Both the Roman Catholic Church and Evangelicalism are seeking to address the chaos. The letters and encyclicals of John Paul II as well as the *Catechism of the Catholic Church* have addressed the lawlessness that is rampant particularly within the Western world. The *Catechism* again asserts a largely Scholastic progression from Law to counsels,⁵⁸ while John Paul has pointedly addressed the "soulless vision of life" in America and the Western world.⁵⁹ The encyclical *Veritatis Splendor* vigorously upholds the idea of divine Law and its necessary role in human conceptions of societal life. In that encyclical John Paul II identifies that the moral problem is connected to a deeper doctrinal one: "currents of thought which

⁵⁸ Starting from the catholic consensus on Natural Law, the Roman Church then focuses on the Mosaic Law, now fulfilled, and, lastly, the Law of Christ. Beyond the rubric of obligatory Law, the "Evangelical Counsels" are offered as without demand "to remove whatever might hinder the development of charity." "The precepts of the Church," on the other hand, are obligations guaranteeing "to the faithful the very necessary minimum [!] in the spirit of prayer and moral effort, in the growth in love of God and neighbor." *Catechism of the Catholic Church: Revised in accordance with the Latin Text promulgated by Pope John Paul II*, 2nd Edition (Vatican City: Libreria Editrice Vaticana, 1997), III:1950-1984, 2030-2051.

⁵⁹ Quoted by Dale Buss, "Christian Teens? Not Very," *Wall Street Journal*, Friday, July 9, 2004.

end by detaching human freedom from its essential and constitutive relationship to truth.”⁶⁰

Evangelicals have also tried to address our antinomian confusion. Not all of the growth of Evangelicalism is by entertainment evangelism! Much is due to a steadfast and commendable willingness to speak out on matters of right and wrong and to articulate clearly a Christian vision for the meaning of life. Rick Warren’s book, for example, although theologically flawed, is noteworthy for the responsive chord it has struck. In a society where consumerism and rank lawlessness are consistent characteristics of the American soul, Warren has clearly identified a pressing need.⁶¹ Moreover, the influence of Evangelicals in the so-called culture wars has been significant. Evangelical pastors, theologians, and laity are addressing both our antinomianism and our anomie.

From the standpoint of Lutheran theology it is clear that neither the Roman Catholic nor the Evangelical approaches to lawlessness adequately address the problem. However, it is debatable whether any Lutherans have provided equally effective contemporary responses to our culture. Our relative silence is unfortunate—particularly the silence of the LCMS—because we are uniquely positioned to learn from both groups of fellow Christians and address these issues from the most genuinely ecumenical and thorough standpoint. That is to say, more than virtually any other Christian group, we ought to be able to provide a genuinely evangelical and catholic voice to address our society’s problems. The Third Use of the Law may help.

One Law Through All Ages

This is so because to reaffirm the Third Use of the Law as it is confessionally conceived, would, first, require a recovery of the idea of Natural Law. Carl Braaten points out that Protestants in general have tended in recent time to minimize or even deny the notion of Natural Law. Indeed, among Lutherans, part of the discomfort with the Third Use of the

⁶⁰ John Paul II, “*Veritatis Splendor*,” 6 August 1993 (Vatican City: Libreria Editrice Vaticana, 2003), http://www.vatican.va/edocs/ENG0222/_INDEX.HTM.

⁶¹ I do not want to imply that Warren’s *Purpose Driven Life* is all bad. I am impressed by his expansive grasp of Scripture, his insightful diagnosis of our society’s deep need for a sense of purpose, and his ability winsomely and memorably to articulate his ideas. However, as is so often the case with our Evangelical brothers, theological imbalance is the problem. Ignoring or demeaning the great deposit of catholic consensus leads inevitably to a reformation which is every bit as theologically dangerous as the Romanism they seek to address.

Law has included a distancing from Natural Law.⁶² For Luther, however, Natural Law is foundational to his theology of Law. The Law on our hearts (Rom 2) precedes the fall. Luther endorses the catholic consensus on the eternal Law underlying the Natural Law but strips it of the accretions of Scholastic theology.

