Freedom from the Law and the Experimental "Third Use"

by Steven D. Paulson

A third use of the law was a thought experiment that appeared as a side issue in annotations on scripture from the great Preceptor—Philip Melanchthon. His students, who composed nearly the whole second generation of Lutherans, took the formula from the school into the congregation and applied it to living sinners to determine what it would do. Would it guide them to align their wills with God's will in the form of the pure, perfect law? The reports varied and one would have to conclude the jury is still out on the effectiveness of the treatment. Do "the reborn," who still have flesh clinging to them, need a "sure guide" to orient and conduct their lives? No doubt they do as far as the old creature is concerned. Whether or not the reborn—as new creatures—are improved by this guide is open for debate, as the Formula of Concord VI acknowledges. Yet the question remains: is the law in this particular formulation "to be urged upon the reborn Christians or not?"[1] The only sure conclusion is to reject any thought of preaching law only to the unbaptized; Christians (including those who truly believe!) must also hear the law.

After agreeing to that obvious matter (against Agricola) we can ask the remaining question about the effect of this theoretical experiment that attempts to use law in three ways—especially as a sure guide for your entire life. This, of course, ends up with the question that St. Paul anticipated in all his letters—does the law actually end? If it does, what does that say about God's chosen Jews? Is there truly anything like Paul's assertion that a Christian is *freed from* the law: "For we hold that one is justified by faith apart from works of the law" (Rom 3:28)? Or is that verse only a formulated expression for what, after all, must theoretically be the real thing: to be freed *into* the law, or freed *for* the law—since the law is so close to God's heart?

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Real, living preachers with actual congregations of baptized (and unbaptized) want to know the answer—to say nothing of baptized Christians who find their own sin hanging around their necks like a bag of maggots. What do I do as a hearer or preacher with sin after baptism?

In theory, the gospel should be inspirational; in practice, giving it day in and day out is depressing. Meanwhile, the law is exciting to give—especially as a pastor. It gets even more thrilling when law is made purely theoretical—eternal, infinite, and divine—like the way we typically think of Jesus' Sermon on the Mount as an improvement on Moses' Ten Commandments: "Do not think that I have come to abolish the law or the prophets [as if one has just unharnessed an ass] but to fulfill them. . . . Therefore whoever relaxes one of the least of these commandments, and teaches others to do the same will be called least in the kingdom of God" (Mt 5:17, 19). To imagine that the Sermon on the Mount reveals the law of God as the internal, divine mind of God itself, or even as an improvement on the Ten Commandments is why Luther called this the most "twisted and perverted" scripture in the Bible—"the Devil's masterpiece . . . Out of this beautiful rose . . . they have sucked poison."[2] No one has sucked more poison from this rose than Lutherans themselves, even though Luther specified that the words "fulfill the law and prophets" mean "to go beyond the law" instead of "supplementing the law."[3]

However, adding law to salvation is ubiquitous. Consider this passage from the Gospel of Mark "I came not to call the righteous, but sinners" (Mark 2:17). That passage seems hidden in the broader story of the call of Levi, the tax collector. Levi proceeded to celebrate his freedom from the law by throwing a tax-collector party. Then it occurred to him—we should invite Jesus, who, unlike the Pharisees, seems able to overlook the tax collector lifestyle. Jesus obliged and the Pharisees immediately got bees-in-their-bonnets, saying: "He eats with tax collectors and sinners!" That little word of astonishment became the Synoptic Gospels' equivalent to Paul's "apart from works of the law" that is the chief article of justification by faith alone.

Levi's party became especially important in Luke's version, since a second story was added that eventually served as the field of battle among Lutherans over the experiment of a "third use" of the law. Luke added the hilarious and frightening parable of "the unworthy servant" (Luke 17). After the slave comes to the house from working in the field—having just fulfilled all righteousness—he asks if he should not now be invited to sit at the table with his master. Instead, the master responded in a most egregious way. In effect he makes the field slave put on a maid's uniform, serve the table (smiling, no doubt), and when he is done receives no thanks at all for "doing what is commanded." Then, as the door hits him in the rear while departing, the master forces the poor man to say: "We are unworthy! I was a slave and remain one—and am just doing my duty with no reward in sight."

So it happened that the true, evangelical church of God—even after Luther's own flood of the gospel into Germany and surrounding countries—was ultimately reduced to about four remaining preachers over the meaning of this passage. One of them, Andreas Poach, used the parable in Luke 17 against Melanchthon's "unworthy servant" George Major (and his various theories of "good works are necessary for salvation") as well as the later Synod of Eisenach (1556) that was meant to remove Major's preaching once and for all. Poach concluded that if we have learned anything from Luther and the Gospels, we should have learned that our *salvation is not based on objective payment to the law—Christ's or our own!* Of course, all the Lutheran clubs and assemblies immediately hated Poach for this—Philippist, Gnesio, and Antinomian alike. They collectively did what lawyers do—they attempted to silence Poach forever.[4]

From this debacle, we should ponder the other angelic passage in Luke 15—"not the righteous but sinners." No one had given this passage its due (not even the great Augustine or Aquinas) until Martin Luther's model sermon was published in his *Summer Postils*. Luther called these words the declaration of the one and only, true and complete "freedom from the law."[5] But who is truly free from the law? Is everyone so freed? No, this freedom applies only to *sinners*, and by that we do not mean "recovering sinners," or those

