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PHILIP MELANCHTHON, THE FORMULA OF CONCORD,
AND THE THIRD USE OF THE LAW

DISSERTATION

Presented in Partial Fulfillment of the Requirements for
the Degree Doctor of Philosophy in the Graduate
School of The Ohio State University

By


* * * * *

The Ohio State University
2001

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ABSTRACT

The sixteenth-century Lutheran view of the Christian's relationship to God's law forms the subject of this study. Particularly, what role should God's law play in the Christian life in view of the traditional Lutheran distinction between law and gospel? Since the days of Martin Luther and Philip Melanchthon, Lutherans have generally agreed that the law 1.) curbs outbursts of evil and 2.) exposes sin. In 1577 the Formula of Concord took a step not explicitly taken by Luther, identifying a "third use" of the law: giving Christians a rule for living on account of their abiding sinful nature. In 1534-1535 Melanchthon had been the first Lutheran theologian to enumerate three uses of the law, but was the third (instructional) use truly Lutheran? Scholars have had grave doubts, in the twentieth century as well as the sixteenth.

After summarizing the twentieth-century research and the Formula of Concord's position on the third use of the law, the present study examines the respective editions of Melanchthon's theological textbook, the Loci Communes. Thus, it takes a "reading" on Melanchthon's stance toward the law and related subjects as of 1521 (the first edition of the Loci), 1530-1531 (the Augsburg Confession and its Apology), 1535 (second edition of the Loci), and 1543 (the third and final Loci edition). It concludes that over the years Melanchthon's position displayed remarkable
consistency, although there were a couple of shifts in it. The teaching of the Formula of Concord reflected Melanchthon's thinking on the law as he wrote the Augsburg Confession and Apology. The third use of the law was thus not a foreign element that later intruded into Lutheran theology.

This study also suggests that the twentieth-century treatment of the third use has been shaped by influences besides encounter with Melanchthon's writings themselves, and that Melanchthon's ethical concern grew less as a result of "humanist" optimism about man and more due to his concern with individual salvation in addition to civic and churchly considerations. Finally, it offers several questions which can fruitfully be put to Luther's writings in order to establish the relationship between him and Melanchthon.
Dedicated to my wife and my mother
ACKNOWLEDGMENTS

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At the International Center of The Lutheran Church—Missouri Synod in St. Louis, librarians Wendi Adams and Shari Stelling kept me well-supplied with materials. My immediate supervisor, President A.L. Barry, facilitated my taking time off in blocks during 1999 and so made possible the writing of the first draft.

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This dissertation is dedicated to two women who have probably wanted to see the finished product even more than I have. They are my wife, Läna Schurb, and my mother, June Schurb.

*Soli Deo gloria!*
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ABBREVIATIONS


ARG Archiv für Reformationsgeschichte

Ap Apology of the Augsburg Confession


Br Briefwechsel volumes of WA (see abbreviation below)

CA Augsburg Confession


Ep Epitome of the Formula of Concord

FC Formula of Concord


LC Luther’s Large Catechism
| SA | Schmalkald Articles |
| SC | Luther's *Small Catechism* |
| SD | *Solid Declaration of the Formula of Concord* |
| T | Volumes of MBW containing texts of Melanchthon's letters |
| Tr | *Tischreden* volumes of WA |
This dissertation examines an aspect of sixteenth-century Lutheranism's development from a reform movement to an ecclesiastical establishment marked by a distinct confession. It focuses on an issue for which every Christian church must account: Christian conduct in the world. Specifically, the present study inquires into the Lutheran view of the Christian's relationship to the law of God.

Lutherans have traditionally summarized the biblical message in terms of "law and gospel." The law gives divine directives and prohibitions to people, and accuses all who do not fulfill them. The gospel is the "good news" of God's work to save sinners through his Son, Jesus Christ. Its effect is opposite that of the law: it forgives and justifies. The Christian in this world is confronted with both of these words of God. The law condemns him as a sinner, but the gospel assures him that nonetheless he is declared not guilty (justified) and thus reconciled to God on account of Christ the propitiator. In short, Lutherans say, the Christian is "simul iustus et peccator."

Martin Luther, who is well-known for emphasizing such justification by grace through faith alone, noted in his "large" Galatians Commentary of 1535 that "It is difficult and dangerous to teach that we are justified by faith without works and yet to
require works at the same time.”¹ However, he and his theological heirs undertook just this difficult task. In the words of one summary, “The Augsburg Confession [written in 1530, the chief confessional writing of Lutheranism to this day] claims that God wants us to do the works commanded by him -- but he wants us to do them because he loves us and we love him, and because we want to share this love with those who need it.”²

That is, the Augsburg Confession makes two affirmations. First, God commands Christians to do good works, and therefore they have to do these works. Second, Christians actually do the good works not because they have to, but instead because they want to.


Luther’s “large” Galatians Commentary was based on lectures he delivered in 1531 and 1532. These lectures were expanded and put in printed form by George Rörer along with Veit Dietrich and Caspar Cruciger, who were friends and students of Melanchthon (see AE 26, ix). While Luther wrote in the preface to the printed work, “I recognize that all the thoughts which I find set down in this book with such diligence by my brethren are really mine,” he immediately added, “I am compelled to admit that all of them, or at least most of them, were spoken by me in my public presentation” (AE 27, 145, emphasis added). “... sentio meas cogitationes esse omnes quas in hoc scripto per fratres tanta diligentia signatas reperio, ut fateri cogar vel omnia vel etiam plura fortasse in ista publica tractatione a me esse dicta” (WA 40¹, 33). Despite Luther’s clear approval of the commentary as published, words like those italicized above have fueled controversy among scholars who wonder how much of the 1535 Galatians reflects “genuine Luther.” The modicum of uncertainty attending this matter becomes particularly bothersome in works like the present study, where comparisons are made between Luther and Melanchthon. Therefore in this dissertation Luther’s “large” Galatians Commentary will most often be cited as confirmatory evidence. In other words, together with a quotation from the 1535 Galatians another source will usually be adduced in which Luther said essentially the same thing. Failing that, George Röher’s notes, from which the published book was prepared (included at the tops of the pages in WA volume 40), will at least be checked in an effort to gauge the amount of editorial work done to produce the printed commentary.

The writer of the Augsburg Confession was Philip Melanchthon (1497-1560), the foremost among Luther's colleagues and immediate successors. Already an eminent humanist when he began teaching Greek at the University of Wittenberg at age 21, Melanchthon went on to distinguish himself as a theologian by writing his *Loci communes*, an application of the humanistic topical method of study to theology. Throughout his career, the erudite Melanchthon remained devoted to the revival of classical learning. He wrote treatises on classical authors from Plato to Cicero, as well as works designed to apply the wisdom of the ancients to the conduct of life. Eventually he became such a key figure in the development of curricula at every educational level that he became known as the "praecceptor of Germany."3 He flatly refused to relinquish his initial appointment in the Wittenberg arts faculty when he was offered the opportunity to teach theology on a full-time basis.

However, Melanchthon continued to advance the theological work of the Reformation with his biblical commentaries, lectures, formal opinions, contributions to visitations and church orders, and his service as an ecclesiastical diplomat. It was in the latter role that he wrote the Augsburg Confession, and as a doctrinal apologist for the Lutheran reformation he published a lengthy defense or apology for it the next year. Both of these documents were eventually included in the Book of Concord of 1580, a

collection of the "Lutheran Confessions." Nonetheless, a chorus of voices has identified Melanchthon as an important catalyst in a multi-faceted decline that set in already during Luther’s lifetime and grew both more complicated and more serious as several important disputes swirled about in the wake of the reformer’s death.⁴ Such disputes were laid to rest among Lutherans with the promulgation of and widespread subscription to the Formula of Concord some thirty years after the reformer died.

There have been several standard complaints about Melanchthon’s theology. The subject of the Lord’s Supper aside, two come particularly close to the subject of salvation and the resultant new life.⁵ Already before Luther died, Melanchthon championed the formulation, “Good works are necessary for salvation.” Although in time he grew cautious about utilizing the phrase, he never disavowed it. This formulation became the storm center of the “Majoristic controversy” of the late 1550s and 1560s, named after Melanchthon’s Wittenberg colleague George Major (the controversy eventually treated by the Formula of Concord in article IV). There has

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been only a bit less agreement that Melanchthon deviated from what had become standard Lutheran teaching when he enumerated three causes of conversion: the word of God, the Holy Spirit, and the will of man. His statement echoed through the second half of the sixteenth century in the “synergistic” controversy, so called because of the suggestion that human beings cooperated with God in their salvation. (The Formula of Concord took up this controversy in article II.)

In addition, twentieth century scholarship has frequently indicated that another of Melanchthon’s negative legacies was to have introduced into Lutheran theology a “third use of the law,” a function for God’s law in the lives of Christians to teach them good works. Critics wondered how this relatively benign function is supposed to comport with law’s main work of accusing the sinner and closing off every attempt at self-salvation. Moreover, as a result of this “third use” teaching, would Christians do good works because they want to or because they have to? With an eye on straightforward enumeration, critics could also say that while Luther spoke of only two uses of the law, Melanchthon at length identified three.

It is generally held that Luther and Melanchthon agreed on the meaning and import of the law’s first two uses. The first use of the law serves the cause of external discipline by coercing sinners to comply with its norms, at least broadly speaking. Here sinners often obey the law’s commands because they have to, for fear of punishment, although sometimes they want to obey in order to obtain some sort of reward offered by the law. This function of the law as a “curb” is essential to maintain order in society. In its second use the law shows sinners their sin. The second has popularly...
been called the law's use as a "mirror." Moreover, in its second use the law acts as the accusing finger of God, pointing out their every deviation from his righteous will and announcing his judgment of death and condemnation. Luther and Melanchthon both affirmed that this is the most important use of the law.