In his 1519 Lectures on Galatians, Luther states:

No less carefully must one understand that very popular distinction which is made among natural law, the written law, and the law of the Gospel. For when the apostle says here that they all come together and are summed up in one, certainly love is the end of every law, as he says in 1 Tim 1:5. But in Matt. 7:12 Christ, too, expressly equates that natural law, as they call it—“Whatever you wish that men would do to you, do so to them”—with the Law and the prophets when He says: “For this is the Law and the prophets.” Since He Himself, however, teaches the Gospel, it is clear that *these three laws differ not so much in their function as in the interpretation of those who falsely understand them.* Consequently, this written law, “You shall love your neighbor as yourself,” says exactly what the natural law says, namely, “Whatever you wish that men would do to you [this, of course, is to love oneself], do so to them [as is clear, this certainly means to love others as oneself].” But what else does the entire Gospel teach? *Therefore there is one law which runs through all ages, is known to all men, is written in the hearts of all people, and leaves no one from beginning to end with an excuse, although for the Jews ceremonies were added and the other nations had their own laws, which were not binding upon the whole world, but only this one, which the Holy Spirit dictates unceasingly in the hearts of all.*⁶³

⁶² Carl E. Braaten, “Natural Law in Theology and Ethics,” in *The Two Cities of God: The Church’s Responsibility for the Earthly City*, ed., Carl E. Braaten and Robert W. Jenson (Grand Rapids: William B. Eerdmans Publishing Co., 1997), 42–43; see also e.g., Gustaf Aulén, *The Faith of the Christian Church* (Philadelphia: Fortress Press, 1960) and William Lazareth, *Christians in Society: Luther, the Bible and Social Ethics* (Minneapolis: Fortress Press, 2001), 74, 239. Lazareth objects to the notion that Natural Law is an eternal law (*lex aeterna*).

⁶³ Martin Luther, *Luther’s Works, Vol. 27: Lectures on Galatians, 1535, Chapters 5–6, 1519, Chapters 1–6*, American Edition, ed. Jaroslav Jan Pelikan, Hilton C. Oswald, and Helmut T. Lehmann (St. Louis: Concordia Publishing House, 1964), 355; emphasis mine. See also Piotr J. Malysz, “The Third Use of the Law in Light of Creation and the Fall,” in *The Law in Holy Scripture*, ed. Charles A. Gieschen (St. Louis: Concordia Publishing House, 2004), 211–237.

"One law through all ages" describes Luther's perspective—and that Law is the Law of nature, inscribed by the Creator from the very beginning, underlying the Old Testament Law and made explicit by the New Testament. Thus he clarifies a point of confusion that continues to exist regarding what to do with Moses's stipulations versus the "Law of Christ" versus necessary but changing man-made rules for communities. The persisting confusion that fails to see that Christ demands no more of us than God had ever asked—that the Law of love for God and the neighbor originates neither in Christ, nor in Moses, but from the very beginning—is resolved.

Again in 1525, Luther clearly opposed any sort of gospel licentiousness over against God's Law through his affirmation of Natural Law. In his brief *Against the Heavenly Prophets*, he asserts Natural Law as the hermeneutical principle that enables one to distinguish those elements of Mosaic law which still apply to Christians. Additionally, he asserts both the continuing validity of Natural Law and the complete spiritual abrogation of all Law with respect to salvation.

Thus, "Thou shalt not kill, commit adultery, steal, etc.," are not Mosaic laws only, but also the natural law written in each man's heart, as St. Paul teaches (Rom. 2[:15]). Also Christ himself (Matt. 7[:12]) includes all of the law and the prophets in this natural law. "So whatever you wish that men would do to you, do so to them; for this is the law and the prophets." . . . *Where then the Mosaic law and the natural law are one, there the law remains and is not abrogated externally, but only through faith spiritually, which is nothing else than the fulfilling of the law (Rom. 3 [:31]).*⁶⁴

The same understanding of the enduring significance of Natural Law is reflected in the Lutheran Confessions. In the Large Catechism Luther compares and contrasts Law and Gospel, Commandments and Creed, from the standpoint of reason and Natural Law.

From this you see that the Creed is a very different teaching than the Ten Commandments. For the latter teach us what we ought to do, but the Creed tells us what God does for us and gives to us. The Ten Commandments, moreover, are written in the hearts of all people, but no human wisdom is able to comprehend the Creed; it must be taught by the Holy Spirit alone. Therefore the Ten Commandments do not succeed in making us Christians, for God's wrath and displeasure still remain upon us because we cannot fulfill what God demands of us. But the Creed brings pure grace and makes us righteous and acceptable to

⁶⁴ LW 40:96-97; emphasis mine.

God. Through this knowledge we come to love and delight in all the commandments of God because we see here in the Creed how God gives himself completely to us, with all his gifts and power, to help us keep the Ten Commandments: the Father gives us all creation, Christ all his works, the Holy Spirit all his gifts. (LC II,67–69)⁶⁵

Luther is not alone. Melancthon in the Apology similarly asserts Natural Law, with its reasonability, particularly in the area of civil righteousness, as a cause for human susceptibility to the assumption of seeking justification by means of the Law (Ap IV,7–8).⁶⁶ So also the authors of the Formula share this endorsement of Natural Law. Indeed, it is precisely the understanding that the Law of Nature continues from creation to eschaton that results in the confessors' approval of a Third Use of the Law. Listen to the rationale offered at the beginning of Article VI:

We believe, teach, and confess that, although people who truly believe in Christ and are genuinely converted to God have been liberated and set free from the curse and compulsion of the law through Christ, they indeed are not for that reason without the law. Instead, they have been redeemed by the Son of God so that they may practice the law day and night (Ps. 119[:1]). For our first parents did not live without the law even before the fall. *This law of God was written into the heart, for they were created in the image of God.* (Ep VI,2)⁶⁷

The Solid Declaration is even clearer:

For although “the law is not laid down for the righteous,” as the Apostle testifies [1 Tim. 1:9], “but for the unrighteous,” this is not to be understood simply in such a way that the righteous should live without any law. *For God’s law is written in their hearts, and the law was given to the first human being immediately following his creation according to which he was to conduct his life.* Instead, Paul holds that the law cannot burden those whom Christ has reconciled with God with its curse and cannot torment the reborn with its coercion because they delight in the law of the Lord according to their inward persons. (SD VI,5)⁶⁸

Attempts to drive a wedge between Luther and the authors of the Formula on this point strike me as both sophistic and dangerous. Althaus is right to conclude that “[i]n substance . . . [the Third Use] also occurs in

⁶⁵ Kolb and Wengert, *The Book of Concord*, 440.

⁶⁶ Kolb and Wengert, *The Book of Concord*, 121.

⁶⁷ Kolb and Wengert, *The Book of Concord*, 502; emphasis mine.

⁶⁸ Kolb and Wengert, *The Book of Concord*, 588; emphasis mine. See also SD V,17–19, 22

Luther."⁶⁹ That Luther does not use Third Use language does not matter in the least given his vigorous and consistent endorsement of Natural Law. Whether one speaks of Natural Law or eternal Law or the Law on our hearts or immutable Law or, on the other hand, stridently insist on *Gebot* rather than Law, orders of creation instead of natural law, or even, most unhappily of all, gospel imperatives instead of Third Use of the Law (like that will avoid legalism?), all of it comes down to this: from the very beginning, since God placed the stamp of *tôb* (good!) on his creation, there is good and, in its absence or corruption, there is bad. God wills what is good! That will not change. All the Confessions agree. Even critics of a Third Use have to admit that. So Smith asserts a Third Use that he prefers simply to call the continuing first and second uses,⁷⁰ and Lazareth finally asserts: "to be both accurate and fair, the Formula of Concord's Article VI (however mislabeled) is surely faithful to both Paul and Luther in its clear repudiation of the twin ethical errors of legalistic activism and antinomian quietism."⁷¹

The Law Clarified

The Confessions and Luther are consistent in carefully distinguishing both God's enduring insistence on goodness and our failure to achieve it. Indeed, they assert that humans can naturally understand the demand for good and the obvious human failure to be good. The only point of debate between Luther and other confessors on this matter may be how much of the truth of God's Law they think is written on the human heart. Luther (ever the most radical), as we have already seen, consistently asserts that it is all there—all the commands of God are there, from the first to the last, in the Natural Law. The persistence of everything from religion to the Golden Rule and all the rest of humanity's feeble attempts at obedience prove that the whole Law is there for him. Melancthon, on the other hand, is more cautious, talking about aspects of the law that are "far beyond the reach of reason," like faith and trust in God (Ap IV,8).⁷²

This, too, is a distinction without a difference. From Luther to the Formula, there is a consistent understanding not only of Natural Law, but also of the deep corruption of humanity precisely in our reason. We do not even understand what we understand. We do understand that there is good and bad, but we do not really get how deeply we have corrupted the

⁶⁹ Paul Altaus, *The Theology of Martin Luther* (Philadelphia: Fortress Press, 1966), 273.

⁷⁰ Smith, "A Third Use Is the First and Second Use," 67.

⁷¹ Lazareth, *Christians in Society*, 241.

⁷² Kolb and Wengert, *The Book of Concord*, 121.

good. We do long for goodness. Yet that does not make us good. We ache and grieve and ultimately die, but we still do not get how hopeless we are.

So we need God to explain. His Law is made unmistakably clear only when we hear his word. The Law is on our hearts, but we need the clarity of God's word to quell our confusion as Satan asks, "Did God really say?" and our rationalizations for disobedience abound. Only the New Testament finally makes absolutely clear how expansive and profound the eternal Law of God is, but what is clearest from all revealed Law is violation. "Has not Moses given you the Law, yet none of you keeps the law?" (John 7:19). Violation, failure, condemnation, wrath, guilt, death—all the things reason knows but wants to deny—is what God's revealed Word compels us to admit.

For the sake of clarity and truth, we must teach Natural Law. It affirms what all the world knows: something is wrong. And we must also reassert the revealed Law, for it reveals what we do not get: the something wrong is me. The Law destroys our pretensions. It refuses to free us from our sins, but rather binds them ever more tightly to us (Acts 13:39; Matt 16:19), indeed even instigating a frustrated rebellion against its unyielding harshness so sin grows (Rom 5:20; 7:7-9). It continues its accusing (Rom 2:15) until it has finally shouted down all our excuses and rationalizations and shut us up (Rom 3:19). Then, like Judah's lion, it drags us dying to Christ, the Rock that crushes whatever determined pride remains even as he is the Cornerstone for the penitent (Matt 21:42-44; Rom 9:32; 1 Pet 2:1-9).

There is a Third Use of the Law for the same reason there are fourth, fifth, and seventy times seventieth uses of the Law. Believers (a.k.a. "sinner-saints") never out-live their need for penitential preaching while we are part of this natural world in which something called good identifies the reality of evil. That is what Luther told the antinomians: "... if there is no sin, then Christ is nothing. Why should he die if there were no sin or law for which he must die?"⁷³ The Formula confesses the very same understanding in the Epitome's first three affirmative theses and one negative thesis (Ep VI,2-4,8)⁷⁴ or, in the words of the Solid Declaration: "Therefore, as often as believers stumble, they are reproved by God's Spirit

⁷³ LW 47:110.

⁷⁴ Kolb and Wengert, *The Book of Concord*, 502, 503.

from the law, and by the same Spirit they are restored again and comforted with the proclamation of the holy gospel" (SD VI,14).⁷⁵

Luther and the Confessions also affirm another, greater truth—indeed, only because they do not allow the Law to be diminished, do they have another, greater truth. Just as Luther argued that the devil's purpose in the promotion of lawlessness is not so much rebellion as it is "to remove Christ, the fulfiller of the law,"⁷⁶ so he all the more vigorously asserts the gospel as the only means by which there can be a good work and so the only basis by which the Law gains a welcome role in human life. Only the gospel grows good trees (Luke 6:43). Luther's *Sermon on the Three Kinds of Righteousness*, with its imaginary tour of the temple (or church), ends in the Holy of Holies, where we receive Christ and the Spirit. Here Luther concludes: "Faith alone saves. Why? Faith brings with it the Spirit, and he performs every good work with joy and love. In this way the Spirit fulfils God's commandments, and brings a man his salvation."⁷⁷ Is that in any way different than the Formula's assertion that after the Holy Spirit's renewal of the human heart by the gospel, only then can the Law "instruct the reborn and show and demonstrate to them in the Ten Commandments what is the 'acceptable will of God'" (SD VI,12)?⁷⁸

For these reasons, it would be good for clear teaching if we could school ourselves to speak of the result of the Third Use carefully. Anything implying that the result is works of the Law must be avoided. It is far better to speak simply in terms of *good works* as Luther does so consistently, or *fruits of the Spirit* as in the Formula (Ep VI,5–6).⁷⁹ Speech is bridled so that truth might be preserved, but more importantly, that it might be proclaimed. For the truth God has made known is truth for all the world.

Truth for All the World

If the Law is a continuing truth in this created world, a truth that resonates both in human reason and the deepest human needs, and if the gospel alone provides a way to answer those needs and to produce genuine goodness, then there are no more important truths than this. And, like all truth, this is a matter of words—the One Word made flesh in

⁷⁵ Kolb and Wengert, *The Book of Concord*, 589.

⁷⁶ LW 47:110.

⁷⁷ LW 44:242.

⁷⁸ Kolb and Wengert, *The Book of Concord*, 589.

⁷⁹ Kolb and Wengert, *The Book of Concord*, 503.

particular, then also, words flowing toward, from, and through him. Truths need clarity of expression, and—please God!—simplicity. The simplicity of the Third Use also persuades me of the benefit of the phrase Third Use of the Law. How important clear confession is over against the satanic mushiness that flows all around. A Britain named John Henson, who recently published a paraphrase of the Bible called “Good as New,” is now also overhauling the creed to say: “God is ‘personal and passionate. God seeks friends. God is active, creative, explorative; God is strong and tender with a great sense of humor.’ To which a hearer asked: ‘Is this a creed or a singles ad?’”⁸⁰

The teaching of the Formula on the Third Use is clear, careful, and precise; it is utterly unromantic but entirely graceful. On a pastoral level, the Third Use idea relieves the inner fears of the average believer who is rightly horrified by the notion that Christian freedom means irreverence for God’s Law. Third Use terminology, in my experience, does not produce legalists; it enables ordinary believers to understand how the same Law can both condemn and also be a delightful gift in a confusing world where the reborn actually want to be good.

Third Use therefore also provides an important missionary and ecumenical function. Consider, first, an ecumenical benefit. “Grace and truth” (John 1:17) is the one message the church has ever had to proclaim, that the entire world requires, by which the world may first die and then live. It is the catholic evangel: the truth that with varying degrees of clarity is uttered across the spectrum of the trinitarian faith from Catholic to Evangelical. And, it is a truth which has been graciously preserved where Evangelical and Catholic meet, in the churches where “the gospel is purely preached and the holy sacraments are administered according to the gospel” (CA VII,1).⁸¹

Our Confessions place us squarely in the middle between the poles of Christianity. What other church can be said to hold both to such truly catholic beliefs as the life-giving power of the Sacraments together with such evangelical beliefs as the inerrancy of Scripture and the power of the gospel for salvation? So also, a Lutheran understanding of the Third Use of the Law is supremely evangelically catholic. On one side, it affirms that Natural Law theology, which Rome has so thankfully maintained, even as Lutherans evangelically assert the authority of God to correct human

⁸⁰ R. N. Ostling, “‘Good as New’ Retells Bible,” *The Courier Post*, Saturday, December 4, 2004.

⁸¹ Kolb and Wengert, *The Book of Concord*, 42.

reason's misunderstandings of his eternal Law, as he does only in his word. On the other hand, the Third Use endorses the Evangelical's correct perception that justifying grace and sanctifying grace are not strangers, all the while reminding our brothers of these three truths: first, that both justification and sanctification are the results only of the Holy Spirit's work; second, the catholic truth of the communion of saints in which the Spirit works; and third, the means of grace by which the Spirit conducts this saving and sanctifying work. For both Rome and Geneva, moreover, a Lutheran Third Use reminds the suspicious among them that Luther's radical gospel is not antinomian.

Even as the Third Use has an ecumenical benefit, it has an even more important missionary benefit, as the letter to Diognetus reminds us: "What the soul is to the body, Christians are to the world."⁸² Being in but not of the world, citizens yet foreigners, dying yet alive—that is the vocation of believers as the world's soul. Yet, this is not a calling we achieve. Rather it comes because of the Word made flesh through whom

grace, widely spread, increases in the saints, furnishing understanding, revealing mysteries, announcing times, rejoicing over the faithful, giving to those that seek, by whom the limits of faith are not broken through, nor the boundaries set by the fathers passed over. Then the fear of the law is chanted, and the grace of the prophets is known, and the faith of the gospels is established, and the tradition of the Apostles is preserved, and the grace of the Church exults⁸³

This early Christian letter reminds us that the church's mission was understood broadly, not only referring to evangelism or the ministry of word and sacraments to the world, but also to the adorning of the gospel with holy lives (Titus 2:10). In this, "the fear of the law is chanted."

In many respects the church by the wisdom and power of the Holy Spirit has been a vibrant and living soul within the body of the world. Alvin Schmidt argues that Christianity is largely responsible for much of the good that has come to be identified with Western civilization.⁸⁴ From hospitals to the personhood of women, societal blessings flowed from applications of the enduring Law of God. How could it be otherwise for those who hold the Christian faith? To look at the world from the

⁸² Mathetes, "The Epistle of Mathetes to Diognetus," in *The Ante-Nicene Fathers Vol. I: Translations of the Writings of the Fathers Down to AD 325*, ed. Alexander Roberts and James Donaldson (Grand Rapids: William B. Eerdmans Publishing Co., 1899), 27.

⁸³ Mathetes, "The Epistle of Mathetes to Diognetus," 29.

⁸⁴ Alvin J. Schmidt, *Under the Influence: How Christianity Transformed Civilization* (Grand Rapids: Zondervan, 2001).

standpoint of faith is to see a fallen world of injustice and disrepair in need of redemption, crying out for a new and different future. This unavoidably eschatological Christian perspective properly always looks beyond this world for genuine redemption, but it cannot ignore the agendas for earthly improvement founded on God's Law.⁸⁵

Perhaps surprisingly, this fact is being strongly affirmed by the interest of contemporary Chinese intellectuals in Christian thought. David Aikman has pointed out that the phenomenal growth of the Christian faith in China—despite half a century of prejudice, oppression, and persecution—has been accompanied by rising intellectual interest in the influence that Christian morality, ideals, and social ethics (Law, in other words) had on the rise of Western civilization.⁸⁶

On the other hand, where the church fails to uphold the continuing validity of God's Law for all the world, the church undermines its mission. Few things could be clearer. Though Chinese Christians are deeply interested in Christian history and the customs, practices, and social institutions Christian moral theory has spawned, like most of the rest of the world, they are now looking on in baffled astonishment at Western civilization and culture as a whole. Huntington has pointed out that, contrary to some of our conservative political fantasies, the non-Western world does not look on the West and long to be like us. Rather, as Meic Pearse argues in *Why the Rest Hates the West*, the rest of the world sees a new barbarianism in us.⁸⁷

This is because Western civilization is suffering from a crisis of un-natural law. Our own legal system is leading the attack on the most basic, reasonable, and cross-cultural moral codes. The secularization of morality and the individualizing of rights give law an un-natural bent so that the most helpless of humans are the least protected, while the lustful longings

⁸⁵ We should not assume that the other cultures or religions of the world share this perspective with such clarity. Robert Jenson persuasively asserts: "The very notion of an 'agenda' for the world, of a goal of worldly existence and of a historical path to it, is unknown in the world apart from the intrusion of the biblical faiths." "The Church's Responsibility for the World," in *The Two Cities of God: The Church's Responsibility for the Earthly City*, ed. Carl E. Braaten and Robert W. Jenson (Grand Rapids: William B. Eerdmans Publishing Co., 1997), 5.

⁸⁶ David Aikman, *Jesus in Beijing: How Christianity Is Transforming China and Changing the Global Balance of Power* (Washington, D.C.: Regnery Publishing Co., 2003); see especially 245–262.

⁸⁷ Meic Pearse, *Why the Rest Hates the West: Understanding the Roots of Global Rage* (Downers Grove, IL: InterVarsity Press, 2004), 34.

of homosexuals are given the same protection as the life-long bonding of a man and woman for the continuance of human life. What is that but unnatural law?⁸⁸ The non-Western, and in many cases non-Christian, world's absolute disgust and bafflement at the oxymoronic idea of homosexual marriage is one of the strongest proofs yet of the fact that some semblance of divine law is written on the human heart. When representatives of the Christian church endorse and promote such contrarities of nature, almost nothing could be more damaging to the Christian mission. Thank God that, as Lambeth showed, the Third World's bishops and churchmen will not meekly stand by as the Western church undermines the mission of the church catholic.

The Third Use of the Law in our churches will encourage Christian citizens to speak and to act in obedience to important societal truths. Christians ought to endorse those practices reflecting the Law as written on the human heart.⁸⁹ Even more, the Third Use of the Law reminds us that, more important than the endorsement of these ideas for our society, God calls us to reflect them directly in our lifestyles.

Third Use and Pastoral Practice

Good pastoral care also benefits from the Third Use of the Law. A right pastoral use of the Third Use will be centered, as Murray shows so consistently, in our dual character as sinner-saints.⁹⁰ Hence, pastoral care will always involve feeding and refreshing our sin-wearied flocks with the gospel of font, pulpit, confessional, and table. But loving pastoral care also involves the rod and staff of God's Law, curbing the sin of straying sheep and also guiding the flock. I have been struck, over the years, by the frequent eagerness of new Christians—oftentimes from completely different cultures and religions—for the guidance of God's word as to how they might now begin to structure their lives and direct the love for God and the neighbor that the Spirit pours into their hearts. David's words of delight in the law of God are no mystery to them (Ps 1:2; 40:8; Rom 7:22).⁹¹

⁸⁸ For a reaffirmation of the classical Christian idea of Natural Law to jurisprudence, see the thoughtful brief by Russell Hittinger, *The First Grace: Rediscovering the Natural Law in a Post-Christian World* (Wilmington, DE: ISI Books, 2003).

⁸⁹ E.g., encouragement of life-long faithful marriage for man and woman; preservation of human life in the womb and at the end of life; condemnation of any racial discrimination; and reinforcement of societal and individual responsibilities (i.e., payment of taxes and debts, respect for authority, care of the helpless and the poor, etc.).

⁹⁰ Murray, *Law, Life, and the Living God*, 58–60.

⁹¹ I recall a conversation some years ago with a man whose life had been marked by severe abuse of drugs, alcohol, and sex. I said something about how difficult it is to try to refrain from such abuse. His reply was something like this: "Quitting ain't nowhere

If the purpose of all pastoral care is that sheep would follow their shepherd, then we simply cannot neglect speaking the shepherd's words to the flock. Obviously, the central word of the shepherd is his constant affirmation of gracious and forgiving love, even (or dare I say, especially) for the most unruly sheep. But that is not all the shepherd says to his beloved sheep. We cannot ignore his scoldings, warnings, or explicit directions. Any undershepherd who fails to speak also these words introduces some other shepherd – one of his own making – to the flock.

That is to say, the Third Use is simply part of helping sheep to know and to follow the real shepherd, rather than some imposter. There is a hard edge to much of what God says to us, and nowhere is that edge more unyielding than in the words of our savior: "I say, whoever looks at a woman lustfully, has committed adultery with her" (Matt 5:28). "If anyone comes to me and does not hate his own father and mother and wife and children and brothers and sisters, yes, and even his own life, he cannot be my disciple" (Luke 14:26). "Whoever divorces his wife and marries another commits adultery" (Mark 10:11). We dare not shepherd so that, after such words have begun to worry attentive sheep, we then glibly preach the gospel in such a way as to say, "All that other stuff? Don't worry, he didn't really mean it." Which leads me to a final potential benefit of the Third Use of the Law: preserving the psychosis of saintliness.

Preserving the Psychosis of Saintliness

Without something like a Third Use of the Law, orthodox Lutheran churches risk losing the radical nature of Christian holiness (a standard of sanctity that seems downright psychotic to the world), particularly the demands of Jesus that seem so unreasonable to the world. Although, thanks to the Natural Law written on the human heart, the world has some ear for the demands of God, the sinful nature tends to be able to rationalize away all but the most obvious prohibitions and whatever prescriptive morality may be popular (or pragmatic) for a given society. So, even in the chaos of a postmodern mindset, most people still recognize fundamental aspects of the law such as prohibitions against murder and stealing and the goodness of giving to the needy.

near as bad as using." We do our flock no favors when we neglect to provide guidance in godly living, and the Third Use, rightly understood, simply reminds us of that responsibility.

Nevertheless, authentic godly living on the level that it is revealed in Jesus is simply unthinkable for the Old Adam. Jesus is far too radical, for he declares the angry man a murderer, the lustful heart adulterous, the greedy larcenous, and the whole of humanity clueless about its Maker. Yet he does not stop there. His test for righteousness involves such challenges as repudiating all temporal worry, disposing of our wealth and giving to the poor, eschewing all divorce, giving without repayment, loving enemies while hating family, and daily taking up the cross of utter self-denial, indeed to lose our life in this world—all in order to love and honor God with all that we are and have and to love our neighbor as we love ourselves (Matt 5-7; 22:38-39; Mark 8:35; Luke 6:27-38; 10:23-27; 12:33-34; 14:12-14, 26). The world hears such words and sees an unreal fanaticism; anyone who takes them to heart is deemed psychotic. But it is not only the world that reacts in such ways. The Christian church, and sometimes, in particular ways, Lutherans, have a similar reaction. It is, of course, the first dodge of the Old Adam to say to God's unyielding and all-encompassing Law: You got to be kidding! Only God's Spirit is able, when and where he wills, to move hearts to the repentant recognition that these difficult words of Scripture are nothing less than the genuine standard of right and wrong as well as moving us to the miracle of faith in Christ's promises of forgiveness.

In addition, the same Spirit instills in God's children a desire to live up to our new identity. But, precisely then, Christians are vulnerable to the Old Adam's rationalizing: "Go ahead, be good, but don't get crazy about it." We Lutherans may be particularly vulnerable to see our new life as meaning something quite safe. After all, is that not the meaning of the doctrine of vocation? Is it not simply a kind of domesticated godliness that says: "Pay your taxes. Quit your vices. Go to work. Go to church. Go to the polls. But, don't get crazy about godliness. After all, those hard words of Jesus were only meant to get us to admit our guilt and give up on our own righteousness. They serve no other purpose. He didn't really mean anything literal. After all—chuckle, chuckle—only fanatics take that stuff for real."

I am not scoffing at my heritage as a Lutheran Christian. We have a highly detailed and carefully nuanced understanding of Law and Gospel. We know that the Law's most significant role is to terrify and condemn us, bringing us to remorse over our sins. We also understand the freedom of the gospel: that our forgiveness and salvation are entirely for Christ's sake, and we need not look anymore to good works for salvation or security. We are free to enjoy the whole of God's creation because of the peace that comes by refraining from looking to the Law as God's final say in life. We

know that in our earthly vocations God sanctifies us without super-human works of the Law.

It would be a sad thing if such proper teaching would cause us therefore simply to ignore the radical words of Jesus and see them as words that are meant only to drive us to repentance, not words that are also to define holiness of life. Only the Holy Spirit can save us from such rationalizing. So often that happens by means of simple-hearted saints who have heard the word of God without much theological sophistication (indeed, sometimes, amid great confusion of Law and Gospel). Yet, the Spirit does work faith (ahh, felicitous inconsistency) in such people as . . . oh, Francis of Assisi who simply took his Lord's words to heart:

Sell your possessions, and give to the needy. Provide yourselves with moneybags that do not grow old, with a treasure in the heavens that does not fail, where no thief approaches and no moth destroys. (Luke 12:33 ESV)

I think Melanchthon, for all he got wrong as his life progressed, was right when he said:

The third use of the preaching of the law is concerned with those saints who now are believers, who have been born again through God's word and the Holy Spirit, of whom this word was said, "I will put my law in your heart" [cf. Jer. 31:33; 32:37-41; Heb. 8:8-12]. Although God now dwells in these and gives them light, and causes them to be conformed to him, nevertheless, *all such happens through God's word*, and the law in this life is necessary, that saints may know and have a testimony of the works which please God.⁹²

"[A]ll such happens through God's word," and I expect that nearly every pastor has witnessed the word of God at work in this fashion. Christians hear the unconditional word of promise that their sins are forgiven for Christ's sake, and they believe it. And, because they have not internalized some sort of theological sophistication that seemingly implies, "now you can ignore the same Christ who defines your new life," they take his words of Law also to heart. Perhaps that is why laity, not pastors, are so often the best examples of godly living.⁹³ Ordinary believers who stay faithful in

⁹² Philipp Melanchthon, *Melanchthon on Christian Doctrine: Loci Communes, 1555*, tr. Clyde Leonard Manschreck (Grand Rapids: Baker Book House, 1965) 127.

⁹³ After a series of sermons, studies, and discussions on financial stewardship in advance of a congregational decision on whether we could expand our facilities and how much we could afford, I was moved by one response in particular. An older

miserable marriages, stay chaste even though contending with frustration and loneliness, give sacrificially from poverty, work dilligently for unjust bosses, honor dishonorable authorities, turn the other cheek, and in many other ways take up their crosses in direct obedience to a word of the Lord are the shining examples of the validity of the concept of the Third Use. For them the continuing role of God's Law, his commands, his demands, his exhortations to holiness—all of it genuinely—is simply part of the life of faith. They trust their Lord when he says, "I forgive you." They believe him when he says, "Let your light shine through good works" (Matt 5:16). That kind of thing will not happen if people view the Law of God as having no guiding work in the lives of the justified. Indeed, such lives testify that the Formula was right to say:

Believers do . . . without coercion, with a willing spirit, insofar as they are born anew, what no threat of the law could ever force from them. (Ep VI,7)⁹⁴

woman, divorced and poor, came to me one evening and handed me a Ziplock® bag of coins—all she had been able to save for years—and apologetically asked if she could give it to help us add to our school. See also Andrew F. Walls, *The Missionary Movement in Christian History: Studies in the Transmission of Faith* (Maryknoll, NY: Orbis Books, 1996), 160-172; Walls details the extensive role played by the laity in the history of the modern missionary movement.

⁹⁴ Kolb and Wengert, *The Book of Concord*, 503.