"reconciled in Christ." We are not dealing with "half-way sinners" or with "the man formerly known as a sinner" but with real, whole sinners who, upon receiving the gospel say an amazing thing: "what does it hurt if I am a sinner? Has Christ not abolished the Law?"[6]

Luther understood that Christ does not deal in what we can call "adverbial theology" like the two Lutheran parties fighting over how "the law of God is used" in what the Solid Declaration VI calls "truly motivated" or "truly converted . . . kinds of people."[7] Once you fall into such adverbial theology ("truly") as these warring parties of Lutheran preachers did, it is like quicksand, and we will never see you again. In lieu of this, there are many memorable phrases that Luther supplies in this sermon on Luke 15 (such as "Christ is a unicorn . . .") but I suggest that you hear one such exchange that he poses: when the devil says, "what about the law?" You reply: "there has never been a law on earth—neither 10 nor 1!" Or this one: "I am at liberty always . . . I know of no law, nor do I want to know of any." No wonder Lutherans after Luther's death ran from this boldness and hid. It really seems blasphemous to announce Christ's freedom so boldly to people who clearly have sin remaining on them.

But in fact, Christ has chosen actual sinners for a singular purpose. The group called "Lutheran" was running well for about a decade on this belligerent declaration—"I am free from the law!" Then, in 1528 someone got the bright idea of doing "church visitations." What they beheld was horrible. Luther expressed his own horror in his Small Catechism (which was his answer to that very problem): "Good God, what misery we beheld!" Beware of peering too deeply into the inner workings of a church that you supply. What you discover will nauseate and horrify you. It is like looking at a train wreck—you cannot expunge its carnage from your mind. For this reason, Gerhard Forde used to begin his lecture on the chief article of the Augsburg Confession (IV) by reminding everyone that these Church Visitations set in motion the beginning of the end for Lutherans.

Resist doing "satisfaction surveys" or "church mission studies" and especially avoid *Congregational Vitality Assessments*! If you fail to avoid them, you will never dare be a Lutheran again who declares:

"there never has been a law on earth . . ."! Data collected at these first church visitations supported the idea of "uses" of the law. Much of Lutheranism fell into a strange "Sasquatch theology." Sightings of a mythical "third use" of law began to be reported. It ran in the woods at night—and was said to belong only to the baptized Christians who were mysteriously guided by its hidden, divine norms—aided by nothing except holy spiritual encouragement. Some of this burgeoning party began suggesting that this secret law was unlike any so far encountered. It was docile and friendly—it had no accusation in it, except, of course, for the tiny bit of sin that still clings to an increasingly sanctified "reborn" man, who only needs a little skin removal now and then to keep him alive.

Uses of the Law for Preachers

What could possibly go wrong with this experimental application in parishes of a possible "third use" of law? It seemed to have the promise of solving the problem of running a church that had gone to the pigs. Since Lutherans know that theology is entirely about the law, and since there are various effects of law on different people at different times, the notion of "uses of the law" cropped up in the form of "helps" to preachers for determining how best to preach to their bawdy congregations. Preachers were supposed to anticipate what would happen when a parishioner ran into a law, first saying "I am a sinner!" Then you are supposed to anticipate also the sound of the Gospel: "I am free from the law!" However, there was a huge temptation in this notion of a "use of law" that imagined preachers could "read their audiences." Then presumably, they could design a plan for preaching to these types of responders, a plan that made the preacher into the essential "user" of the law. Gerhard Ebeling famously observed that if we are going to speak about "uses" of law—and of course it is possible to do so—then we must determine who is the "user" of such uses. It was at this very theological point that our Preceptor, Melanchthon, fell into thinking that a preacher (as a rhetorician) could manipulate the "uses"—provided that he knew ahead of time that there were "three types" of people who could hear any given sermon.[8]

It was, therefore, not "three uses of law" that Melanchthon first pondered, but "three types of people" to whom a preacher could theoretically preach.[9] His practical, imaginative exercise divided Lutherans into warring parties over the effect of preaching a theoretical "third use" of law. If we think like a rhetorician, as Melanchthon did, we could imagine three "types" of hearers for any sermon: 1) Those who have an undisturbed, unawakened conscience. Such are the dumbly secure—who do not know they need help, whom we might call the "comfortably numb." 2) Then again, there are likely to be those who have a terrified conscience (with no forgiveness in sight)—who at least know they need help.

So far, this kind of sociology seems reasonable; however, the trouble always emerges in the so-called "third" category of audiences: those who have a *reconciled conscience* (at rest)—who have already gotten their "help." What do you say to this third category each Sunday? How do you stay relevant for such reconciled consciences? Melanchthon accelerated his thinking about this experimental "third category" in light of the fool, Agricola, who started telling fellow pastors not to preach the law from the pulpit, but rather to elicit repentance from sympathy with Christ's suffering—Antinomianism!

Melanchthon wondered how to help keep preachers like Agricola at bay. What do you say to those whose consciences have gone through the wringer, disturbed by the law, but have subsequently come to rest because of their assurance in baptism? You could possibly say two things: 1) you could point out potential remaining sins: "the law points out the remnants of sins"—if you were not aware it, sin remains on you after baptism. And then, perhaps, a good preacher would go one further step: 2) you may also say, at least theoretically: "The law teaches certain works" to the baptized.[10] But is this last really true?

According to this burgeoning theory, a question arose: why would a preacher preach the law at all to the already holy-washed baptized? Well, because the biggest problem any pastor has with a congregation is what James, the good old "brother of Jesus" and tyrant-pillar of the church in Jerusalem (according to Paul), called "dead faith." He thus not only coined a slogan but set fire to churches ever since. Immediately pastors of any era latch onto this slogan. What does my

congregation really look like when I "survey" them? There is no action! There is no notable change! There is no measurable improvement! There is no lively Spirit or even much of an attempt to better themselves and their society. When the society goes bad, who will call it back into order? In the end, what do I find in my congregation? Dead Lutherans singing dead German songs with their dead liturgy among other nearly dead white hairs who should not even be driving a vehicle to church. Indeed, the only thing that resembles holiness in their group is that they have become too feeble to commit notable crimes. The question then arises: what do you do with a congregation of dead zombies? They may have had faith, theoretically, at some point—but it died! They aren't truly motivated anymore or really and truly (adverbially) converted to God. They are what James calls a pack of *dead faith-ers*.

This "dead faith" idea has infiltrated all branches of Lutherans, not just Haugean Pietists or erstwhile Confessionalists. It has caused a general exodus into American Evangelicalism and "decision" theology that is sure of one thing: baptism doesn't save! How shall we proceed with this theological mess in light of its origin among Lutherans with their sincere—adverbial—attempts to understand the proper way to preach the law to sinners?

Adverbial Theology vs. Simul

Luther, for example, knew that there were uses of the law, and even types of people to preach to: rough young men, in particular, who have never been introduced to law in their lives and are running around thinking they are "secure," covered, approved of, or even "proud"—the proud boys of any town. There are also the "bruised reeds" with a troubled conscience whom the law has touched and who are insecure, humble, and brought low—dying.

What do you do as a preacher when you have such disparate audiences? How do you "read them" in anticipation of your sermon? It seems strange at first, but you preach the law to each of these—although it "works" differently, or "is used" differently. The proud are humbled, the weak are driven to Christ. Of course, the key problem

for the pastor is to figure out ahead of time, which is which, when and how; how do I preach to all these "types" in one single sermon? Most problematic, however, is this third category of baptized persons. These are the ones whose "dead faith" presumably enters as a virus: "shouldn't my baptized people be showing some difference in their lives? Shouldn't we see movement from pre- to post-baptism?" No. In fact, Paul was nonplussed about such attempts: you people are fighting over which pastor baptized you! How can this be? (1 Cor 1).

But shouldn't we see some improvement from the "faithful, elect reborn children of God"? Even though they are not so holy as to be "perfectly, wholly, *completive vel consummative* (completely or totally)" renewed, shouldn't they have some room for improvement?[11] Isn't the job of a preacher to step in and not only reveal Dead Faith—but also correct it? However, once you pose this question, and try to measure the advancement of holiness, you end up in the quagmire of Adverbial Theology. The holiness of the baptized is then categorized as imperfect—not perfectly, wholly, completely, totally, or completely pure. But instead of handing this imperfection over to the Holy Spirit, the rhetorician figures he can advance the case of his own, adverbial group.

The question of such theology then becomes: doesn't baptism make a difference when I preach? Well, yes—it does, but the difference it makes is that your baptized people are totally and completely *simul*—not "partially" and "progressively." They are two nouns instead of one slot machine of adverbs. Few but the likes of Paul and Luther have ever been willing to grasp what that truth means outright: you have two "yous" the moment of your baptism. You are not improving but resurrected from the dead.

If you are going to wander into the swamp of adverbial theology and use the "third use" of the law to correct "Dead Faith," then you have to deal properly with the *simul* concerning who you are once you are baptized. What has happened to you? Is your new life only a sign of the possibility of change that may occur in the future? When you preach to the baptized you often start imagining an apocryphal "third category" of the baptized without understanding their *simul*. Once you imagine that category, you no longer grasp to whom you

are preaching: the baptized—who are two, not one. It doesn't take long for such a preacher to image what should be happening in the future rather than what has already happened in the past.

Your imagination tells you: "my congregation has had enough absolving and baptizing for now—the first and second use of law and freedom by the gospel. At this point I must aid and guide my parishioners into becoming 'perfectly renewed.'"[12] Of course, you know they will never be "perfect" but they ought at least to be a little "regenerated" and a tad "born again." At least they must be "converted" or their little sprout of faith will wither and die. So you imagine that you must help them grow on their way to becoming completely "sanctified" and so "spirit filled." Finally, you say to yourself, "I can't leave them in a merely 'forensic' state; they must become 'effective' doers. They must not only have *favor* (faith) but also *donum* (love)." You may avail yourself of this current dream: "I can't just free them *from* the law, I have to free them *into* the law! If I only free them from the law, I get chaos; freedom into the law would build the kind of church kingdom God would be proud to rule."

In short, we end up with a host of concocted names for the law as the only thing that will really create a congregation of holies— not sinners—and remove the blight of dead faith . Indeed, preachers get tired of the gospel and eventually despise it. The gospel's product is then not "Dead Faith," but dead preachers who loath their congregations and themselves. Once pastors go down this "third category" slide, it doesn't matter whether they blame Melanchthon or his students. This malaise has infected everything in our churchly ambit and the only one who can fix it is a harsh doctor who tries to have some bedside manner: "Let me console you about the loss of your third use before I must surgically remove it."

Paul's Romans 3: No Appendix to the Gospel

Preaching the gospel is the greatest thing a human can do, but it is also the hardest thing. Paul is not just a guide at this point but is the very voice of God: "But now the righteousness of God has been manifested apart from the law" (Rom 3:21). Paul's last phrase here is the key. It says that when I say you are freed from the law,

"apart from it," there is a *period* at the end of that sentence. There is no appendix to "freed from the law"—no comma, no footnote, no "asterisk." There is nothing said after this: "I free you from the law"—period.

However, every righteous preacher wants to put an asterisk after it. They want to say: "freed from the law . . . so to speak," or "sort of"—as long as you don't take that too literally. Or, in the words of the crafty Majorites and Joachim Mörlin—You are free from the law "practically" not "theoretically." "Theoretically" the law is eternal; it never ends. You never can live beyond it.

Why does everyone want an asterisk after Paul's great declaration? Christians have a harder time with their own freedom from the law than any Pharisee or Scribe ever did. Christians are not only bad at their own *freedom from the law* (with all kinds of theories of sanctification, pious conversions, and third uses of law) but they also tend to be especially afraid of what happens between Jesus himself and the law.

The very thought that God could make a promise that he refuses to unmake (which is baptism) or that our Lord could be faithful when we are unfaithful (Rom 3: 1–3) takes away from us what we imagine is our greatest power of will, namely, to accomplish what the law demands. Indeed, law does enable most everything good in life: law and order, law and politics, law and science, law and sociology—even law and sports and law and having fun. Where would all of these go if Christ simply forgives sinners? As Luther put it in his Greater Galatians lectures: "Who will bother to be good?" Won't the loss of the law actually kill life and faith? Answers: no one! And, who cares?

Well, most pastors or ministers seem to care. The desire to put an asterisk after Paul's promise "not by law" derives from the constant pastoral fear of James' dead faith. What do you see in your church? No one volunteers, no one is kind to the neighbor, all are quarreling. No one is coming back to church. Why not? "Because I went ahead and set them free from all things!" And what is the result? No one bothers to read to the end of Paul's letters where his supposed *parenesis* or "ethical part" says things like "love one another." Can't we muster at least an occasional "agree with one another?" Instead, I

end up with a cabal of "dead faith." "My congregation is dead—and I killed them!"

In light of this rampant pastoral panic we must take the bull by the horns and ask why Christians and their preachers have such a hard time letting a baptized Christian say, "I have no law, nor do I want to know of any." Particularly, how is such a confession not antinomian? Why should pastors actually resist joining the rabble who cry out for an appendix to the Gospel? We must start by noting the difference between reason and faith. There are two things that are impossible for reason to grasp, yet they are the only things that faith knows: First, the law comes to an end! Christ himself is the end of the law (Rom 10:4). Second, God died! When the centurion, who stood facing him, saw that in this way he breathed his last, he said, "Truly this man was the Son of God!"

Both are theoretically impossible; neither can rationally happen. Yet, according to the preaching of the gospel—they did happen. Together, these two comprise the core of theology that is summed up in two questions: 1) What did the law do to Christ? 2) What did Christ do to the law? The gospel's answer to both of them is precisely not "theoretical"; it is historical, accidental, and factual—despite the theoretical impossibility of either. The law really did end the Christ; Christ really did end the law.

Confessing that the law ended Christ is called the theology of the cross rather than glory. Confessing that Christ ended the law is the gospel that limits, ends, and silences that divine law. Theological opponents of these truths attack both of these realities at once, both what happens to Jesus Christ on the cross (atonement) and also what actually happens to baptized Christians (faith)—which is no less than "freedom from the law." It is this last matter concerning baptized Christians that led to the declarations of "dead faith" and its offspring "adverbial theology." In turn, these attacks on faith lead to the pastoral/rhetorical manipulation of the "audience" that bastardized "sanctification" into an addition to justification—as if the Holy Spirit were something "added" to Christ, or an asterisk applied to baptism.

Thus, we find ourselves in the hothouse for growing "three uses of law." About atonement, it claims that God could not "theoretically"

die. Either a man died and not God, or one part of the three parts of God died, or even that there was no real death (but merely some kind of "obedience" to the law that effected a payment of debt to restore the law's lost honor). Concerning the end of the law, it claimed that the law is eternal in being—it cannot end. If somehow the law ends "practically"—so to speak—or if perhaps its *functional* accusation ends, still it is theoretically impossible for the law's own self (its essence) to end. If the law functionally were somehow suspended—isn't that tantamount to saying God himself is dead? The answer is—no. That kind of equivocation understands neither what happened to Christ nor the law upon the cross.

The Eisenach Synod of 1556

The 1556 Eisenach assembly arrived at an agreement that, "practically speaking," allowed God to die and the law to be silenced on the cross. However, theoretically (where there is no cross) the law had to remain intact or God himself would perish along with this world. Theoretically, neither God's death nor the law's end could happen. Then, armed with these adverbs of mode, they managed to halt the false preaching of good works as necessary for salvation, but then overreached by silencing what they deemed a "second antinomian" party. That "party" was tiny but potent, composed of four preachers (Andrew Poach, Anton Otto, Michael Neander, and, sometimes, Andrew Musculus) who insisted that the law indeed ended—in every possible way, including any theoretical eternal mode.[13]

These "second antinomians" refused to stop teaching the plain gospel concerning what the law did to Christ and what Christ did to the law. The second person of the Trinity—the Word that was with God and was God—was doing perfectly well in the inner essence of God when (suddenly!) he was born of a woman, born under the law (Gal 4:4). Why would he do that? Why would the one above the law put himself under the law? How could that be engineered in any case? Theoretically, the incarnation is not even a possibility, yet, despite all intellectual concerns to the contrary, the Word became flesh and dwelt among us. In doing so, a strange and frightening struggle ensued between Christ and the law. That struggle was not

due to the Logos himself, who had no beef with the law—he was perfect and sinless so that the law could do nothing with him. However, the Word was so born of woman, under the law—not for his own need or interest—but "for us and for our sake."

Sometimes dogmaticians like to say it was not "Christology" but "soteriology" that made Christ become "incarnate"—but that is stupidity talking to itself. The problem is that we sinners have an issue with the law, even though Christ does not—which Christ takes up for our sake. What issue have we got with the law? Is it that we sinners think that the law is simply too hard to do? Is that our problem with the law? Even Moses says: look, this is not too hard, it is "not above you"—it is not as if you have to pass through the Red Sea to get to it (Dt 30.11–14; Rom 10). Perhaps, then, our problem is opposite—the law is too easy to do. Even children of a moral age can fulfill it. Perhaps any fool can get the law's approval—what good is such a simple law in the end? The law must be difficult enough to separate the holy from the unholy and reveal one's righteousness to the world—but it can't be too hard either.

The four determined preachers learned that our real struggle with the law (that necessitated Christ's submission to the law) is that of the "unworthy servant" who wants ultimately to rest and to sit at the table with the Lord. The unworthy servant wants a reward from the law upon ultimately "fulfilling" the law. However, he discovers, there is none! The law never did, does not now, and never will have a reward in it—regardless of who fulfills it. Paul's opening statement in Romans 10 (where he tells us bluntly: Christ is the end of the law) is a plea to his fellow Jews who are the best users of the law: "Brothers, my heart's desire and prayer to God for them is that they may be saved" (Rom 10:1). Who doesn't want Jews to be saved? If *they* can't be saved, who can be? They have a "zeal for God." They love the law. They have a first, second—and especially—a third use. Some are so zealous they even have a fourth, though it takes a superior mind to grasp that!

Thus, before telling you that the law ends and you are free from the law, Paul makes sure we understand that Jews are friends with the law. They are really good at the law—unlike dirty Gentiles. They

enjoy whole days with nothing but the law. Then, when the day is done, what do they do? They take the Torah into bed and dream of the law all night long so when they arise the next day, they are ready to have another law-day. You cannot do better than to live that life. Paul's fellow Jews love the law more than any Gentile Lutheran ever did or can, and having a zeal for the law means in fact that they have a zeal for God alone—no other person or thing comes close.

However, Paul continues, this zeal for God is "not according to knowledge." They do not know what they are talking about. They are rabbis, Pharisees, righteous ones with the law on their doors, wrists, and foreheads. "God, I love the Jews," Paul says! Why did I get stuck with the mission to the Gentiles? Indeed, Paul's love of his fellow Jews is why the entire history of Christendom attempts to explain how it is that the Church of Christ is not simply an improved version of the Jewish synagogue. Paul would have said that you can't improve upon it—and there is no need to try. But Christians routinely attempt this disaster, wondering if perhaps Jesus's movement really boils down to the Sermon on the Mount and its " improvement" of Moses: "You have heard it said . . . but I say unto you!"

The law is good, the law is holy, the law is beautiful, the law is everything you could ever desire—yet there is something askew. If you compare the law in this way to Christ hanging on the cross, you find something amazing: the law you can love; Christ's cross you cannot. What is so appealing about the law? Why are we attracted to it? At the same time, what is so offensive about Christ's cross? Why are we repulsed by it? Here is the answer in a nutshell: the law *expels* sin; it gets rid of sin by getting rid of its carriers—the sinners. Meanwhile: The cross *compiles* a mountain of sin—and yet somehow frees the sinners. One accuses sin, the other takes it.

Deuteronomy 30 and Moses's Uses of the Law

In Romans 10, Paul preaches on this great distinction between the law and Christ by using Deuteronomy 30 (Moses's speech on the "uses of the law") to teach exactly how to use Moses's law for your

own advantage. Further, we even learn how Moses thinks God himself uses the law. Luther, and shortly thereafter Melanchthon, found early on in the glory days of Evangelicals that the real issue of the law was *what it does to you*—not what its "essence" must be before all creation or in eternity (when the law is supposedly by itself and alone in a pristine state)—or perhaps even what the law was like in the inner, mystical majestic Trinity. So, the Lutherans began by musing about what, exactly, the law does to anyone under it. What "uses" does it have?

It was difficult to admit this finding, but these Evangelicals proclaimed that the holy law does only one thing—from its beginning to the final judgment day—it accuses you. The law always accuses! How many times do our young Lutherans, especially Melanchthon, repeat this point over and over to their theological B-squad of Roman Confutators in the *Augsburg Confession* and the *Apology*?[14] Neither Melanchthon's later dreams nor any notion of a liberal, growing Wittenberg consensus can ever change the clarity of the Lutheran Confession, and its Apology—not even the laboratory experimentation of the Formula of Concord among the bulk (but not all!) of Lutheran preachers. The law curses us, and it even cursed Christ. So Christ died under the law—but he also did something that is theoretically impossible: he silenced the law—he ended the law right then and there.

However, let us return to Paul in Romans 10 and Deuteronomy 30. It was not God, it was not even an angel, it was Moses himself through whom the law came to us. Later, when Moses tried to rally the people, who were already losing their "sanctification" beside the mountain and were falling away from the law's guidance in life, he himself got confused about the difference between the law and Jesus Christ. One could say to Paul, as modern historians do, that Moses cannot be at fault for this confusion because he never knew Christ—he is supposedly "Old Testament" and Christ is "New Testament" so that all Paul's blather about Moses is meaningless. But the simple facts of history (Old Testament vs. New Testament) do not release Moses from responsibility for knowing the difference between law and gospel. Very few are like Luther, who recognized

that not only did Moses meet Jesus Christ on the mountain, but Moses actually got a full sermon in the form of a promise that properly distinguished Christ from the law right there on Mt. Sinai. With his face in the cleft of the rock, the cowering Moses got a promise from Christ—while whimpering for fear of death. Moses himself got something better than what he ever wanted! He wanted to see God, but he actually got to *hear* God instead! He did not behold God and did—he *heard* God and lived.[15]

In any case, Moses subsequently wrote in Deuteronomy 30 "about the righteousness that is based on the law [what you call a third use of the law] that the person who does the commandments shall live by them" (Rom 10:5). In other words, Moses invented the theological idea of "sanctification" as something added to justification because he couldn't quite believe that he himself was declared righteous by the second person of the Trinity—and this righteousness had nothing to do with his shining face and two tablets of stone! Later, when Moses thought about all that had transpired on the mountain, he figured that a man must *become* righteous by deeds of the law, and this law would naturally lead a person into God's holy ways—a sanctification following a justification. Moses must then have begun thinking: the gospel cannot work forensically—without the law working "really" in addition—otherwise we would end up with a whole nation of people who have "dead faith." Who wants to guide that nation? And so, we must ask: where did all this end up? It ended with Moses refusing to listen to God's word, then striking the rock with his power-staff—and behold!—water came springing forth for the unfaithful, wandering Jews. However, strangeness upon strangeness—the rock was actually Christ! Moses ended up striking the Christ (I Cor 10) he was trying to ignore!

Paul then put this all together in the conclusion to Romans 10. Sure, it was Moses who wrote Deuteronomy 30, but it was actually the Spirit who spoke the words, so that Moses does not get the privilege of being his own interpreter: Paul recognized that Deuteronomy 30 really says something Moses was trying to avoid—his own sermon was really about the righteousness of *faith*—not the *law*. It does not reveal a third use of law, nor does it describe a sanctification

in addition to justification. Deuteronomy 30 is not about a free will that is ultimately rewarded for its proper choices. Instead—the law has no reward.

Well then, if the law has no reward, what does the righteousness *of faith* say? Paul explains: "Do not say in your heart, 'who will ascend into heaven?' that is, to bring Christ down. Or 'Who will descend into the abyss?' That is, to bring Christ up from the dead" (Rom 10:6–7). Those phrases concerning what descends and ascends do not describe "uses of the law"—instead, they tell us about the incarnate Christ. Moses misunderstands his own law: It is not that the *law* is near you so that you could use it as a guide to get somewhere (a third use): "But what does it say? "The *word* is near you, in your mouth and in your heart" (that is, the word of faith that we proclaim)" (Rom 10:8).

Paul, what do you mean here? Faith is not a power in you, it is not a movement, it is not guided by the law. What is it then? It is what we preached into you. It is *Christ*, not the law. What does that mean? It means you are not freed back *into the law* but freed *from the law*—entirely. Christ is a promise, not a command. All of the power is in the word of Christ, that is the word of the cross; not any power is left for you to sanctify—or even to preserve the sanctification that you have.

Still, pastors will want to know, what if I have a flock of "dead faith" sheep? Who is to blame for that? Well, your lying eyes of course—and your lack of faith. Everything comes to this:did a preacher give you this promise of baptism: "everyone who calls on the name of the Lord will be saved" (Joel 2 and Rom 10:13), or not? Then, of course, how will you know the name to call upon unless it is preached? And how will it be preached unless a preacher is sent—"how beautiful are the feet of those who preach the good news" (Rom 10:15). This specifically refers to the first and final promise given to you or any Christian in baptism.

The Remaining Faithful

At last, we return to why Lutherans in particular have a hard time with this teaching of justification apart from works of the law. Why

do they so often insist that the law is not ended, and that we are not actually free from the law? Why do preachers in particular insist that the law must be brought back into the Christian life as a non-accusatory guide to the sanctified, renewed, regenerated, newly-born life of Christians? Because they are disgusted by their congregations. They are revolted by the cross and do not believe that Christ could—or would—end the law. They don't like what the law did to Christ or what Christ did to the law. Who could like that?

Being near the nuclear core of the gospel and cross, as Lutherans are, makes people very afraid of an impending explosion: who will do good works? If we take away the law's reward, we will lose the best thing about being human—our highest and best desires. Isn't that beatific vision exactly what makes us human? Is it not the mystical unity with God himself? Thus, we fear that losing the law means losing God himself.

Whether they were aware of it or not, this was the point at which the bulk of Lutheran pastors and their surrogates met in their Eisenach council to come to a common agreement. They felt that preaching would be protected with an acceptable theory of what Christ's cross actually did to the law. But the theory of eternal law that they approved assumes that the law only works if God gave it to establish an ideal. If that ideal were "theoretically" reached, it would necessarily produce a great reward from God's treasure chest. That, in turn, means that "ideally" you would not only have a God but be a God—united to him in essence.

The law, so this theory goes, must have a reward at the end or the God who gave it (as a gracious gift) would be cruel, mean, and evil. It is no coincidence that this dream is the one used by the serpent with the foolish Eve and the idiot Adam—both of whom suddenly abandoned faith as their righteousness with God and sought knowledge instead. In any case, the theoretical reward must be imagined as something beyond earth—delivered in heaven—so that for the time being it cannot be seen or felt yet. However, the assumption of its existence must be made spiritually, otherwise God would not be God as source and goal of the law; Christ would not be Christ fulfilling that law, nor would the Holy Spirit know how to help a Christian become sanctified. This theological leap imagines what the

law offers outside and beyond human sin—which is necessarily theoretical in nature. In practice no one gets the rewards. So, we begin to think that Christ died on earth, but not in heaven and that the law ends, "so to speak," but not as God's eternal will for us and for himself.

Of course, the law itself has an excuse for missing this spiritual theory. Moses could say "I am Old Testament, not New Testament. I am waiting for Christ to come, but he is not here yet"—even though that would be a lie. Paul anticipates that very argument in Romans 10, saying: but what excuse do you Christians have? Has Christ not come Has he not brought a new kingdom? Is this not a promise? Is the promise not preached? Have you not been made righteous apart from the law? Are you not free precisely from the law—not to be freed back into the law? Did Christ not in fact die so that your sins, which are now his, are completely defeated? Has not the law that rightly accused him of the sin of world been silenced once and for all?

In giving us all these counter-factual conditions, Paul is forcing us to confess that the law has in fact been historicized. It is not "eternal" in any of our desired senses. It is over and done—but only where Christ is. The law is talking all the time and you preachers will be its mouthpiece in the pulpit. You will preach the law—not halfway but the whole way—unto death. Yet, when you give Christ and he absolves by taking sin and conquering it, the sin can't talk anymore. Is the sin not there? Of course, it is there but it is speechless. Is the law not there, has it somehow been expunged from history? Of course not. It is there, but completely, totally silenced. It has nothing else to say to you. For you it is dumb. It does not have an eternal aspect plus an historical aspect. Christ's effect on the law is not the way the Greeks think of things: a little "model" of reality built here on earth while the only real thing exists eternally and theoretically in heaven—as if law on earth is a mere icon of the eternal law in heaven. That is not the gospel; it is not what Paul is saying or what Lutherans are saying in their confessions.

Yet, the Synod of Eisenach concluded that the gospel was too dangerous for public consumption; it had to be mollified—not in

actuality (for that would discredit Lutheranism and justification by faith alone)—but it had to be silenced in the realm of "theory." These well-meaning theologians, with hearts together (except for the faithful four) proclaimed universally and forever: *the law is eternal—not in practice but in theory*! They confessed, "Good works are necessary for salvation in the doctrine of the law abstractly and ideally."

Of course, their conclusion is not the same as the Lutheran Confessions nor as Scripture. It is a theoretical position used to silence the remaining, faithful preachers by declaring them antinomians for refusing a theoretical law. At the very least, it is accurate to note that what came to be called a "second antinomian" controversy was not in any sense what Agricola's antinomianism was. However, since one is always named by one's enemies—even as with "Lutheran"—it must be accepted to call Poach, Otto, and Neander "Second Antinomians" and reasonable to include the old, faithful Amsdorf in this group as well.

In any case, the church goes through these curves from time to time when there is a sudden collapse, and the church is emptied of Christians except for four—as in the days of Athanasius so also in the days of Poach. Today we need some preachers who are willing to be not only weak on sanctification—but indeed dead to it as long as sanctification is thought to correct "dead faith." So we ask finally, what is the Holy Spirit really doing when you preach Paul's and Christ's words: "you are free from the law"? First, the Holy Spirit teaches you to stop trusting your lying eyes that see dead faith everywhere. Second, trust the words you are preaching: "Christ died for your sake" and "you are free from the law."

How does this work when you preach it—even against your feelings and sight? The Holy Spirit puts your sins on Christ—and Christ takes them. Christ nailed them in his body to the cross, defeating the sins once and for all. When Christ was raised from the dead by his Father, the Holy Spirit does not subsequently make you say "give me the third use, I think I can take it to the end! Let me become a friend of the law and remove my remaining sin." Instead, you say "I know of no law, nor do I want to know of any." I live beyond the law. I am free from the law. This is the righteousness of faith—on account

of Jesus Christ's death and by his resurrection word: "I have baptized you in the name of the Father, Son and Holy Spirit, everyone who calls on the name of the Lord shall be—necessarily—saved."

Every person you preach to will want and need to hear this as long as they remain in this old world—those who have not been baptized and those who have been baptized. The law is all you have going in this old world—until Christ. Then—no more law. God died for your sake. The law ended, then and there, for your sake. Where there is no law, there is no sin, and where there is no sin, there is no death. Where there is no death there is only life everlasting, free from the law, dining at the marriage banquet of Jesus Christ.

NOTES

1. *The Book of Concord: The Confessions of the Evangelical Lutheran Church*, eds. Robert Kolb and Timothy J. Wengert, trans. Charles Arand et al. (Minneapolis: Fortress Press, 2000), 502.1 (FC, E, VI) (hereafter cited as BC); *Die Bekenntisschriften der Evangelisch-Lutherischen Kirche*, Vollständige Neuedition, eds. Irene Dingel et al. (Göttingen: Vandenhoeck and Ruprecht, 2014), 1250.29 (hereafter cited as BSELK).

2. *Luther's Works*, American Edition, 80 vols., eds. Jaroslav Pelikan, Helmut T. Lehmann, and Christopher Boyd Brown (St. Louis and Philadelphia: Concordia and Fortress Press, 1955ff.), 21:3 (hereafter cited as LW); *Luthers Werke*, Kritische Gesamtausgabe, 73 vols., eds. J. F. K. Knaake et al. (Weimar: H. Böhlau, 1883–2009), 32:299.26 (hereafter cited as WA).

3. LW 21:69; WA 32:356.25–38.

4. A summary of the story is given in F. Bente, *Historical Introductions to the Book of Concord* (Concordia Publishing House, St. Louis, 1965), 169–171.

5. LW 78:128; WA 36:271.25.

6. LW 78:135 (see note 29 in LW text for lack of WA reference).

7. BC 587, 589-590 (FC SD VI, 3, 4, 16); BSELK 1444, 1448.

8. The accounting of this and the development of the third use is given in Lauri Haikola *Usus Legis* (Uppsala, A.-B. Lundequistska Bokhandeln, 1958).

9. Hans Engelland, *Melanchthon, Glauben und Handeln* (Munich: Christian Kaiser Verlag, 1931), 107. This distinction of people also began as two (*secure et perterrefacti*) and only later expanded to three after the Saxon Visitation (1528)—although "three types of people" was present as an unused idea in the 1522 annotations on Romans and Corinthians. The different, but related, development between three uses of law and three types of hearers appears to fit with Timothy Wengert's timeline that the topic of "uses [or offices] of the law" first appears explicitly in 1527 in Melanchthon's *Scholia on Colossians* (second, expanded edition in 1528; German translation by Justus Jonas in 1529). Melanchthon also notes two uses of law in the 1532 commentary on Romans and it remains in the 1540 revised edition. In the third edition of the *Scholia on Colossians* (1534) Melanchthon mentioned three uses/offices, although the printer kept a marginal gloss at that point of two uses. "Three uses"

then reappears in the *secunda Aetas* of the *Loci communes* (1535) in response to Johann Agricola. Later in 1534 Melanchthon also reacted to the so-called "Reform Catholics" in Leipzig by saying that the law of love is still law, not gospel, now functioning in the third use. See Timothy J. Wengert, *Law and Gospel*: *Philip Melanchthon's Debate with John Agricola of Eisleben over Poenitentia* (Grand Rapids, Mich.: Baker Books, 1997), especially chapter 6 and compare Ebeling "On the Doctrine of the Triplex Usus Legis in the Theology of the Reformation" in *Word and Faith,* translated by James W. Leitch (Philadelphia: Fortress Press, 1960), 65–69.

10. Philip Melanchthon *The Chief Theological Topics*, 1559 2nd English Edition Trans. J.A.O Preus (St Louis: Concordia Publishing House, 2011) on "The Use of the Law," 123.

11. BC 588 (FC SD VI, 7); BSELK 1446.10f.

12. BC 590 (FC SD VI, 18); BSELK 1450.10.

13. BC (FC SD VI, 2; BSELK 1443.34–1444.2.

14. "For the law always accuses and terrifies consciences." BC 126 (Ap IV, 38); BSELK 283.16–17.

15. For the full story see Steven D. Paulson, *Luther's Outlaw God*, vol. 2: *Hidden in the Cross* (Minneapolis: Fortress Press, 2019), 229f.