The "third use," as the term is employed in article VI of the Formula of Concord and in this study, is the way the law can act only on one who by faith has received the righteousness of Christ. That is, the third use of the law applies exclusively to Christians, those who (in terms familiar to Lutherans) have been justified by grace for Christ’s sake through faith. The third use differs from the view of the law taken by the medieval church, for in the third use the law is not to inform and complete the righteousness of believers. They have already been pronounced righteous by God. The righteousness of Christ has been imputed to them. Unlike unbelievers, they can therefore look upon the law as something other than a threat or a prod. They can see it as God’s exposition of his own will and commands for human beings. Thus, they are able to recognize the import that attached to God’s law before sin entered the world and made it coercive and condemning to sinners.

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6This teaching of the third use of the law is possible only where justification is seen as based directly upon the “alien righteousness” of Christ as it is received by faith. Robert Kolb points out that the 1999 “Joint Declaration of the Doctrine of Justification” signed by representatives of the Vatican and the Lutheran World Federation does not make Luther’s distinction between two kinds of righteousness, namely, passive righteousness before God, imputed to believers, and active righteousness in which people as God’s creatures serve Him and their neighbors (Robert Kolb, “Luther on the Two Kinds of Righteousness; Reflections on His Two-Dimensional Definition of Humanity at the Heart of His Theology,” Lutheran Quarterly [n.s.] 13 [Winter, 1999]:465).
Moreover, as believers they will want to follow God’s law. In terms of Luther’s *simul iustus et peccator* teaching, insofar as they are righteous (that is, according to their new self or new man) their will is attuned to God’s will, his law is “written on their heart,” and they spontaneously bring forth good works — the fruits of faith — because they want to. Insofar as they are righteous, they do not even require the preaching of the law. Rather, Christians need to hear the law insofar as they remain sinners in this life. In that they are sinners (that is, according to their old self or old Adam), the law coerces and accuses them on the basis of what it says about God’s will.

However, as Luther insisted, a Christian is not half-righteous and half-sinner, but completely righteous and completely sinner in the same person and at the same time. Therefore a Christian comes into contact with the law as a whole person (*totus homo*). Christians need the preaching of the law insofar as they are sinners. But when they come into contact with the law, from the perspective of being righteous in Christ they receive the law as a non-threatening guide for living. Moreover, they need such guidance from God because in a sin-marred world the contours of his will are rendered unclear, and they can end up misguidedly doing works that God does not want. Providing such guidance to those who have received the righteousness of Christ in faith is the “third use” of the law.

Like the literature on Melanchthon himself, writing on the third use runs to many pages. The subject inevitably arises, if in some cases but briefly, in countless summaries of doctrine, whether they are written from the perspective of history or of systematic theology. To this writer’s knowledge, the only book-length treatment of
Melanchthon's views on the third use of the law (together with two related topics) was written a few years ago by Richard Osslund. This study had its limitations. It only dealt with the second half of Melanchthon's career, and it did not take into account a wide variety of the secondary literature either on Melanchthon or on the third use. Osslund was wise, however, to center his inquiry on Melanchthon's *Loci communes*.

The topical method as practiced by Melanchthon and others was based on ancient rhetoric, as revived by the generation of humanists previous to Melanchthon, particularly Rudolf Agricola. In the sixteenth century rhetoric in general and the topical method in particular was applied not only to theology but also to many other disciplines. Scholars have differed somewhat over Melanchthon's precise sources and intentions for the method. A synthesis of several points will suffice for present purposes.

Melanchthon wanted dialectic to serve rhetoric. He did not abandon the former in favor of the latter. Instead, he tried to carve out a niche where dialectic could be

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9For example, Wilhelm Maurer, although recognizing Agricola's role, maintained that Melanchthon had greater recourse to the ancients themselves and that he was more interested in dialectic as he used the *Loci* method than was indicated by Joachimsen. See Maurer, "Melanchthons *Loci Communes* von 1521 als wissenschaftliche Programmschrift: Ein Beitrag zur Hermeneutik der Reformationszeit," Luther-Jahrbuch 27 (1960):1-50.

10Indeed, although Quirinus Breen did not ignore the place of dialectic in Melanchthon's work, most scholars do not agree that the *praecceptor* subordinated dialectic to
employed within rhetoric to lend certainty and thus power to intellectual enterprise. Therefore, unlike Erasmus who tended to think of *loci communes* as system by which to organize arguments or an aid to memory, Melanchthon regarded such *loci* as the fundamental structure of a given subject under study, the most basic concepts of the discipline. They established its boundaries. The articulation of *loci communes* enabled a speaker or writer to move from a specific instance to the overall topic and back. According to Melanchthon, a speaker who employed this method deftly could treat ordinary things in an extraordinary way ("*ta koina kainoos*") and extraordinary things in an ordinary way ("*ta kaina kainoos*").

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14 CR 13, 452.
To be sure, humanists had much more in mind than demonstrating prowess as they organized items in a presentation. They recalled that individual texts spoke to larger subjects at hand in order to serve a rhetorical purpose, that of bringing about agreement with the text. The precise rhetorical strategy and its underpinnings varied somewhat from humanist to humanist. Melanchthon's general idea of *loci communes* constituted a unique blending of Aristotelian and Ciceronian aspects. While, like Cicero, the *praeeceptor* treated *loci* as *sedes argumenti*, he did not share Cicero's underlying skepticism. Rather, he had a conviction somewhat resembling Aristotle's, that some propositions are simply true. Melanchthon saw no conflict in putting the rhetorical *loci* method into the service of teaching unalterable doctrinal truths.

Melanchthon's thoughts on the potential use of the topical method to teach theology were nurtured in a Lutheran context. The significance of this setting for Melanchthon is perhaps best appreciated if one considers the sort of work he had done on this method before entering a Lutheran environment. It is noteworthy that in his 1519 textbook on rhetoric, all but completed before he arrived in Wittenberg and at a time when he had as yet no intention to write or publish a set of theological *loci*, Melanchthon generally designated various matters relevant to common human experience as *loci communes*. For example, he listed wealth, virtue, prudence, honor,

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and death. Here the young Melanchthon shows his intellectual debt to Agricola and Erasmus. The latter, for example, said that the topography of the mind ought to reflect the way things are in nature, so the *loci communes* drawn from this topography would serve as windows to material that would strike an audience as common sense, and thereby meet with agreement.

Melanchthon did not lose this perspective on *loci*. Twelve years later, he generally characterized *loci communes* once more as “all common forms of all things to be done, of virtues, of vices and of all other common themes, which are widely in use and can come up in various incidents of human affairs and letters.” Reflection upon such things would benefit society, which made for another rallying point on which readers or hearers could begin to agree.

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For Melanchthon’s debt to Agricola, see Peter Mack, *Renaissance Argument: Valla and Agricola on the Traditions of Rhetoric and Dialectic* (Leiden: E.J. Brill, 1993), 320-333. Generally, for Agricola “The classical languages were not just tools for acquiring more information, but by a kind of philological existentialism the immediate revelation of the essence of man’s highest culture” (Lewis W. Spitz, Jr., *The Religious Renaissance of the German Humanists* [Cambridge, Mass: Harvard University Press, 1963], 32; see pp. 33 and 281).

19 “Voco igitur locos communes omnes omnium rerum agendarum, virtutum, vitiorum, aliorumque communium thematum communes formas, quae fere in usum, variasque rerum humanarum ac literarum causas incidere possunt . . .” (CR 20, 695). In the next sentence, Melanchthon asserted that the best writing on the use of *loci communes* had been that of Agricola and Erasmus (CR 20, 696).

20 See Breen, “Three Renaissance Humanists,” 47.
Nonetheless, in the final version of his textbook on rhetoric, completed in 1542 after he had been teaching at Wittenberg for almost a quarter of a century, Melanchthon emphasized the need to understand the disciplines ("arts") for which loci communes are collected. Not surprisingly for a Lutheran concerned to distinguish between law and gospel, he noted the importance of differentiating theological from philosophical loci. The latter, he wrote, were "derived from the parts of man," and included "reason, arts, prudence, virtue, affection, custom, body, form, age, fortune, wealth, household order, marriage, education of free men, government, magistrates, law, war, peace." These topics were, in short, the stuff of common human experience, the places to which he was accustomed to looking for the context and materials with which to develop shared understandings.\textsuperscript{21}

But theological loci were different. While Melanchthon treated some of the subjects from the above list in the editions of his theological Loci Communes, he maintained there that he was attempting to reflect the doctrinal teaching of Scripture with his topics.\textsuperscript{22} That is, he was not claiming to have developed a set of theological loci according to categories of common human experience. He was instead arranging his topics around justification by grace for Christ’s sake through faith, which he took to

\footnotetext{21}{ratio, artes, prudentia, virtue, affectus, consuetudo, corpus, forma, aetas, fortuna, divitiae, oeconomia, coniugium, educatio liberorum, politia, magistratus, lex, bellum, pax” (CR 13, 454).}

\footnotetext{22}{Already in the dedicatory letter to the first (1521) edition of the Loci, Melanchthon wrote, “Anyone is mistaken who seeks to ascertain the nature of Christianity from any source except canonical Scripture” (Pauck, 19). “Fallitur, quisquis aliunde christianismi formam petit, quam e scriptura Canonica” (St.A. 2/1, 4).}
be the core biblical message and of prime "existential" significance to the sinner. 23

Moreover, in the Preface to his 1543 edition of the *Loci*, Melanchthon sharply
differentiated the causes of certainty in philosophy from the cause of certainty in
theology, namely, revelation given and attested by God himself. Theology did not
employ the method of the arts, he maintained. It sought only an orderly presentation of
the biblical data. 24

There is no question that the successive editions of Melanchthon's theological
*Loci* showed an increasing movement toward dialectic. 25 But also when applied to the
divinely-revealed gospel, the subject matter of theology, the topical method still proved

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23 This approach was consistent with the "*theologica rhetorica* of Renaissance
humanism [which] regarded the essence of human being *not* from the viewpoint of what was
highest but in terms of what was central — 'its core (cor, coeur)'" (Michael B. Aune, "To Move
the Heart": Rhetoric and Ritual in the Theology of Philip Melanchthon [San Francisco:
Christian Universities Press, 1994], 19; see William J. Bouwsma, "Review Article:
'Renaissance Humanism: Foundations, Forms, and Legacy'", *Church History* 59 [March,
1990]:69).

24 CR 21, 603-605; *St.A.* 2/1, 167-168; Preus, 16.

25 Breen, "Loci Communis," 100. Manfred Hoffmann has contrasted Melanchthon’s
use of rhetoric with that of Erasmus. Hoffmann says the latter made sense out of texts with
"suasory rhetoric" that aimed primarily to impact the emotions through figurative speech, while
Melanchthon taught in a convincing way via logical argument and so employed "dialectical
rhetoric" (Manfred Hoffmann, "Rhetoric and Dialectic in Erasmus’s and Melanchthon’s
Interpretation of John’s Gospel," *Philip Melanchthon* [1497-1560] and the Commentary, ed.
Timothy J. Wengert and M. Patrick Graham [Sheffield, England: Sheffield Academic Press,
1997], 73, 77).

James Kittelson points out as the Reformation unfolded the need arose to train a new
clergy, and hence a premium came to be placed on instruction and instructional methods that
could accomplish this purpose with maximum efficiency and accuracy (James M. Kittelson,
"Humanism in the Theological Faculties of Lutheran Universities during the Late
Reformation," *The Harvest of Humanism in Central Europe: Essays in Honor of Lewis W.
anything, such pressure accelerated the movement toward dialectic in the successive editions of
Melanchthon’s theological *Loci*. 24
to be an educational and affective tool in Melanchthon's hands. As Quirinus Breen put it, “His theological loci are intended to show the preacher the veins of Scripture which can be fruitfully worked for the rebuke of sinners and the consolation of believers . . . [and] while later editions get more dialectical, he seldom misses an opportunity to give a homiletical turn to the argument.” Furthermore, in the nature of the case for Melanchthon, theological doctrines were “not essentially propositions, but structures of truth, loci communes, which contain the seeds of wisdom and moral power that inhere in the created universe, or in divine reality,” as John Schneider observes. While Melanchthon could have made similar claims concerning other aspects of human knowledge, uniquely in the case of theological teachings he held that “these precious, sacred loci have been revealed by God and put to use by the Spirit of God.”

In his “Letter to the Godly Reader” at the beginning of the 1543 edition of the Loci, Melanchthon wrote: “Firm and clear testimonies regarding the individual articles of Christian doctrine set forth in definite order, as if put on a table, are useful. When our minds dispute with themselves or are in distress, certain clear statements can be kept in mind which will teach, straighten out, confirm and console the fearful . . . It was for this personal use that in the beginning I produced these Loci” (Translation altered from that in Preus, 15). “Prodest firma et perspicua testimonia de singulis articulus doctrinae Christianae, ordine distributa, velut in tabella habere proposita, ut cum disputant animi secum aut anguntur, sententiae certae in conspectu sint, quae trepidantes erudiant, erigant, confirment, consolentur . . . Ad hunc usum domesticum initio mihi hos locos institui . . .” (CR21, 601; St.A. 2/1, 165).

Breen, “Loci Communes,” 104. Steven Ozment observes that while humanists-turned-reformers were highly concerned about doctrine, their concern “was more on a homiletical than on a theoretical level” (Steven Ozment, The Age of Reform 1250-1550: An Intellectual and Religious History of Late Medieval and Reformation Europe [New Haven, Conn.: Yale University Press, 1980], 305).

Melanchthon worked at taking the interpreter out of the way as much as possible so that the biblical text could impact the reader or hearer.29 His very approach made an impact, among others, upon Luther. The reformer said, 'There's no better book under the sun in which the whole of theology is so compactly presented as in the *Loci Communes* . . . No better book has been written after the Holy Scriptures. Philip expresses himself more concisely than I do when he argues and instructs. I'm more garrulous and more rhetorical.'30 These words of praise from the winter of 1542/43, spoken at a time when Melanchthon was about to bring out the third edition of the *Loci,* show Luther's tremendous respect for his colleague's famous work, presumably in both of its earlier editions.31 At the same time they typify Luther's conviction, as one who never totally gave himself over to

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29 This was also Melanchthon's intention in his work on biblical commentary. Perhaps it was achieved with the greatest success in the eyes of his contemporaries in his commentary on Romans, a work closely related to his theological *Loci.* See Timothy J. Wengert, "Philip Melanchthon's 1522 Annotations on Romans and the Lutheran Origins of Rhetorical Criticism," *Biblical Interpretation in the Era of the Reformation: Essays Presented to David C. Steinmetz in Honor of his Sixtieth Birthday,* ed. Richard A. Muller and John L. Thompson (Grand Rapids: Eerdmans, 1996), 118.

30 Translation altered from that in AE 54, 440. "Ir find kein buch unter der sommen, da die gantze theologia so fein beieinander ist als in locis communibus . . . Non est melior liber post scripturam sanctam. Philippus ist enger gespannt denn ich, pugnat et docet; ich bin ein 'wescher, bin magis rhetoricus'" (*Tischreden,* number 5511 [1542 or 1543], WA Tr 5, 204).

31 In the preface to the complete edition of his Latin writings in 1545, Luther wrote that Melanchthon's *Loci* excelled among the more systematic works then available (WA 54—, 179; AE 34, 327). This comment at least had the potential to include also the 1543 edition of the *Loci.*
Melanchthon’s method, that his own rambling discussions were, if anything, more rhetorically effective than the painstaking formulations of his colleague.\(^{32}\)

Melanchthon did not write or revise the *Loci* in a vacuum. Between the first and the second editions (that is, during the second half of the 1520s) he became embroiled in a debate over the place of repentance in the Christian life with John Agricola, his friend and former classmate.\(^{33}\) This same Agricola, a favorite of Luther’s who also came from the reformer’s hometown of Eisleben, would take on Luther himself a decade later over related issues such as the legitimacy of proclaiming the law to Christians.\(^{34}\)

The controversy ignited over a set of doctrinal articles drawn up by Melanchthon to facilitate an ecclesiastical “visitation” of towns and territories within Electoral Saxony. Adapting the medieval model of penitence that consisted of 1.) contrition, 2.) confession, and 3.) satisfaction, Melanchthon had removed the

\(^{32}\)Wry support for Luther’s reserve came in the twentieth century from Franz Hildebrandt, who noted in introducing his study of Melanchthon that the *praecceptor* was “so intolerably dull in his endless rhetorical repetitions that quotations from his works must be severely rationed if the modern reader is to keep awake.” (Hildebrandt, *Melanchthon: Alien or Ally?* [Cambridge: Cambridge University Press, 1946], p. xiii).


penitent’s works of satisfaction and put in their place at the third stage the atoning death of Christ. Agricola began complaining to Luther that Melanchthon’s view of penitence would pave the way for a return to Rome, especially when Melanchthon declared that preaching gospel without law would be the cause of endless scandals. For his part, Agricola insisted that the gospel — not the law — worked repentance. Further, he was dismayed at Melanchthon’s emphasis on the preaching of a law that terrified the hearer with news of God’s anger and punishment. A side glance at some of Agricola’s sermons and catechetical materials of the same period shows that he was consistently advocating these views. Agricola in effect dissolved the tension between law and gospel that had been so important to Luther.

Yet in 1527, despite the escalating war of words between Melanchthon and Agricola, Luther was not greatly distressed. As late as the last month of the year, the reformer did not change his assessment that the dispute was merely over words.

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35 This is a point on which some students of the debate have sympathized with Agricola’s complaint. For example, Timothy Wengert believes that when Luther treated the Ten Commandments (under the rubric “fear and love” of God) before the Creed in his catechisms of 1529 he was offering subtle criticism of Melanchthon’s emphasis on psychological reactions to the law as well as making a direct response to Agricola’s elimination of the Decalogue from the Christian life (Timothy J. Wengert, “‘Fear and Love’ in the Ten Commandments,” Concordia Journal 21 [January, 1995]:25-27).

36 Wengert, Law and Gospel, chapters 1 and 2.

37 Rogge, 190-191. It is easy to see why Agricola preferred Luther’s earlier writings to his later ones, for Luther started his career as an Augustinian theologian steeped in the tradition that the gospel was an evangelical law, lex spiritualis. See Jeffrey G. Silcock, “Law and Gospel in Luther’s Antinomian Disputations, with Special Reference to Faith’s Use of the Law,” Th.D dissertation, Concordia Seminary, St. Louis, Missouri, 1995, 24 et passim.

38 WA Br 4, 295; AE 49, 182-183 (Luther to Justas Jonas, Dec. 10, 1527).
Perhaps drawing on his own experience, he opined that a person feeling the terrors of the law is usually unable to pinpoint the source of his sorrow as either fear of punishment or love for God, attritio or contritio.\(^{39}\)

Luther agreed to serve as mediator for a conference involving both Melanchthon and Agricola in late November, 1527 at Torgau. The upshot of the meeting was that Agricola’s objections were largely swept aside. Luther insisted that the proper order of proclamation was law, then gospel. First penitence is preached, then faith. At the same time, Luther and the other participants agreed that there is a general sense in which Christians could speak of faith \((fides generalis)\) such that a person believes that God threatens and commands even before specifically believing \((fides specialis)\) in the forgiveness of sins on account of Christ. To this extent, Agricola could comfort himself: his interlocutors affirmed that repentance in some sense resulted from “faith.” But for the most part, Melanchthon’s position had carried the day. In the ensuing years the praecceptor continued to emphasize that the law as an accuser cut off every alternative for sinners to save themselves, and that the accusation of the law had to be preached before the gospel.

\(^{39}\)Already in his theses for the famous Heidelberg Disputation of 1518, Luther had put aside such hair-splitting psychological questions. He simply asserted, without going into a discussion of attritio or contritio, that a person has to despair utterly of his own ability before being ready prepared to receive grace (WA 1, 354; AE 31, 40). It might be noted that Melanchthon later incorporated this insight from Luther into the Apology of the Augsburg Confession (Ap XII 9, 29; BKS, 254, 257; Tappert, 183, 185; see Kolb and Wengert, 189, 191-192).
At breakfast on their last day at Torgau, after the formal proceedings had ended, Agricola commented to Melanchthon and Luther that Christians were liberated from the Mosaic law. They only needed to follow the precepts of Paul ("praeepta Pauli"), according to Agricola. Melanchthon shot back that the precepts in the epistles of Paul and in the sermons of Christ himself were nothing other than further explanations of the Decalogue. Here Melanchthon was anticipating what later became a hallmark of Lutheran teaching on the law: whatever tells Christians what to do and not to do is law, and it should be recognized as such instead of being passed off under a more friendly-sounding title. This point helped pave the way for the third use, in which the law continues to be recognized as "law."

Mention should be made here of one other factor with which Melanchthon had to deal in the late 1520s, namely, attacks by enemies of the Reformation. In

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40 Gustav Kawerau, Johann Agricola von Eisleben. Ein Beitrag zur Reformationsgeschichte (Berlin: Verlag von Wilhelm Hertz, 1881), 149; Rogge, 194; Wengert, Law and Gospel, 135. Rogge notes that in this conversation on the last day at Torgau a new topic was emerging, the place of the Decalogue in evangelical teaching. Ten years later Luther and Agricola would be arguing about this matter (Rogge, 194).

41 In On the Councils and the Church (1539) Luther wrote: "But even reason will have to decide and admit that the Ten Commandments or the works of the Ten Commandments neither are nor can be called the grace of Jesus Christ, but are and must be called something entirely different" (AE 41, 72). "Das wird aber auch vermunft richten und bekennen müssen, das Zehen gebot oder werck der zehen gebot nicht sind noch heissen mügen die gnade Jhesu Christi, Sondern gantz und gar etwas anders sein und heissen müssen" (WA 50, 562). Article V of the Formula of Concord noted that whatever accuses sin is carrying out the function of the law, even the proclamation of Christ's death (FC Ep V 9; BKS, 792; Tappert, 479; see Kolb and Wengert, 501).
1526 Luther's bitter opponent Johannes Cochlaeus responded to a small tract by the Wittenberg pastor John Bugenhagen, charging Lutherans with abandoning human justice. Cochlaeus wrote:

Christ is not hostile to human virtues but rather their promoter, author, and rewarer. Among these [virtues] justice has a most eminent place even in pagan authorities. Thus it is not without serious blasphemy that you establish Christ as our righteousness even if it means that any human justice thereby falls, as if Christ were the enemy and adversary of the just laws of men or human justice, and as a result the friend or patron of human injustice.\(^\text{42}\)

It should come as no surprise that at about this time, Melanchthon grew more interested in the place of law and morality in the Christian life.

In the present study, chapter one will survey the findings of scholarship on Melanchthon and the third use. In order to place in view the settled position at which sixteenth century Lutheranism arrived, chapter two will turn to article VI of the Formula of Concord. The next four chapters, three through six, will trace Melanchthon's views on the subject through the various editions of his *Loci* as well as the Augsburg Confession and the Apology. Since editions of the *Loci* appeared in 1521, 1535, and 1543 and the Augsburg Confession and the Apology were written in 1530 and 1531, these documents offer windows at fairly regular intervals to inspect Melanchthon's developing thought on the third use of the law. Although there were a couple of shifts in his thinking through the years, his overall thinking displayed a

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demonstrable consistency. Moreover, the position Melanchthon held as he wrote his confessional documents in 1530 and 1531 was incorporated into the Formula of Concord.
CHAPTER ONE

HISTORIOGRAPHICAL SURVEY

Melanchthon's teaching on the third use of the law came in for heavy criticism from theologians in the middle of the twentieth century. Until that time Melanchthon scholarship had observed, without much fanfare, that during the mid-to late-1520s the *praeceptor* had moved from an early, spontaneous approach to the relationship between faith and good works to one more informed by law. Before recounting in some detail the work of scholars in the mid-twentieth century and later, this survey begins with a brief summary of the state of Melanchthon study on matters relating to the third use of the law before the subject heated up during the 1940s.

In the first modern book-length study of Melanchthon's theology, Albert Herrlinger was ahead of several twentieth-century commentators when he called the ethical direction of Melanchthon's theology its most unique and original trait.¹ He

¹Albert Herrlinger, *Die Theologie Melanchthons in ihren geschichtlichen Entwicklung und im Zusammenhange mit der Lehrgeschichte und Culturbewegung der Reformation* (Gotha: Perthes, 1879), 209. From one of Melanchthon's letters Herrlinger quoted the following words that had already become famous by his time: “Ego mihi ita conscius sum, me non aliam ob causam unquam *te theologyekenai*, nisi ut vitam emendarem” (MBW 371, T2, 240; the text of
said the third use of the law served to demonstrate the union between the religious and the ethical in the *praeeptor*’s mind. This teaching reflected the law’s integrative function in his system of Christian doctrine. Still, Herrlinger continued, it took some time for this positive role of the law to be articulated. Early in his reforming career Melanchthon had stressed that the Christian, freed from the law, was so grasped by the Spirit as to do good works even if no law existed. Thus, the law was significant only for the aspect ("Faktor") of man that was not assimilated by the Spirit. But from 1530 on, Herrlinger said, Melanchthon’s theology recognized an ongoing significance for the law in the life of the reborn. Herrlinger added that during the last decade or so of his life, the *praeeptor* spoke of the law as not only showing God’s will but even to a degree His essence. The law was the “eternal wisdom and will in God.”

Over fifty years later, in the twentieth century’s definitive treatment of Melanchthon’s theology, Hans Engelland agreed that in Melanchthon’s earliest

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this letter in CR 1, 772 lacks the word “ita”). Herrlinger was not the only 19th century scholar to call attention to the ethical bent of Melanchthon’s thought. Christian Ernst Luthardt, the historian of Christian ethics, declared, “Der eigentliche Ethiker des Reformationszeitalters ist doch Melanchthon geworden” (quoted in Charles Leander Hill, “An Exposition and Critical Estimate of the Philosophy of Philip Melanchthon” [Ph.D. dissertation, The Ohio State University, 1938], 122).

2Herrlinger, 211.

3Herrlinger said that this role of the law appeared in the Apology of the Augsburg Confession, Melanchthon’s 1532 Romans commentary, and the 1535 *Loci* which explicitly taught the third use (Herrlinger, 216-217).

4Herrlinger, 217, citing CR 12, 402.
writings the relationship between justification and new obedience, faith and good works, had been *non posse non*. That is, how could a Christian do anything else? In this sense, Engelland said that the early Melanchthon attached greater significance to the law in the case of the unregenerate (to show sin) than for the regenerate.\(^5\) Melanchthon never lost this inner, organic connection between *Glauben und Handeln*, Engelland maintained, but later for pedagogical and practical reasons he seldom made much of the new life's spontaneity.\(^6\) Already in 1519 he had spoken of the necessity of love following faith.\(^7\) Engelland said that in 1525 Melanchthon began adding another factor to his discussions of the new life, namely God's command and the necessity of creatures obeying their Creator.\(^8\) The *praecceptor* held that while the damning character of the law was taken away in justification, the law itself remained God's eternal will. As such, it continued to be in force for the new man, demanding fulfillment.\(^9\) Thus the law became a new arena of work for the Christian, distinct from its roles in discipline and imparting the knowledge of sin. Engelland identified this "arena" as the third use of the law, but he did not dwell on


\(^6\)Engelland, 433, 443; cf. 521.

\(^7\)Engelland, 63. On p. 521 Engelland concluded that Melanchthon thus put the new life under the concept of the law.

\(^8\)See Engelland, 437.

\(^9\)See Engelland, 426.
it. In time, he added, Melanchthon came to speak of other grounds for keeping the law. They included the intrinsic dignity of good works, temporal and spiritual rewards for good works, and the impossibility of sin and faith existing together in one person.

In a mid-century assessment of natural law in Melanchthon’s thought, Clemens Bauer agreed with the previous scholarship. He said that whereas Melanchthon early in his reforming career thought of natural law as a foreign element outside the structure of Christian doctrine, over time he came to include it in his theology. The praeceptor’s mature view was that the lex naturae teaches the duty of knowing and acknowledging God as Creator and moral lawgiver, and the duty to honor God and obey His moral law. Bauer added that Melanchthon formulated this position from about 1525 to 1545, when he renewed his studies of Cicero and Aristotle, using an Erasmian “Philosophia Christi” type of approach. He was seeking to place not only rhetoric and dialectic but also ethics into the service of theology. Thus, in time Melanchthon the humanist and Melanchthon the systematic theologian grew closer and closer together, according to Bauer.

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10Engelland, 432.
11Engelland, 436, 438.
13Bauer, 75.
14Bauer, 79-80.
Thus, prior to the outbreak of determined resistance to the teaching on the third use of the law in the middle of the twentieth century, there had been general consensus that during the mid- to late-1520s Melanchthon's thinking about the relationship between faith and good works became increasingly influenced by law. Writing after the initial salvos had been fired in the attacks on the third use, Bauer attributed this shift to Melanchthon's humanistic study of Cicero and especially Aristotle. Herrlinger and Engelland had observed that Melanchthon's growing realization of the law's role in the Christian life was rooted in the idea that the law was God's eternal will. Engelland added that Melanchthon did not forget the organic connection between faith and good works, but he was disappointed that the praecceptor did not consistently and clearly articulate this connection. Herrlinger had said that the law finally played an integrative role in Melanchthon's theology, and in their own ways Engelland and Bauer agreed. But none of these scholars devoted a great deal of attention to the third use of the law as a discrete subject, nor did they claim that there was any major difference between Luther and Melanchthon in reference to it.

Dissatisfaction with Melanchthon's doctrine of the third use of the law in particular flared up in the middle of the twentieth century. From that time until the

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15 Unlike Karl Holl and other Luther renaissance figures who called attention to Melanchthon's depiction of justification as forensic, Engelland maintained that Melanchthon saw Christ's work as not only for man, but also in man. He claimed that for Melanchthon, justification was both the imputation of Christ's righteousness and regeneration to new obedience. There were two sides to the new life: first, freedom from the law's curse, and second, freedom as the power to fulfill the law (Engelland, 57-58, 425, 432-433).
present, most major interpreters have accepted the premise that the third use was an un-Lutheran development largely if not solely attributable to Melanchthon. This historiographical trend has unfolded in three stages. First, the most vigorous attacks on the third use concept occurred during the 1940s, roughly speaking. Then, over the next decade, students of the more seasoned scholars who launched the assaults of the '40s attempted to extend their mentors' objections to the third use through more systematic treatments of Luther’s theology and Melanchthon’s. Finally, Melanchthon research in the 1990s shows where the “dust” has settled since mid-century, even as a new interpretation of Luther has been on the rise among some Finnish scholars. This most recent work on Melanchthon and Luther raises the potential that the third use of the law will remain a much-criticized element of Melanchthon’s thinking into the twenty-first century.

Thus, from the middle of the twentieth century until its end, criticism of the third use teaching has been prominent in the historiography. The rest of the present survey, except for the addendum at its conclusion, is devoted to profiling the successive stages of the assault on the third use.
The Initial Attacks

Werner Elert

The Erlangen historical and systematic theologian Werner Elert was probably the most prominent twentieth-century Lutheran theologian to address himself to the third use of the law. Elert strongly disapproved of it. In fact, he set forth law and gospel in a dialectic relationship so radical as to leave no room for a traditionally-conceived third use of the law. Elert insisted that an oft-cited phrase from Melanchthon's Apology of the Augsburg Confession summarized the law's role according to both Luther and the apostle Paul: "the law always accuses" (lex semper accusat). In Elert's view, such a law could never be simply informatory. He contended that it continually remained a law of retribution (Vergeltungsgesetz), even as it instructed Christians. "There is never a situation when it does not function as accuser," he wrote.

One reason for Elert's strict position disallowing a third use of the law was his determined opposition to the famous Swiss Reformed theologian Karl Barth. Barth held that "The Law is nothing else than the necessary form of the Gospel,


whose content is grace.” 18 Elert characterized the challenge that he saw being raised by Barth: “In our day Karl Barth has further refined Calvin: Law and Gospel are related to each other as two ways of speaking while actually the content is always the same.” 19 Instead of Barth’s depiction of the proper sequence as gospel and law, Elert insisted on law followed by gospel. In several publications after World War II, he focused on the third use of the law as a specific instance of his conflict with Barth. 20

Elert also had his eye turned toward cultural apologetics. 21 He was wary about employing the old concept of natural knowledge of God in a post-

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18 Karl Barth, “Gospel and Law,” Community, State, and Church: Three Essays”, trans. A. M. Hall, with an Introduction by Will Herberg (Garden City, N.Y.: Doubleday/Anchor Books, 1960), 80, emphasis original. Thus, “If grace is revelation and revelation is grace, then the antithesis between law and gospel simply disappears. The revelation of God, whether law or gospel, is gracious” (Walter R. Bouman, “The Concept of the ‘Law’ in the Lutheran Tradition,” Word and World 3 [Fall, 1983]:415).

19 Elert, “Third Use,” 42. In 1923 Elert went to Erlangen from the fiercely anti-Calvinist Breslau Synod, a Lutheran free church persecuted at the hands of Prussian authorities in the nineteenth century for its opposition to the Prussian Union. For four years he had headed the Breslau Synod seminary. See Lowell C. Green, “The Relationship of Werner Elert and America,” Concordia Historical Institute Quarterly 70 (Summer, 1997):76-77.

20 In a study of Elert’s theological works, Leo Langemeyer noted that, ironically, the first edition of Elert’s famous Morphologie des Luthertums actually contained the third use teaching even though the general run of Elert’s thought as shown in the rest of this work was already headed in a different direction. Elert made changes in the second edition of 1931 to comport better with contemporary Luther-research. See Leo Langemeyer, Gesetz und Evangelium: Das Grundanliegen der Theologie Werner Elerts (Paderborn: Verlag Bonifacius-Drucker, 1970), 131-132. The present survey concentrates on the critique of the third use doctrine set forth by Elert in his best-known writings on the third use, those of the 1940s.

21 Elert’s two dissertations had been on the philosophy of history, and his first major book was a history of nineteenth-century Christian apologetics set within the broader developments of German culture. See the bibliography in Langemeyer, 414.
Enlightenment world. But he had no desire to follow Barth’s approach, namely, to jettison all theological prolegomena and let the gospel simply speak to people. Elert sensed that without prolegomena it would be difficult to show how theology addresses human reality. He remained steadfast in his conviction that unless law and gospel were held in tension, and in that order, neither would be adequately appreciated. Therefore he developed his own prolegomenon that could both precede the gospel and withstand neo-Kantian scrutiny, a prolegomenon of law as transcendent threat. This “law” in the human _Urerlebnis_ consisted not in the Decalogue as such, but rather in “whatever calls us into question before God.” Seen thus, the law _must be_ retribution. It oppresses human beings, in the nature of the case.

This idea proved somewhat controversial among Elert’s contemporaries. Wilhelm Oesch, a German Lutheran free church seminary professor, took him to task for deriving too much of his characterization of the law from the external,

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23 “Faith actually presupposes a subjectively desperate situation” (Elert, _Christian Ethos_, 242).


For tracings, sometimes differing from one another, of the subtle turns in Elert’s thought about the law throughout his career, see Langemeyer, 129ff. and Friedrich Duensing, _Gesetz als Gericht: Eine lutherische Kategorie in der Theologie Werner Elerts und Friedrich Gogartens_ (München: Chr. Kaiser Verlag, 1970), 56.
theocratic side of Old Testament legislation and correspondingly overlooking the law's demand that one love God and the neighbor. Elert had written, for example, that "according to the Law the hope for reward and the fear of punishment are legitimate motives for the keeping of it." Likewise, Oesch noted that in the essay on Law and Gospel Elert did not portray Jesus as forgiving because he fulfilled the law in the sinner's place. Instead, Elert asserted that in forgiving sins Jesus was directly contradicting the law of retribution and setting it aside. Elert had written: "Not until the resurrection does it become apparent that the new order of all things which the earthly Christ established by substituting forgiveness for the law of retribution was and is God's own order. In this new order, however, the law no longer has any voice whatsoever." Oesch concluded that Elert had not only set himself against the third use of the law as expounded in the Formula of Concord, but moreover against the Formula's entire concept of the law. Another of Elert's contemporaries, Helmut Gollwitzer, drew attention to Elert's claim that God's law was essentially a law of retribution, and was given as such before the fall. It would follow, he continued, that in Elert's view God remains eternally wrathful and that

\[\text{\textsuperscript{25}Elert, "Third Use," 43.}\]
\[\text{\textsuperscript{26}Elert, Law and Gospel, 30.}\]
\[\text{\textsuperscript{27}Wilhelm Oesch, "De tertio usu legis," Lutherischer Rundblick 4 (1956):21-23 et passim. See the next chapter on Formula of Concord article VI.}\]
the gospel therefore could not make for a return to the original relationship between God and his creation.\textsuperscript{28}

For his part, Elert emphasized the law’s work of hurling threats and punishments at a Christian as sinner, as peccator but not as iustus. He affirmed that the law must be preached to those who believe in Christ, but he maintained that Christians do not need the law insofar as they are regenerate. For this reason too Elert had no use for a “third use” in which the law becomes a positive rule or guide: philosophically as well as theologically he championed the idea of freedom from the law as the hallmark of the Christian life, reflecting the perspective of the Luther renaissance historian Karl Holl who thought that the mark of true morality was freedom from law and external constraint.\textsuperscript{29}


More recent analysts have seconded the earlier critiques of Oesch and Gollwitzer. Reinhard Hauber contends that Elert’s work was hampered throughout by a lack of clarity concerning God’s wrath and its revelation. He asks whether for Elert the teaching of God’s wrath was based on human experience or on the Christ-event. He also wonders whether Elert had sufficiently taken into account the premise that the Lawgiver and Judge is also the Redeemer (Reinhard Hauber, “Werner Elert. Einführung im Leben und Werk eines ‘Lutheranissimus,’ Neue Zeitschrift für systematische Theologie und Religionsphilosophie 29 [1987]:134-137, especially p. 135, and Reinhard Hauber, “Die Lehre vom Zorn Gottes nach Werner Elert,” Neue Zeitschrift für systematische Theologie und Religionsphilosophie 36 [1994]:117-161, especially pp. 159-161). David Yeago criticizes Elert for setting up a situation in which the reasons for the law’s oppressiveness cannot be sought anywhere but in the law itself (David S. Yeago, “Gnosticism, Antinomianism, and Reformation Theology: Reflections on the Costs of a Constrain,” Pro Ecclesia 2 [Winter, 1993]:37-49).

In his criticisms of the third use Elert seldom missed an opportunity to express disapproval of Melanchthon, the man who “developed a third use in which the law is no longer judgment but exclusively attainable response in obedience.”

Elert thought that such a conception of the law could lead people to Pharisee-like pride and security in sin. Further, he feared that from such a perspective the gospel would grow to be regarded merely as a means to the greater end of fulfilling the law, that is, of enabling Christians to do what they could not do otherwise.

In short, Elert depicted Melanchthon as a human conduit by whom the flawed and dangerous notion of a third use of the law came into Lutheran theological literature already during the sixteenth century.

Elert’s critique of Melanchthon had included textual detail. He called attention to a section that he took to be a forgery at the end of Luther’s second disputation against the Antinomians (1538). There the Weimar Ausgabe text identified three uses of the law, the third of which was that “the law should be retained in order that the saints may know what works God requires, in which they

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30 Elert, Christian Ethos, 301, emphasis added.

31 Elert, Christian Ethos, 299-302. Elert added that Calvin went still further than Melanchthon down the ill-advised “third use” path by regarding the third as the law’s primary use and by seeing the law itself as incentive for its own fulfillment (Christian Ethos, 301).
can exercise obedience toward God.\(^{32}\) These words were "copied almost verbatim" from Melanchthon's 1535 edition of *the Loci Communes*, Elert observed. But even before he launched into his detailed comparison of these two texts, Elert reported detecting a telltale clue that Luther had not written the words in question: "the fact that here the *usus politicus* ("for the sake of discipline") is viewed as the *usus paedagogicus*, whereas Luther ascribed the pedagogical function of the law to the *usus theologicus*.\(^{33}\) Elert opined that it was Melanchthon who ascribed the pedagogical function to the *usus politicus* out of his great desire to counter libertinism.\(^{34}\)

Toward the end of one of Elert's postwar critiques of Barth, he formulated what he termed the "question of the moment": "How can we live in the Christian fellowship and in the political world at one and the same time inasmuch as we cannot extricate ourselves from the world during our earthly sojourn?" Elert continued, "Our sole concern here has been to show that the doctrine of the third


\(^{34}\) This shift had already been made by Melanchthon in the Apology of the Augsburg Confession (IV, 2)," Elert claimed in his essay on "The Third Use of the Law," 39. He continued: "This is all the more striking because the expression *disciplina* is used in connection with it. This word occurs on almost every page of Melanchthon’s writings, but it is very seldom used by Luther" (p. 39). See Elert, *Christian Ethos*, 297, 298, 300.
use of the Law will only confuse, not solve, this problem.” ³⁵ Yet for all Elert’s reservations about the Barmen Declaration and its ongoing implications, it was disingenuous for him to call this point his “sole concern.” As noted, he had others: what he found to be Barth’s quintessential Reformed identification of the gospel as the proper form of the law, his desire to establish God’s law as a viable post-Enlightenment prolegomenon for the gospel, and his view of freedom as the absence of restraint such as law. Until his death in 1954 Elert never backed away from any of these thoughts, nor from the negative judgments that they prompted him to make about the third use of the law.

Paul Althaus

Paul Althaus, another Erlangen professor, was a systematic theologian who also worked in the field of New Testament exegesis. He disagreed with Elert somewhat over the third use. While he appreciated his colleague’s opposition to Barth, Althaus began from the premise that there was at least some truth to the third use idea. Noticing the set of ethical or paranetic directives found toward the end of virtually every New Testament epistle, Althaus wondered whether Elert’s approach was too radical.

Undoubtedly, a strict antithesis between law and gospel like Elert’s would preclude a third use of the law altogether. But Althaus wanted to preserve a proper

³⁵Elert, “Third Use,” 46, 48, emphasis added. Elert thought that “The doctrine of the third use . . . will always appeal to men who wish to interpret God’s plans of salvation as a device to moralize the world or think of God’s government in terms of divine command and human obedience” (Christian Ethos, 300).
place for ethical directives directed toward Christians both in the New Testament and in Reformation thought. In his short book *Gebot und Gesetz* (entitled *The Divine Command* in English translation) Althaus proposed distinguishing between "command" (*Gebot*) and "law" (*Gesetz*). He saw *command* as an expression of God’s eternal will. In contradistinction, he said that the *law* "must be seen as one limited and temporary form of this eternal will," a form it takes for human beings on account of sin. The law accuses, condemns, and kills people because of sin. But, he added, "in Jesus Christ [law] has been superceded and abolished." Thus, in Althaus’s scheme "command" does not threaten; "law" does. Whether the will of God is "law" or "command" with respect to any individual hinges on that person’s relation to the gospel.  

Contrary to Elert, Althaus wanted to affirm that while Christians are free from condemnation under the "law," they are not free from following God’s "commands." There is an eternal divine will that cannot be ignored. In this connection Althaus observed that as Luther explained the Ten Commandments in the catechism, he was addressing Christian readers who believed the gospel. Althaus concluded that these explanations in Luther’s catechism were designed to play a role

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37Althaus, 27.
besides a mirror prompting repentance. They were to guide conduct in the Christian life.

In essence, however, Althaus saw himself as supporting Elert, not opposing him. Like Elert in *Law and Gospel*, for example, Althaus characterized the gospel as the eclipse of the law:

The law declares that the unclean cannot stand before God, only the clean. The gospel declares: God accepts the unclean! He does not let his relationship to man be determined by the law, under the governance of which man’s own sin and guilt has lead him. God proves himself to be greater than his own law. He breaks through it; he deals with man *supra legem*, according to a higher order than that of the law, indeed *contra legem*, doing what from the standpoint of the law is unheard of, indeed is impossible.

Althaus had to admit that his *Gebot/Gesetz* scheme unraveled, at least on the level of terminology, when he applied it to Luther and the Lutheran Confessions. For neither Luther nor Melanchthon in the Apology of the Augsburg Confession hesitated to use the word “law” in reference to the will of God that a person obeys after conversion to Christ. Still, Althaus himself maintained that through the gospel the threatening *law* becomes benign *command*. He added that “the command is in fact an element in the gospel itself, namely, the challenge to accept the proffered freedom, to live in and from God’s love.”

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38 Althaus, 38.
39 Althaus, 23.
40 Althaus, 29.
The most surprising claim Althaus made as a Lutheran theologian writing on law and gospel, that the gospel includes commands.41

Ultimately, Althaus turned out to be ambivalent about the third use of the law. On one hand, in The Divine Command he opposed it for three reasons. First, he said the concept of “law” is identified too much with accusation and condemnation to be used for anything else. Second, he worried that third use would suggest that a Christian’s life consists of adherence to rules rather than in being led by the Spirit to see what God wants. Finally, he contended that the examples of the lives of the saints in Scripture ought to be as valuable to the Christian as propositions stated in the imperative mood.42 On the other hand, at the end of a

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41Luther certainly would not have put it thus. For example, in the large Galatians Commentary of 1535, he declared: “For the Law is a taskmaster; it demands that we work and that we give. In short, it wants to have something from us. The Gospel, on the contrary, does not demand; it grants freely . . . . Now demanding and granting, receiving and offering, are exact opposites . . . .” (AE 26, 208). “Nam lex est exactor postulans, ut nos operemur de demus. In summa: vult a nobis habere. Contra Evangelium non exigit, sed donat gratis . . . Differunt autem per contrarium exigere et donare, accipere et offere . . . .” (WA 401, 337). In criticism of Althaus, Eugene Klug notes that “by stating that command is an element in the Gospel, Althaus has surrendered to the Barthian . . . position, that the Law is the necessary form of the Gospel whose content is grace” (Eugene F. Klug, “Article VI, The Formula of Concord: The Third Use of the Law,” A Contemporary Look at the Formula of Concord, eds. Robert D. Preus and Wilbert H. Rosin [St. Louis: Concordia Publishing House, 1978], 202).

similar discussion in his later book *The Theology of Martin Luther*, Althaus affirmed that in substance the third use of the law did indeed make its appearance in Luther, even if that particular term did not. Althaus even attempted to vindicate one of the selections from Luther's collected writings found spurious by Elert, the one from the end of Luther's second disputation against the antinomians. He found other words of Luther, unquestioned as to their authenticity, in which the reformer said essentially the same thing: "Therefore the law is to be retained by the believers so that they might have a pattern for doing good works."43

**Gerhard Ebeling**

Like Elert, the prolific Luther scholar Gerhard Ebeling of Zurich pointed out that Luther referred explicitly only to a *duplex usus* of the law and that Melanchthon was the Lutheran thinker who originated the threefold use doctrine in the 1535 edition of his *Loci communes*. Ebeling added, without elaboration, that Luther

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Althaus's lack of clarity on the third use of the law was not uncharacteristic either of his personality or his theology. In his autobiography, Helmut Thielicke quoted Karl Barth as once having said of Althaus, "I would like to shake him again and again until he at least expresses an unambiguous opinion" (Helmut Thielicke, *Notes from a Wayfarer: The Autobiography of Helmut Thielicke*, trans. David R. Law [New York: Paragon House, 1995], 74).
departed from Melanchthon’s understanding of the third use in that Luther did not favor preaching the law as if the hearers might be saved by it.\(^{44}\)

Ebeling indicated that from 1527 on, a carefully-developed distinction between two aspects of preaching the law can be traced in Melanchthon’s works. During the early 1530s the praeceptor started referring to these two aspects via the term “\textit{duplex usus legis}.” By the mid-'30s he began working with the concept of three uses. However, Ebeling maintained, “as early as 1528 in the \textit{Instructions for Visitors} and in the \textit{Augsburg Apology} Melanchthon touches on the idea of a \textit{tertius usus legis}.”\(^{45}\) Ebeling thus differed from Elert by locating at least a hint of the third use of the law doctrine in one of the Lutheran confessional documents written by Melanchthon.

While Ebeling was following the tracks of the third use concept along a trail that wound through Melanchthon’s works of the late 1520s and early 1530s, he was also watching for the terms “\textit{triplex usus},” “\textit{duplex usus},” and even “\textit{usus legis}” in the writings of both Melanchthon and Luther. He noted that the phrase “\textit{usus legis}” had been all but omitted from Melanchthon’s 1521 \textit{Loci}, and that its two occurrences there did not betoken any definite theological category. Nor, for that


\(^{45}\)Ebeling, 69.
matter, did it appear in the Visitation Articles of 1527 or the Apology of 1531. The term was even absent from the 1535 *Loci*.\textsuperscript{46}

Ebeling credited not Melanchthon but Luther with formulating the concept "usus legis." In his 1531 lectures on Galatians, Ebeling wrote, Luther "started to employ the terminology *usus legis* more intensively as a theological category."\textsuperscript{47} To the reformer, Ebeling claimed, words like *uti* and *usus* indicated an existential sort of relation to a given object. Thus, for Luther "law" was a summation of the theological interpretation of human existence, not a revealed norm or a set of principles. "Law" was the reality of human life after the fall. Thus, Ebeling concluded, "from the standpoint of justification *sola gratia sola fide* there can be one and only one *legimus usus legis*, namely, as *paedagogus in Christum*.\textsuperscript{48}

In Ebeling's analysis, Melanchthon departed from Luther in several ways. First, he employed the term *usus* in "*usus legis*" simply in a formal way, to denote various functions or effects of the law. It provided the *praecceptor* a convenient

\textsuperscript{46}Ebeling, 65-67.

\textsuperscript{47}Ebeling, 74. It is difficult to know at points whether Ebeling has in mind more the reformers' use of a particular term or the concept behind it. For example, he also wrote: "In 1527 the *duplex usus legis* is in substance clearly taught in the *Visitation Articles*, but the concept *usus legis* is not employed. He speaks only of the two *effectus legis*. The *Augsburg Apology* likewise does not contain the concept *usus legis*." As already indicated, Ebeling went on to say that the Apology contained hints of a third use of the law in addition to a first and second (69; compare p. 67, note 1).

\textsuperscript{48}Ebeling, 71-75; the quote is from p. 75 (emphasis original). In another essay, Ebeling summarized: "The law is primarily an event and only secondarily teaching" (Gerhard Ebeling, "Reflexions on the Doctrine of the Law," *Word and Faith*, trans. James W. Leitch [London: SCM Press, 1963], 278).
“handle” with which to report what the law is good for. Ebeling observed that like Melanchthon, most of the theological work done by others after him has not engaged the question, who uses the law? Ebeling was determined to raise this query. It has been his most distinctive contribution to the discussion.

Second, Ebeling said Melanchthon also deviated from Luther by calling the first use of the law the usus paedagogicus. In exegesis and application based on Galatians 3:24 (“So that the law was our custodian [Latin, paedagogus] until Christ came, that we might be justified by faith”), Ebeling claimed that Melanchthon took this text as an expression of the first use of the law, while Luther saw both the first and the second uses in this Bible passage.

Third, Ebeling characterized Melanchthon as finally departing from Luther by introducing the tertius usus legis. He wrote: “Luther emphasizes again and again that the law has to be preached to the not in quantum iusti but in quantum peccatores — which, however, means in the usus theologicus.” Elsewhere Ebeling

49 Ebeling, “Tertius Usus Legis,” 74-75.

50 It might be recalled that Elert had a similar concern. Ebeling clarified, however, that in his view “What causes Melanchthon to go astray is not merely his connecting the usus politicus with Gal. 3:24 at all, but the fact that he applies Gal. 3:24 exclusively to the usus politicus and therefore calls it usus paedagogicus as well. For with Luther both the usus civilis and the usus theologicus are alike provided for in Gal. 3:24 . . .” (Ebeling, “Tertius Usus Legis,” 77). Timothy Wengert points out that while Melanchthon was aware that he tended to see Gal. 3:24 as an expression of the first use of the law while Luther took it as expressing the second, nonetheless instances can be adduced in which each of the two took the opposite position (Timothy J. Wengert, “Melanchthon and Luther/Luther and Melanchthon,” Luther-Jahrbuch 66 [1999]:55-88).

51 Ebeling, “Tertius Usus Legis,” 74.
added that when the law is seen theologically, "in its essence it is *lex non impleta,*
for as *lex impleta* it would no longer be *lex.* It is essentially *lex accusans.*” 52
Therefore Ebeling judged that a third use of the law was impossible for the
Christian.

Yet he also thought a distinction should be made within the second use
between the preaching of the law to the *pii* and the *impii.* He declared this to have
been the position of Luther: that the *pii* are taught the law not to terrify or
condemn, as in the case of sinners before justification. Instead, the teaching of the
law exhorts them to do the good.53 This seems a strange rendition of Luther’s
accusing *usus theologicus* of the law.

**Ragnar Bring**

The Swedish scholar Ragnar Bring, Gustaf Aulen’s student and successor in
the chair of systematic theology at the University of Lund, went on record with his
treatment of the third use of the law before the Germans did.54 In 1943 he published
a lengthy essay on the third use that took into account the Formula of Concord and
Pietism as well as Luther and Melanchthon.55 In 1955, after critiques of the third

52Ebeling, “Reflexions,” 279.

53Ebeling, “*Tertius Usus Legis,*” 77-78, commenting on WA 391, 474-475.


55Bring, “Gesetz und Evangelium und der dritte Gebrauch des Gesetzes in der
lutherischen Theologie,” *Zur Theologie Luthers: Aus der Arbeit der Luther-Agricola*
*Gesellschaft in Finnland,* Schriften der Luther-Agricola Gesellschaft in Finnland 4. (Helsinki:
Akateeminen Kirjakauppa), 1943.
use doctrine by Elert, Althaus, and Ebeling had appeared, Bring saw through the press a German translation of a book he had written already some 22 year earlier on the relationship between faith and works in Lutheran theology.\(^{56}\)

Bring shared a similar perspective with the Germans in many ways. To teach that the law had a third use, he wrote in 1943, was to effect an un-Luther-like admixture of two points the reformer had wanted to keep in sharp distinction. The points were, first, that the Christian needs the law as a sinner, but second, that the same Christian as saint — as righteous before God in Christ — lives without the law. The Christian in the world fulfills the law as no unbeliever could. “The law belongs to him as old man, the gospel [belongs to him] as new man,” Bring said.\(^{57}\) He feared that if a third use of the law were introduced, the law would end up addressing the new self while the gospel would lavish its comforts upon the old self. At least, the Christian could no longer be seen as *simul iustus et peccator*, but as an abstract mixture of the two that averages out somewhere in between.\(^{58}\)


\(^{57}\) Bring, “Gesetz und Evangelium,” 70; see 93-94.

\(^{58}\) Bring, “Gesetz und Evangelium,” 60-61; see also 66ff., 79, 91. On p. 69 Bring explicitly attributed to Melanchthon the position that he opposed.
Yet for all his concern to keep these two aspects of the Christian’s existence distinct, Bring anticipated Althaus in suggesting that the gospel includes demands. He said that for the new person there is no disjunction between the gospel’s demands and the gift it brings. Bring insisted that these demands are not imposed from without, the kind one obeys out of hope for reward or fear of punishment. Instead, he held that they tap into the Christian’s inmost will, which is nothing other than the will of Christ.\textsuperscript{59} Notably, Bring said in summary: “the gospel does not mean an absolute, fleshly freedom, but it at the same time includes in itself always an obligation, a certain law.”\textsuperscript{60} He gave this as one of the reasons a third use of the law is not needed. A gospel that included the law, in other words, formed part of Bring’s alternative to the third use of the law.\textsuperscript{61}

Shortly after Bring wrote, Danish Luther scholar Regin Prenter made a similar point, also with an eye on Pietism: “It is this understanding of the contrast between the old and the new man which constitutes the difference between Luther and all pietism. In the pietistic preaching of conversion and sanctification the new man is identified with the converted man. The new man is himself the real, psychologically changed, new individual which the conversion has produced in man and which sanctification has continued to establish” (Regin Prenter, \textit{Spiritus Creator: Luther’s Concept of the Holy Spirit}, trans. John M. Jensen [Philadelphia: Muhlenberg Press, 1953], 67). Prenter cited Bring’s work. See the analysis of Bring and other Swedish theologians in Edgar M. Carlson, \textit{The Reinterpretation of Luther} (Philadelphia: Muhlenberg Press, 1948), 51-53.

\textsuperscript{59}Bring, “Gesetz und Evangelium,” 95-96.

\textsuperscript{60}“das Evangelium bedeutet nicht unumschränkte, fleischliche Freiheit, sondern es liegt in ihm zugleich immer eine Verpflichtung, ein gewisses Gesetz, eingeschlossen” (Bring, “Gesetz und Evangelium,” 96).

\textsuperscript{61}Aurelius notes that Melanchthon was largely ignored by Swedish Reformation scholarship during the first six decades of the twentieth century and that where he was considered, as in Bring’s work, he was set in sharp contrast to Luther. The basic reason for this attitude toward Melanchthon, Aurelius reports, was that Swedish systematic theologians
In his more general treatment of the relationship between faith and good works, Bring contrasted Melanchthon with Luther in a number of ways.

1. Bring said that for Melanchthon justification was man-centered. It comforted the troubled sinner, but it did not include the new obedience that follows faith. In other words, Melanchthon's teaching of justification offered a picture of God painted from a sketch of what man needs for salvation. But when Luther taught justification, Bring said, it encompassed the entire field of religious life, including what God works in Christians. In this doctrine the emphasis fell not on what man needs or even what he does, Bring continued, but rather on everything God gives. Luther saw God as independent of man, Bring

were attempting to develop a third alternative besides liberalism and orthodoxy. First the generation of Nathan Söderblum and Einar Billing and then that of Gustav Aulen and Anders Nygren (of whom Bring was a younger contemporary) thought that the works of the praeceptor did not offer tools as promising for such constructive work as could be found in Luther's writings. The Swedes read Luther bearing in mind Billing's programmatic dictum that no one adequately understands the reformer's words until reducing his thought to a corollary of the forgiveness of sins (Aurelius, 97-99). The conclusion followed that if new obedience was to be reduced to a corollary of the forgiveness of sins, then such forgiveness had to include within it law or obligation.

Bring raised the question at the beginning of his 1943 essay whether there really is a specific doctrine of sanctification which should be distinguished from the teaching of justification ("Gesetz und Evangelium," 45; see also 46). To the degree that the gospel includes demands or obligations, it becomes difficult to draw any distinction between justification and sanctification.

Bring's judgment on Luther resembled not only that of a Luther renaissance scholar such as Karl Holl, but also that of the nineteenth-century theologian Christian Ernst Luthardt. See his Geschichte der christlichen Ethik. Zweite Hälfte, Geschichte der christlichen Ethik seit der Reformation (Leipzig: Dörfling & Franke, 1893), 42 et passim.
contended. In fact, faith was able to recognize God's love even beneath wrath
and judgment.63

2. Melanchthon obviously saw human works in this sinful world as imperfect.

Bring claimed that with this thought an important underlying premise in
Melanchthon's system was exposed, namely, that the new life has value before
God even though it is rendered unworthy by certain imperfections.64 But in
Luther's thought, Bring continued, the Christian lived the new life not with
works that are flawed and therefore imperfect, but rather with works that are
simultaneously perfect and sinful. For Luther, grace was not the recognition of
a perfect or near-perfect life.65

3. Bring claimed that Melanchthon saw the new life as the power to hear the law,
and that he thought of love only in terms of fulfilling the law. While he

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63 Bring, Verhältnis, 59, 183, 64. On p. 185, note 23 Bring cited Karl Holl's opinion,
expressed in passing, that since Melanchthon justification has commonly been viewed
exclusively from the viewpoint of comfort for the conscience. Holl cited only the Augsburg
Confession's statement that the evangelical doctrine of faith and works serves to comfort
terrified consciences. He added that this perspective missed the other side of the coin, namely,
that justification is an act of God. Holl contended that Melanchthon had abridged Luther's
thought as reflected in the latter's lectures on Romans (Holl, "Die Rechtfertigungslehre in
Luthers Vorlesung über den Romerbrief mit besonderer Rücksicht auf die Frage der
[Tubingen: J.C.B Mohr (Paul Siebeck), 1932], 113).

64 Bring insisted on this point. In Verhältnis, p. 187, note 29, he specifically criticized
Engelland (577, note 24) for saying that to Melanchthon, the new man remained a sinner before
God needing forgiveness and that thus there was no contradiction between demanding the good
works on one hand and recognizing on the other hand that these works of no worth before God.

65 Bring, Verhältnis, 61-62, 187. In 1943, Bring went so far as to say that "Der
Gesetzesgehorssam im dritten Gebrauch kann niemals etwas anderes werden als ein Mittel der
Rechtfertigung" (Bring, "Gesetz und Evangelium," 62).
conceded that for Melanchthon the new life flows from faith, nonetheless he maintained that in Melanchthon's thinking love essentially did not belong together with faith. Rather, the praeceptor grounded morality or love in duty, the discharge of a debt to God. By contrast, Bring held that Luther saw the activity of the new life as a free creation, undetermined by law. For Luther, according to Bring, faith determined all of religion and included love along with itself. Faith and love were related by inner necessity.66

Bring's basic perspective followed from his premise that Luther's view of salvation was theocentric, while by contrast he claimed that Melanchthon and others anthropocentrically brought empirical or psychological factors to the fore of the Christian life via the third use.67 He concluded that Melanchthon's egocentric interest in faith ruined the possibility of deriving ethics from faith.68 Within this scheme, Bring claimed that the law became a motivation for Christian living according to Melanchthon.69


67See Bring, Verhältnis, 159, 160 note 14, et passim.

68As observed by Rolf Schäfer, Christologie und Sittlichkeit in Melanchthons frühen Loci, Beiträge zur historischen Theologie, hrsg. von Gerhard Ebeling (Tübingen: J.C.B. Mohr [Paul Siebeck], 1961), 2.

69Bring, Verhältnis, 58-59.

Thor Hall suggests that opposition to egoism dominated the interpretation of Christianity in Bring's thought. For Bring, this motif stood even taller than Luther's insights into the forgiveness of sins (the importance of which was acknowledged by, for example, Nygren — see Aurelius, 101). Thus, Bring ended up with "a principle of logical opposites; Christian faith is the counterpart [as an opposite] to egocentric idealism. As a result, Bring's
Summary

The leading European theologians who wrote on the third use in the middle of the twentieth century — Elert, Althaus, Ebeling, and Bring — directly and indirectly influenced many others. Elert and Ebeling were the strongest in asserting that a third use of the law was simply impossible, although they arrived at that conclusion via somewhat different paths. While Elert stood diametrically opposed to anything that smacked of Barth or of Reformed theology in general, he was also attempting to render the Christian faith sensible amid neo-Kantian concepts of the knowability of God and the freedom of man. Ebeling’s studies of Luther were carried out against the backdrop of an avowedly existential orientation to theology. He held *usus legis* to be the theological interpretation of life after the fall. Given these positions, for both Elert and Ebeling, the “law” had to accuse, in the nature of the case. Elert maintained to his dying day that the law was capable of no positive function. Ebeling, however, wanted to recognize that the law exhorted Christians to do the good, and thus he provided one of the first instances in which an opponent of the third use teaching tried to kick this doctrine out the front door of his theological edifice while bringing in a teaching resembling it via a side entrance.

Althaus’ study had been informed by engagement with biblical texts more than the work of Elert and Ebeling had. He agreed with them that “law” was

intrinsically oppressive and condemnatory. It came to an end in Christ, he wrote. But Althaus also recognized an abiding “command,” and in at least one of his major works even proved favorable to the third use of the law. Giving ground to neo-orthodoxy, he indicated that such “command” ultimately formed an aspect of the gospel.

In their work the Germans in many ways had been standing on the shoulders of Scandinavian Luther research, particularly that of Ragnar Bring. Bring was one of the Swedish systematicians who fastened upon Luther in his attempt to chart an alternative course for theology besides those of orthodoxy and liberalism. He saw opposition to egoism as the leading theme of Luther’s thought. In emphasizing the theocentricity of the reformer’s theology Bring worried that teaching a third use would lead to an anthropocentric preoccupation with the law, and he added that for Luther justification was so all-encompassing as to include the works that God brought about in Christians.

Two observations should be made concerning these attacks on the third use of the law from the middle of the twentieth century. First, they were made by systematic theologians who were trying to embrace or reject ideas and cultural influences that simply did not exist in the sixteenth century, and hence were unknown either to Luther or Melanchthon. More than the other scholars involved, Althaus was the one whose work was given its overall direction by allegiance to
texts, in his case both New Testament and Reformation-era texts. His work nonetheless most directly illustrates a second point, that critics of the third use doctrine in most cases did not find it possible to cease discussing a norm for good works after they dispensed with the third use of the law. They either went on to maintain that the law could still somehow exhort or inform the performance of good works (as in the case of Ebeling) or that the gospel included the demand to do good works (so Althaus and Bring).

The Offensive Reinforced

During the decade or so after the initial salvos were fired at the third use of the law by Elert, Althaus, Ebeling, and Bring, their scholarly heirs tried to extend their work by grounding their claims in more thoroughgoing systematic studies. Scandinavian theologian Lauri Haikola work had the most to say about Melanchthon, while the German Wilfried Joest concentrated on Luther. But before long the first critique of the mid-century consensus, albeit an appreciative one, appeared as Rolf Schäfer intensively examined Melanchthon’s 1521 *Loci*.

Lauri Haikola

Bring’s student Lauri Haikola determined to follow his teacher’s pioneering efforts, pressing Bring’s line of inquiry into other areas. While Bring had studied both Melanchthon (to a degree) and Luther (still more) with a concern about the
construction that pietism would eventually place on their writings, