



LEX AETERNA

A Defense of the Orthodox Lutheran Doctrine of God's Law and Critique of Gerhard Forde

JORDAN COOPER

Martin Luther's theological revolution depended in a significant part upon the distinction between law and gospel. Within the last hundred years, several authors have reevaluated the reformer's understanding of this paradigm in light of its development within the Lutheran orthodox tradition. Some authors have argued that the Lutheran scholastic view of God's law departs from that of Luther. Specifically, it is contended that the Lutheran orthodox contended for a definition of the law which defines it as God's eternal will in contradiction to Luther's approach, wherein the law is defined almost exclusively in negative terms, as a temporal order to eventually be replaced and superseded by the gospel.

In this work, Jordan Cooper argues for the continued validity of the Lutheran orthodox definition of the law. Throughout this text, he contrasts the perspective of Radical Lutheran theologians, like Gerhard Forde, with that of earlier Lutheran writers such as Martin Chemnitz and Johann Gerhard. It is argued that Forde's view is inadequate to address contemporary ethical and pastoral issues, and that the Lutheran scholastic doctrine of the law as God's eternal will remains a necessary concept for the contemporary church.

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"With his usual crisp, direct style, Jordan Cooper marches through the material of his latest conquest, tackling the place of the law within Lutheran teaching and practice—especially within the context of the pervasive influence of Gerhard Förde. The presentation of evidence is thorough and fair, and while Cooper's conclusions may not shock, where specific theologians are aligned with regard to this debate may well provoke some surprise. I will be recommending this book often."

—**JOEL BIERMANN**, MDiv, PhD, Professor of Systematic Theology, Concordia Seminary, St. Louis; author of *A Case for Character and Wholly Citizens*

"Cooper clearly contrasts the Law/Gospel theology of the confessional Lutheran tradition with that of Förde. Cooper's compelling apologetic includes discussion of *ordo salutis*, atonement theology, Reformed theology, antinomianism, and much more. This biblically rooted and deeply confessional work contributes theological precision and practical application to the discussion of God's eternal Law."

—**CURTIS LEINS**, Presiding Pastor, American Association of Lutheran Churches

"What is the role of the Law in the life of a Christian? For Lutherans, the Book of Concord is definitive, demonstrated by Chemnitz, Gerhard, and Pieper. Following the work of Scaer, Murray, Biermann, etc., Cooper shows that Förde challenged not only the Law (no 3rd use or Law as guide), but the atonement itself. Cooper provides a foundation for evaluating implications of such a position, which are significant for Christian theology and living."

—**RICHARD SHIELDS**, President, American Lutheran Theological Seminary

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Introduction

Background

THE DISTINCTION BETWEEN THE law and the gospel is at the heart of Lutheran Reformational theology.¹ Due to this fact, there have been several debates in Lutheran history surrounding the correct understanding of these two concepts. Already among the second-generation Reformers, a debate began surrounding the third use of the law in the Christian life. This was settled in Article VI of the Formula of Concord. The debates regarding the third use of the law and the relationship between God's commands and his promises did not end in 1580, however. Within the last hundred years, there has been a broad discussion relating to the Lutheran law-gospel paradigm.

In this work, it is contended that the shifts which have occurred in the theological world regarding law and gospel lead to a number of problems in expositing the doctrine of the divine law. In modern Lutheran theology, the eternal nature of God's law has been neglected, and in many places, rejected outright. This has led to a radical revision of the entire theological enterprise from a Lutheran perspective. For this reason, many critiques of the Lutheran tradition rely on a caricature of historical views, rather than a careful exposition of the theological categories inherent in historic Lutheranism. I contend, in contrast to these contemporary movements, that the recovery of the traditional Lutheran approach to the law is a beneficial, and necessary, move for the modern church. Not only is this understanding of the law necessary for the Lutheran church, but the insights of historic

1. This work is an edited version of a Master's thesis written for the South African Theological Seminary. It is used with permission.

Lutheran theologians regarding this topic can be immensely beneficial for the church catholic. Recovering those insights would also allow the church to open up dialogue between theological traditions which have often viewed the Lutheran Reformation with suspicion due to its seeming antinomianism and disparagement of the goodness of God's law.

The contemporary debates surrounding the distinction between law and gospel in Lutheranism are perhaps exemplified within the writings of German theologian Werner Elert. In various writings, especially his monumental work *The Structure of Lutheranism* (1962), Elert expounds upon the distinction between law and gospel in largely existential categories.² In opposition to Barth's reversal of the law-gospel distinction, Elert argues that law always precedes gospel. God's word of command follows his word of promise.³ Yet, Elert defines the law primarily in relation to its effect upon the one hearing it. In this way, the law and condemnation became almost synonymous concepts. Elert denies the traditional confessional teaching regarding the third use of the law, viewing it as a Reformed invention which wrongfully infiltrated Lutheranism through Philip Melancthon.

Among those who follow within the existential Lutheran tradition is Gerhard Forde. In his doctoral dissertation, published as *The Law-Gospel Debate* (1969), Forde traces the debates surrounding law and gospel and the third use of the law from the late nineteenth-through the mid-twentieth centuries. Though critical of Elert on a number of points, Forde adopts his rejection of the third use of the law, and similarly defines law by its effects upon the hearer. Forde expounded upon these ideas in a number of books and essays throughout his career. In *Justification by Faith: A Matter of Death and Life* (1990), Forde places the doctrine of justification within a death-life paradigm. This death-life distinction is, for Forde, synonymous with the distinction between law and gospel. In defining the traditional Lutheran paradigm in such a manner, Forde rejects the formulations of Lutheran scholasticism and the later confessional documents. This redefinition of law and gospel is also apparent in the manner in which he treats the subject of atonement in *Where God Meets Man* (1972) and other writings. In this work, Forde contends that Jesus does not obey the law on behalf of

2. This is not to say that Elert heavily cites Heidegger or other existential philosophers in the sense that Bultmann does. His existentialism lies in his emphasis on a thing's effects upon an individual, rather than their actual essence or content. This is especially true in relation to the law and the gospel.

3. Barth, "Gospel and Law." See also John Hesselink's overview of this debate in "Law and Gospel or Gospel and Law? Karl Barth, Martin Luther, and John Calvin."

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humanity, because salvation would then remain in the hands of the law rather than the gospel. Forde discusses these and other issues in his chapters on justification and the Christian life in *Christian Dogmatics*.⁴ In this work, Forde clearly outlines his opposition to the third use of the law as explained in the Formula of Concord.

David Scaer, in his book *Law and Gospel and the Means of Grace* (2008), gives what is likely the most detailed discussion of the distinction between law and gospel from a contemporary confessional Lutheran perspective. Scaer maintains that in the Lutheran Confessions, the phrase “law and gospel” does often refer to God’s act of condemning and redeeming.⁵ This is not, however, the *only* way in which this formula is used. Scaer contends for the goodness of both the law and the gospel and argues that the law serves a positive function within the Christian life alongside its condemnatory use. Through an evaluation of twentieth-century Lutheran perspectives, Scaer rejects Elert’s denial of the third use as opposed to the Lutheran Confessions and Scripture.

Joel Biermann, in his book *A Case for Character: Towards a Lutheran Virtue Ethics* (2014), argues that the law-gospel paradigm has been wrongly utilized in much of contemporary Lutheran theology. He argues that a balanced approach to law and gospel has been replaced by law-gospel reductionism. In historic Lutheranism, the law and the gospel are viewed as distinct, but they are not contradictory. Yet, in the writings of some contemporary Lutheran figures like Gerhard Forde, these two words of God are viewed as a polarity; they contradict one another. Biermann alleges that this has led to the neglect of ethical discourse from the Lutheran pulpit. He argues that while the law-gospel paradigm remains essential for Lutheran theology and life, it is not exhaustive of biblical teaching. Biermann proposes another paradigm, which he labels “the three kinds of righteousness,” as a supplementary teaching to the traditional Lutheran law-gospel dichotomy. In this model, there is a distinction between righteousness *coram mundo* and righteousness *coram Deo*. Before God, the law condemns; before the world, it serves as a guide for the believer to follow. Thus, the law is a good gift of God, and though it accuses and kills, it does not *only* serve in this function.

There is a clear disparity between two views within Lutheran literature in the late twentieth and early twenty-first centuries. There is one tradition,

4. Braaten, *Christian Dogmatics* 2:391–469.

5. Scaer, *Law and Gospel*, 3.

beginning with Elert, and exemplified in the writings of Gerhard Forde, which identifies the law and the gospel almost exclusively with existential realities. In contrast to this, several writers within the confessional Lutheran tradition, including David Scaer and Joel Biermann, have sought to recapture the importance of the traditional law-gospel paradigm. In this traditional schema, the law and the gospel refer to objective realities relating to God's commands and promises. The third use of the law is thus a true and beneficial aspect of Christian, and particularly Lutheran, theology.

Problem and Objectives

The central premise of this work is that the Radical Lutheran movement, exemplified by the theology of Gerhard Forde, is not consistent with confessional Lutheranism, and that a historic understanding of the law must be recovered. Gerhard Forde, in his 1987 article "Radical Lutheranism," proposes that the Lutheran church must move forward by holding to a radical conception of the doctrine of justification.⁶ He does this through an emphasis on the law as an instrument of death and the gospel as an instrument of life. This present work seeks to demonstrate that Forde's central thesis is incompatible with the confessions because Forde argues for an approach to law and gospel (and consequently justification) which is based upon existential encounter rather than objective theological content. In opposition to Forde's approach, a positive treatment of the law is explained in order to reestablish a traditional understanding of the distinction between law and gospel within Lutheranism.

Each figure within the broader Radical Lutheran movement has his or her own particular perspective. It would be impossible for a study of this size to scrutinize each figure extensively. Thus, this study is limited to the thought of Gerhard Forde. Other writers in the movement will be cited, but only insofar as they repeat or influence the doctrines of Forde. This study is also limited in its scope in reference to Forde's theology. The redefinition of the law in Forde's thought has implications for his approach to sanctification, worship, the doctrine of God, and many other doctrines. These ideas will only be touched on incidentally, however, so that the study can be more narrowly focused on the definition of law and gospel and the use of such a distinction. This study applies beyond the work of Forde himself, as he is simply representative of a broader theological tradition. Thus, readers

6. Forde, "Radical Lutheranism," 7, found in Forde, *Radical Gospel*.

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unfamiliar with the particularities of Forde's own thought will still benefit from reading this text.

Throughout this work, the contention is made that the views of Forde and the tradition following his views is incommensurate with the confessional tradition. The essential difference between Forde and the confessions is that Forde defines both the law and the gospel by their *effects* rather than their *content*. He uses law and gospel in reference to the *opera Dei* (works of God), whereas confessional Lutheranism describes law and gospel as the *verba Dei* (words of God). He argues that "The law is defined not only as a specific set of demands as such, but rather in terms of what it does to you."⁷ Because of his approach to the law as that which kills, there is no positive function for the law in the Christian life for Forde. Lutheran orthodoxy, in contrast, asserts that the law is the eternal will of God.⁸ Because of their divergent views of the law, the definitions of the gospel in Forde and confessional Lutheranism differ. According to Forde, "the gospel too, is defined primarily by what it does: the gospel comforts because it puts an end to the voice of the law."⁹ In contrast, the Lutheran Confessions define the gospel with specific doctrinal content. The Formula of Concord identifies the gospel with the objective historical actions of Christ in history on behalf of sinners. This includes Christ's active obedience to the law and his passive vicarious death (FC SD V.20). Forde and confessional Lutheranism differ regarding this essential issue. These differences are explained below, so that the benefits of recovering the traditional Lutheran view are apparent.

Central Theoretical Argument and Purpose

The argument commences with one primary research question, and then four subsequent questions. The overarching question to be answered is, *In what ways are Gerhard Forde's views concerning the distinction between law and gospel dissonant from what is affirmed in confessional Lutheranism?* In view of this broader consideration, the question then asked is, *What is the current state of scholarship concerning the distinction between law and gospel made within the Lutheran ecclesial tradition, including that articulated by Gerhard Forde?* The third question asked is, *What are the scriptural and*

7. Forde, *Where God Meets Man*, 15.

8. An example of the traditional Lutheran view can be found in Heinrich Schmid's *Doctrinal Theology*, 509.

9. Forde, *Where God Meets Man*, 16.

theological foundations for the distinction between law and gospel affirmed in confessional Lutheranism? Fourth, the following question is posed: *In what ways does the distinction between law and gospel articulated by Gerhard Forde compare to and contrast with the confessional Lutheran understanding?* The final research question is, *What are the implications for confessional Lutheranism of recognizing the dissonant views espoused by Gerhard Forde regarding the distinction between law and gospel?*

There are several reasons why a rejection of some of the major tenets of Forde's theology will be beneficial to the church. First, it allows for a positive function for the law in the life of the congregation. In an existential view of law and gospel, the essential *goodness* of the law is downplayed. If the law is defined by its act of killing, then there is no positive use for the law in guiding a Christian's actions in the world. However, a biblical (and historically Lutheran) theology emphasizes the essential goodness of the law in guiding God's creation. Second, it allows the exegete to be biblically faithful in expounding upon Lutheran theology. As will be demonstrated, Scripture does not refer to the law in primarily existential categories, but as a set of objective demands given by God to his creatures. When approaching the text from Forde's approach, one must distort the words of Scripture in order to remain consistent with a Radical Lutheran view of the law. Finally, the Biblical understanding of God's law will allow the Lutheran church to recapture its rich dogmatic heritage. The tenets of Radical Lutheranism are opposed to the development of Lutheran theology after the time of Luther. According to many writers, the later Lutherans were in the tradition of Melancthon rather than that of the original Wittenberg Reformer.¹⁰ In contradistinction to this assertion, this work argues that the richness and beauty of Lutheran theology exists not *only* in an isolated figure like Luther, but also in the dogmaticians, pastors, and exegetes who faithfully expounded upon Luther's thought in the years following his death, and especially in the Lutheran Confessions themselves.

Conclusion

Through engaging with the biblical text alongside historical and confessional documents, it becomes apparent that the novelties of Forde's exposition of law and gospel are inconsistent with the prior Lutheran tradition. Forde represents not a development of, but a departure from,

10. See, for example, Paulson, *Lutheran Theology*, 4.

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historic Lutheranism. These differences greatly affect the proclamation of the church in the twentieth century, and thus this discussion is essential for the Lutheran church today.

The sources examined in the following chapter set a groundwork for the primary thesis of this work. When examined alongside one another, the differences between confessional Lutheran scholars and Gerhard Forde become apparent. David Scaer, Joel Biermann, Charles Arand, Scott Murray, and other Lutheran theologians explain the law-and-gospel distinction in terms of two distinct words from God, which have particular objective theological content attached. Forde, in his various writings, identifies the law and the gospel with their effects upon the listener; for him, law and gospel are synonymous with death and life.

Literature Review

Introduction

IN PROCEEDING WITH THE present discussion, it is imperative that a variety of contemporary writings on the subject of law and gospel be examined. In this chapter, the following question is answered: *What is the current state of scholarship concerning the distinction between law and gospel made within the Lutheran ecclesial tradition, including that articulated by Gerhard Forde?* The latter half of the twentieth century until the present time has seen a number of different important theological developments surrounding this central theme of Lutheran theology. First, some of the contemporary authors who promote a traditional confessional approach are reviewed. These writers subscribe to the Formula of Concord and emphasize consistency between their own perspectives and that of seventeenth-century Lutheran orthodoxy. The authors examined are David Scaer, Scott Murray, Joel Biermann, Charles Arand, and Jack Kilcrease. All of these writers are pastors within the Lutheran Church—Missouri Synod (with the exception of Kilcrease, who is a layperson within the Missouri Synod), and thus affirm a *quia* subscription to the Book of Concord. The utilization of these particular writings portrays that broader landscape of scholarly literature surrounding law and gospel within confessional Lutheranism, and thus prepares a groundwork for contrasts between the historic Lutheran tradition and the theological developments of Gerhard Forde.

Second, Gerhard Forde's writings on the subject of law and gospel are examined. In these works, Forde departs from the traditional understanding as promoted by the other authors. Forde has written a number of articles and books which relate to the law-gospel discussion. An examination

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and review of all of these materials would be impossible for this current project, and thus two particular works were chosen: *The Law-Gospel Debate* and *Where God Meets Man*. It is in these two books that Forde most clearly and extensively demonstrates his divergence from the earlier Lutheran tradition regarding the subject at hand. As this discussion proceeds, these two books in particular serve as definitional for Forde's convictions surrounding law and gospel, to be contrasted with historic confessional Lutheran theology. His other writings serve to supplement these pieces of literature throughout.

The Confessional Lutheran Landscape

All of the authors utilized in this chapter from the confessional Lutheran tradition are part of the Lutheran Church—Missouri Synod. Though there are a number of synods in America which would affirm a *quia* subscription to the Lutheran confessional documents, the Missouri Synod remains the largest, and thus contributes the most extensive amount of scholarship devoted to these issues. For the perspectives below to be most clearly understood, some background will be given regarding the Missouri Synod as well as other Lutheran church bodies in America.

While there have been Lutherans in America since the eighteenth century, they did not have a substantial presence until the mid-nineteenth century, when a number of Germans immigrated to the midwestern United States. Among the various groups that settled in the New World at that time was a small group of confessional Lutheran Saxon immigrants led by Lutheran pastor Martin Stephan to escape the rationalism and unionism of the German church. This group identified itself, in opposition to the Prussian Union, as a strictly confessional group, denying all forms of altar and pulpit fellowship with non-Lutherans. After a leadership crisis, C. F. W. Walther became the primary theologian and church leader of this group, eventually leading to the formation of the German Evangelical Lutheran Synod of Missouri, Ohio, and Other States in 1847. The name was eventually shortened and became what is known today as the Lutheran Church—Missouri Synod. This church body became a bulwark of Lutheran confessionalism in the broader Protestant American world.¹

1. See Meyer, *Moving Frontiers*, which is a compilation of primary-source documents surrounding the founding of the Missouri Synod. This history is also traced in Suellow, *Servant of the Word*.

While there were initially a number of separate groups in American Lutheranism, there were numerous efforts to unify the American Lutheran church. Broader Lutheran organizations began to develop to foster unity and ecclesiastical partnership. The earliest of these was the Evangelical Lutheran General Synod of the United States of North America. This group was rather broad in an attempt to unify various divergent streams of Lutheran thought and practice. It became identified with the so-called “American Lutheranism” of Samuel S. Schmucker, which deemphasized Lutheran distinctives and sought to redefine a number of confessional teachings.² The most significant of these were his rejection of the Lutheran doctrine of the real presence of Christ’s body and blood in the Lord’s Supper, and his subsequent revision of the Augsburg Confession.³ Those Lutherans who believed that unity could not be achieved apart from strong doctrinal consensus formed two other groups which rejected the loose stances of the General Synod. These were the General Council and the Synodical Conference.⁴

Confessional Lutheran church bodies in the United States today derive from these two groups. First is the General Council, which split from the General Synod over its lack of confessional convictions. For some, such as the Ohio Synod, the General Council was still too moderate in its views. There were certain points of doctrine that the council declared to be “open questions,” in which some variation in opinion was allowed, such as open Communion and millennialism. The Missouri Synod declined to join over these issues, as well as a difference of opinion surrounding the doctrine of election, and helped formulate the Synodical Conference. This organization included, along with the Missouri Synod, the Wisconsin Evangelical Lutheran Synod and the Evangelical Lutheran Synod.⁵ Those church bodies which joined the Synodical Conference allowed for no deviation from the Lutheran Confessions and argued for strict closed Communion.

Eventually, the Synodical Conference would split apart when the Wisconsin Evangelical Lutheran Synod broke fellowship with the Lutheran

2. Gritsch, *History of Lutheranism*, 189–194.

3. It is worth noting that even the General Synod rejected Schmucker’s attempts to adopt the modified Augsburg Confession.

4. A fourth group, the United Synod of the South, was defined primarily regionally rather than theologically, but it tended toward confessionalism.

5. Gritsch, *History of Lutheranism*, 194–199.

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Church—Missouri Synod.⁶ Despite the lack of fellowship between these church bodies, they both remain committed to the teachings of the Lutheran Confessions and hold to a strongly Lutheran identity in opposition to the broader world of Protestantism. Along with these two synods, the American Association of Lutheran Churches, whose predecessor bodies largely came from the General Conference, holds to a strong *quia* subscription to the Book of Concord.⁷ They are also in altar and pulpit fellowship with the Lutheran Church—Missouri Synod. Though there are a number of strictly confessional pastors and theologians within all American Lutheran church bodies, the position of a strong *quia* subscription is held officially by the Lutheran Church—Missouri Synod, the Wisconsin Evangelical Lutheran Synod, the Evangelical Lutheran Synod, the American Association of Lutheran Churches, and some smaller church bodies which do not have a substantial theological or ecclesiastical presence.

As the views of confessional Lutheran writers and those of Gerhard Forde are examined, some of the differences between various Lutheran bodies in North America reflect these theological divergences. Forde was a member of the Evangelical Lutheran Church in America, which does not require a full confessional subscription from its pastors, which is why Forde himself is critical of the Formula of Concord. Forde's students, who explicate similar theological convictions, are found within the North American Lutheran Church as well as the Lutheran Churches in Mission for Christ. These bodies allow for more theological variation than those previously associated with the Synodical Conference. This is not to say that there are no critics of Forde in those church bodies either, as David Yeago (a member of the NALC), for example, has written various criticisms in response to Radical Lutheranism.⁸ Conversely, there are many within the Lutheran Church—Missouri Synod who have been influenced by Forde, despite their confessional convictions.

The most influential contemporary scholarship that exists in the confessional Lutheran tradition, including those writers in the Lutheran Church—Missouri Synod, demonstrates some of these divergences between confessional orthodox Lutheranism and the writings of Gerhard Forde. This is demonstrated below as the writings from these two different traditions are explained and evaluated.

6. Zimmerman, *Seminary in Crisis*, 15.

7. This history is catalogued in Lindberg, *To Tell the Truth*.

8. Yeago, "Gnosticism."

Writings from the Confessional Lutheran Tradition

David Scaer

The most recent book-length treatment of law and gospel from a confessional Lutheran dogmatic perspective is David P. Scaer's *Law and Gospel and the Means of Grace*. This is the eighth volume in the *Confessional Lutheran Dogmatics* series published by Luther Academy Press. This series is widely used within the Missouri Synod and other theologically conservative Lutheran synods. This text thus summarizes several of the prominent ideas surrounding law and gospel within these church bodies, and particularly within the realm of scholarly discourse among professors. In this text, Scaer presents a systematic exposition of the Lutheran distinction between law and gospel in light of Scripture, the Lutheran Confessions, and the Lutheran dogmatic tradition. Throughout, Scaer interacts with contemporary interpretations of the law-gospel dialectic, and thus defends the traditional formulation of the law-gospel distinction over against some contemporary formulations.

The terms "law" and "gospel" have been used in numerous ways throughout Christian history and in the Lutheran tradition. As Scaer notes, both the terms "law" and "gospel" can be utilized in a broad sense.⁹ The term "gospel," for example, is used as a shorthand for all of the various teachings of Jesus, which includes both commands and promises. The term "law" is also sometimes utilized to describe the entire message of the Old Testament. In the confessional Lutheran tradition, however, these terms, used in their proper sense, are to be clearly distinguished. The law has reference to God's commandments, whereas the gospel refers to God's promises in Christ. In this manner, Scaer adopts the more traditional approach to law and gospel, as taught by earlier Lutheran dogmatists. Though he does not specifically utilize the terms "*verba Dei*" or "*opera Dei*," he discusses the distinction in *verba Dei* categories.

Scaer is careful to distinguish the law and the gospel without polarizing them. The law and the gospel serve different functions in God's relationship to sinners, but both of those functions are necessary and good. In relationship to one's *coram Deo* standing, the law condemns the sinner, and the gospel frees the sinner. The word of the gospel does not come without the prior working of God's law, and the condemnation of God's law is never an end in itself; the final word of God is always the gospel. Scaer thus

9. Scaer, *Law and Gospel*, 7.

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balances the dissonance between law and gospel in terms of their manner of working before God, while avoiding the polarization between law and gospel which is apparent in the writings of Gerhard Forde and others following Werner Elert.

The distinction between law and gospel is not simply another locus in a theological system. Rather, the law-gospel dialectic explains how one is to approach and apply the various topics of theology. Scaer argues that this distinction should guide preaching and practice. One cannot simply explain the commandments of God with no reference to the duty of one's listeners to obey. This is the presentation of facts, and not the correct exposition of the law. Similarly, the preacher cannot simply state the facts of Jesus' life and death and assume that he has preached the gospel; the "for you" is a necessary aspect of gospel proclamation.¹⁰ This is an area wherein Scaer *affirms* the existential reality of the law and gospel's effects when proclaimed to the sinner, and thus demonstrates continuity with Forde and other twentieth-century Lutheran theologians. Scaer does not, however, define the law and the gospel as *only* the direct address of the preacher, devoid of theological and historical content. He is quick to point out that the "for you" of the gospel necessitates a series of historical events. Similarly, the commands of the law hinge upon objective moral commandments which are eternal in nature. In this manner, Scaer balances Elert's emphasis on the law as that which kills¹¹ with the scholastic Lutheran definition of the law as a set of specific moral demands.¹²

Scaer places the law-gospel distinction within the context of God's relationship to man. He demonstrates that the law and gospel do not contradict one another, but *appear* to do so from man's perspective. The tension does not exist within God, but within the sinful human creature.¹³ Because of the Christian's nature as *simul iustus et peccator*, both the law and the gospel speak to him in seemingly contradictory ways. This existential tension must stand, or serious theological errors result. Scaer demonstrates that there are a variety of theological traditions which try to harmonize these two words in an unhelpful and unbiblical manner. Universalists, for ex-

10. *Ibid.*, 21.

11. Elert, *Structure of Lutheranism*, 35-43.

12. Schmid, *Doctrinal Theology*, 508-520.

13. One of the primary problems that arises in modern theology is that the rejection of the doctrine of divine simplicity often leads to a God who contradicts himself. In his attempt to distinguish law from gospel, Oswald Bayer argues that "God contradicts himself" (Bayer, *Theology*, 23).

ample, resolve the seeming tension by negating the condemnation of God's law altogether, whereas Reformed double-predestinarians, by denying the *gratia universalis*, place law and gospel upon the same plane.¹⁴ Though Scaer does not specifically mention Forde in this chapter, his solution to the seeming disparity between law and gospel answers Forde's radical opposition between law and gospel in relation to God's own character.

The gospel is a superior revelation of God to the law. This does not imply that the two words are to be polarized against one another. Instead, the gospel is greater than the law, because within the gospel is included the fulfillment of the law. It is within these two aspects of Christ's work that the seeming tension between law and gospel is resolved.¹⁵ In order for humanity's relationship to God to be restored, justice must be satisfied. The law's demands cannot remain unfulfilled. Thus, Christ must fulfill the law's demands and serve its penalty in order for the gospel to be preached and delivered. This, as will be demonstrated, is the primary difference that arises between the confessional Lutheran tradition and Radical Lutheran proponents. For Forde, the gospel must be something radically *new*, and thus cannot include the fulfillment of God's law.¹⁶

Both the law and the gospel reflect the nature of God. Neither is foreign to his own being. For Scaer, the law is inherent within God's own self; it is a reflection of God's own essence and moral character. He does not decide upon human regulations arbitrarily, but demonstrates his own goodness and justice through the commandments granted to his creation. It is because of God's just and moral essence that his demands must be satisfied in order for the human race to receive justification and reconciliation with their Creator.¹⁷ In this way, the law is an objective standard, because it relates to the eternal divine nature. It is not a temporal reality only to be surpassed by an eschatological word of gospel.

Scaer is deeply committed to the confessional Lutheran teaching regarding the law's third use. Lutherans are not antinomians, as is sometimes charged. The law serves essential functions for the Christian within the life of faith. This does not only include the law's condemnatory aspects, but the law serves as a rule of life for the believer. Scaer argues that the third use of the law is not a peripheral issue, but is essential for a proper understanding

14. See my discussion of double predestination in Cooper, *The Great Divide*, 13–26.

15. Scaer, *Law and Gospel*, 52.

16. Forde, *Law-Gospel Debate*, 13.

17. Scaer, *Law and Gospel*, 43.

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of both theology and ethics. For the Christian, the law serves in the same manner as it did in the prelapsarian state. God's commandments are received joyfully by Christians who desire to obey them in faith.¹⁸ This sets Scaer apart from many twentieth-century Lutheran theologians, including Werner Elert, who reject the law in its didactic function.

Scaer notes that many Lutheran theologians, while not explicitly following Elert's perspective, conflate the second and third uses of the law. In this way of speaking, the third use of the law serves as a threat to the believer. Scaer argues, in contrast to this, that insofar as one is a renewed Christian, the law is a positive word. The law, in this sense, is a description of Jesus himself, and becomes descriptive of the believer as he or she is renewed into Christ's image. This Christological emphasis is a uniqueness in Scaer's thought. Older theologians do not speak extensively of the third use of the law in a Christological manner, whereas Scaer continues to insist that the law, in its third use, continues to point the believer to Christ's fulfillment of it. For Scaer, the Christological aspect of the law's third use resolves the seeming tension of law and gospel, as well as the fact that the third use is proclaimed *after* the gospel.¹⁹ This allows Scaer to avoid some of the common criticisms of those who reject the third use, by demonstrating that a commitment to the didactic use of God's law does not replace the gospel as God's ultimate word.

Scaer presents, throughout this volume, a traditional Lutheran approach to the distinction between law and gospel. He defends the unity of God's words, as well as their differentiation existentially when spoken to sinners. Perhaps most unique about Scaer's book is his Christological focus, which is the only place where the ultimate unity of law and gospel is to be found. This sets Scaer in contrast to the majority of Radical Lutheran theologians in the twentieth and twenty-first centuries, while he is still willing to emphasize the existential nature of law and gospel as acts of God toward the sinner.

Scott Murray

In Law, Life, and the Living God: The Third Use of the Law in Modern American Lutheranism, Scott R. Murray gives a comprehensive history of the relationship between law and gospel with particular attention to the third use

18. *Ibid.*, 67.

19. *Ibid.*, 73.

of the law in the twentieth century. Murray demonstrates where he believes problems arose in the twentieth century and contends that God's law functions in a positive manner within the Christian life. This volume is important to the discussion, because it is the most extensive presentation on the third use of the law from a confessional Lutheran perspective in response to other formulations of law and gospel in the twentieth century. Though mostly a historical theological treatise, Murray's book provides concise and helpful criticisms of a variety of perspectives on law and gospel which are opposed to the traditional Lutheran formulation.

Murray gives a number of reasons why retaining the third use of the law within Lutheran theology is essential.²⁰ He argues that the law is a good gift to the Christian, and that this essential goodness of the law is lost or downplayed when the third use is rejected. Murray is also concerned with antinomianism in the Lutheran tradition. Because Lutherans emphasize the free nature of the gospel so extensively, it is tempting for Lutherans to neglect or even reject the importance and necessity of sanctification. This sets Murray over against the Radical Lutheran theologians, as he agrees with Scaer on the importance and validity of the third function of God's law within the life of the believer.

The distinction between law and gospel has been at the center of theological debates for centuries. Murray gives a brief overview of some of these debates within the Reformation era itself. In Luther's time, some doubted the validity of the law in Christian preaching. John Agricola argued that only the gospel should be preached in Christian congregations. The law is for the courts in the civil sphere. Luther reacted against Agricola with a series of theses on antinomianism. The Formula of Concord similarly found it necessary to explain the proper relationship between law and gospel within the Christian life. A number of theologians spoke negatively about the law in relationship to the Christian; thus, Article VI of the Formula of Concord was written in defense of the third use of the law.²¹ Murray argues that this debate is no less important today than it was in the sixteenth century. Consequently, contemporary theologians must address these issues in light of current theological controversies. Murray clearly lays out his presuppositions here; he is intent on a defense of the Formula's definition

20. Murray, *Living God*, 15.

21. Andreas Musculus was the primary figure who argued against the third use of the law.

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of the law and opposed to contemporary formulations which deviate from that definition.

Within the twentieth century, several theologians began to reject the third use of the law, following the writings of Werner Elert. Murray outlines this history through three different time periods: 1940–1960, 1961–1971, and 1977–1998. In his first section, Murray demonstrates how European theology began to influence American theologians. This theological movement, which Murray labels “Neo-Lutheranism,” is exemplified by the writings of George Forell and William Lazareth. For Forell, the *lex semper accusat* principal is the very essence of the law. Lazareth follows Elert and Forell here, and argues that if there is any “third use” of the law, it is simply the second use as applied to the Christian. The law has no positive function for the life of faith. Murray views this “Neo-Lutheranism” as problematic and anti-confessional. Like Scaer, he opposes any perspective on the law which is defined *solely* by its existential function. He also, like Scaer, argues that the law continues to serve a positive function to guide the Christian within his or her life of faith. Unlike some contemporary Lutherans, he does not subsume the third use of the law under the first or second.

In his evaluation of the second time period (1961–1976), Murray points out problematic movements in two groups. First are the Valparaiso theologians, and second are the LCA and ALC theologians. The theologians from Valparaiso were highly indebted to Werner Elert, arguing on an existential basis and rejecting the third use of the law. Particularly problematic in this school of thought is what Murray calls “gospel reductionism.”²² The theologians who promoted this reductionism, such as Edward H. Schroeder, argued that the distinction between law and gospel serves as the overarching hermeneutic over Scripture. Murray argues, in contrast to this, that the law-gospel distinction is not primarily a hermeneutic; “law and gospel” is not a standard which is to be placed *over* Scripture, but law and gospel are normed *by* Scripture. Murray helpfully outlines several of the areas of dissonance between confessional Lutheranism and those who are influenced by existential philosophy. For Forde and others, the law-gospel distinction has precedence over Scripture itself, which is viewed as a fallible text. As do the seventeenth-century scholastics, Murray asserts that the law-gospel distinction arises from the reading of the infallible scriptural text.

Scott Murray writes that the views of Gerhard Forde on the third use of the law are representative of a large portion of the ALC and LCA. Forde

22. Murray, *Living God*, 103.

writes within the tradition of Erlangen, being largely influenced by J. C. K. von Hofmann. In his criticism of Hofmann, Forde argues for the centrality of eschatology within the Christian gospel. He argues that the distinction between law and gospel is founded upon the distinction between the old age and the eschaton. The law is that which is a product of the old age; it is put to an end through the cross. Because of this discontinuity between the ages, a third use of the law is impossible. Insofar as he belongs to the age to come, the Christian is free from the law.²³ This freedom is not only from the law's accusation, but from the commands themselves. Thus, the law is no longer defined as the *lex aeterna*, but as that which terrifies. The law is defined by its effect. Murray argues that Forde does not confuse law and gospel in the manner that others do by speaking of "gospel imperatives" or separating divine commands from the law. However, Forde rejects the importance of ethical discourse and redefines atonement. Like Scaer, Murray functions here within a *verba Dei* perspective regarding the law-gospel paradigm. Though he also does not use this terminology, he views the law as God's commands and the gospel as his promises. Killing and making alive are then *functions* of those words.

The final period discussed by Murray (1977–1998) is one in which the third use of the law began to have a revival in Lutheran circles. Some older theologians, such as William Lazareth and Gerhard Forde, continued to reject the third use of the law, but others had a more positive perspective. David Yeago, for example, critiques Elert's narrow perspective on law and gospel, wherein the law is placed only in an accusatory position. He rejects this perspective as gnostic and antinomian. This revival of the third use of the law had an important place within the Missouri Synod as well. Theologians such as Theodore Jungkuntz, David Scaer, and Eugene Klug have published articles in defense of the positive function of God's law within the Christian life. Murray aligns himself with these theologians, and particularly those who write within the Lutheran Church—Missouri Synod. There are no clear points of disagreement between Murray and Scaer. They both function within the framework of confessional Lutheranism, reject Radical Lutheran developments, and affirm the Christological nature of the law-gospel distinction.

Murray's volume is an essential piece of scholarship surrounding the debates over law and gospel within twentieth-century Lutheranism in America. He fairly and accurately presents the positions of existential

23. *Ibid.*, 130.

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Lutherans as well as those who defend a traditional confessional understanding. Murray defends a traditional approach to law and gospel, including the law's third use. For Murray, the law is not simply an accusing voice, but has objective content which is related to the nature and character of God. The gospel, similarly, is not defined by how it works, but by its content, which includes the vicarious atonement of Christ.

Joel Biermann

In his book *A Case for Character*, Joel Biermann argues for a form of virtue ethics in view of Luther's distinction between the two kinds of righteousness. This ethical system is presented in contrast to contemporary trends in the Lutheran world which neglect such discussions as misplaced in light of the distinction between law and gospel. This work, which is a modified form of Biermann's doctoral dissertation, presents an alternative perspective on the law-gospel debate by proposing that the distinction between law and gospel coexists with other theological paradigms. An evaluation of this work is essential, because the two-kinds-of-righteousness distinction aids in explaining some of the important differences between a Radical Lutheran and confessional approach to the law.

Biermann argues in the context of practical pastoral ministry. He begins his work with an illustration wherein a pastor is called to preach on Col 3:18–25.²⁴ This particular text consists of ethical instruction in view of the gospel. However, in some contemporary Lutheran contexts, there is no third use of God's law. Therefore, such commandments take on only a condemnatory role. The pastor is thus left to simply tell his congregation that such commandments are impossible to obey. In doing this, however, the preacher neglects the broader context in which Paul teaches such ethical commandments.

The problem, according to Biermann, is that in much of contemporary Lutheran theological discourse, the *coram mundo* aspect of Christian living is negated. The Christian life is viewed almost exclusively as a vertical reality, wherein God's law condemns the sinner, and his gospel consequently justifies the sinner. In this context, there is no place for the law's third use, since the law cannot serve this function *coram Deo*. Because this has happened, there is no consistent Lutheran framework in which ethics can be explained. This is where Biermann's proposal is essential for this study. By

24. Biermann, *Case for Character*, 1.

distinguishing between these two aspects of Christian existence, one is able to expound upon the positive function of God's law without encroaching upon the centrality of the gospel *coram Deo*.

There are a number of different attempts to locate the place of ethics within Lutheran theology. Biermann examines three of these and proposes a fourth.²⁵ First, Biermann evaluates motivation as a framework. In this view, good works are always and only a loving and free response to the grace God gives in the gospel. Biermann notes that this perspective is prominent within Lutheran academia. In this perspective, one need not focus specifically on ethical questions. Rather, one simply needs to emphasize the gospel to a greater degree. The proclamation of the gospel causes one to become more grateful, and thus good works are performed. Biermann notes, in contradistinction to this, that this approach simply does not comport with reality, or with the scriptural evidence. Texts such as Rom 7 demonstrate that the Christian's relationship to obedience is one of continual struggle, and that obedience must be intentional. Biermann also shows that Luther himself realized the need for continual admonitions of the law within the Christian life after seeing that the gospel, by itself, did not produce the extensive fruit he desired. Here, Biermann explicitly sets himself in opposition to Gerhard Forde, who emphasizes the freedom of Christian obedience as opposed to that which is constrained by law. Since the purely spontaneous approach to good works is negated, the didactic use of God's law is a necessity in the Christian life.

The second ethical proposal that Biermann evaluates is law and gospel as a framework. Some have purported that law and gospel is an all-encompassing theological framework, whereby the entire reality of the Christian life is encapsulated. The manner in which this has been utilized, in some contemporary writers, negates the third use of the law; thus law and gospel are viewed as a polarity. The opposition that law and gospel have existentially in one's *coram Deo* relationship becomes definitional of both concepts. This is the perspective of Werner Elert, Gerhard Forde, and Radical Lutheran theologians. Lutheran theologians are consequently left without any means to answer important ethical questions regarding *coram mundo* living. Biermann concludes that the distinction between law and gospel, when "used as an overall framework . . . is finally detrimental to the vitality of Lutheranism."²⁶ There must then be another means by which Lutheran

25. *Ibid.*, 108–133.

26. *Ibid.*, 118.

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theology is equipped to address ethical concerns. Here is where Biermann gives his own unique contribution to the contemporary law-gospel debates.

The previous discussion leads Biermann to argue that there must be another paradigm that serves alongside a traditional law-gospel structure which allows for consistent and thoroughgoing ethical and moral instruction. He first explains the “two kinds of righteousness” framework, as first proposed by Robert Kolb and Charles Arand.²⁷ This framework helps to explain that law and gospel are not contradictory words of God; they simply function in two different realms. All people live *coram Deo* and *coram mundo*. Before God, the law functions in a condemnatory manner. God’s commandments demonstrate one’s inability to earn righteousness before the heavenly courts, and thus ultimately point one to the gospel. In this realm, it is the gospel which comes as God’s final word to the sinner. Before the world, however, the gospel does not serve this same function. Instead, the human creature is pointed to God’s law in its third use so that one’s creaturely duties are made clear. In this framework, Elert’s commitment to the gospel as God’s final word is affirmed, since that is God’s final word *coram Deo*. However, due to the reality of the other realm in which the Christian lives, the law has abiding validity. Though this is a helpful complementary paradigm to law and gospel, Biermann argues that there is still one primary flaw in the two-kinds-of-righteousness paradigm which he seeks to address by a fourth proposal.

Biermann argues that the two-kinds-of-righteousness framework is still inadequate in addressing Christian living. Without further distinctions between kinds of righteousness in the *coram mundo* realm, there is no place for discussing Christian ethics in particular. If horizontal righteousness is only of one kind, then there is no reason to distinguish between the unbeliever’s civic righteousness and the Christian’s sanctification. When explaining active righteousness, Melancthon often speaks of civil, or philosophic, righteousness; Luther usually references the good deeds which flow from faith. These two kinds of righteousness must be distinguished for one to be consistent with both Scripture and the Lutheran confessional documents.

The answer to this dilemma, according to Biermann, is to distinguish not between just *two* kinds of righteousness, but *three* kinds of righteousness. He defines these as governing righteousness, justifying righteousness, and conforming righteousness.²⁸ Each of these types of righteousness cor-

27. Ibid., 118.

28. Ibid., 130.

responds to one of the three traditional uses of the law within Lutheran theology. Governing, or civil, righteousness corresponds to the first use of the law. This righteousness is one which even the unbeliever can attain through reason and moral instruction. The second type of righteousness is justifying, or passive, righteousness. This identifies one's righteous status in Christ *coram Deo*. The third is conforming righteousness, which is the righteousness that the believer performs as a result of faith. This is identical with the traditional doctrine of sanctification. In contrast to Kolb, Biermann distinguishes between the righteousness one performs in faith and that which is done by the unbeliever. This allows for a fully orbited and confessional teaching regarding the various uses of the law. While Forde conflates the first and third uses of the law, Biermann provides a structure whereby both can be affirmed in their unique spheres.

Biermann's work helpfully explains some of the problems with certain contemporary formulations of the law-gospel dialectic. By distinguishing between the three kinds of righteousness, Biermann demonstrates that the law and the gospel are not contradictory words, and the law does not always play a purely negative role within the life of the believer. The law is not purely condemnatory, but serves as a guide within the believer's existence in God's creation. By distinguishing between governing and conforming righteousness, Biermann also shows that the law does not play a role *only* in the civil sphere. Ethical instruction and positive exhortation in accord with God's commandments are an essential aspect of ecclesiastical life. This proposal serves as a further development of the traditional law-gospel framework as explained by Scaer and Murray. By distinguishing between these two spheres of human existence, the goodness and differences between law and gospel can be more thoroughly explained.

Joel Biermann and Charles Arand

In their essay "Why the Two Kinds of Righteousness?" Joel Biermann and Charles Arand introduce the distinction between the two kinds of righteousness within Lutheran thought and demonstrate its importance for the theology of the church. Throughout the article, they criticize what they view as a law-gospel reductionism within the Lutheran theological world. This article explicitly explains the distinction between the *verba Dei* and *opera Dei* which is fundamental to understanding the differences between Forde and confessional Lutheran proposals.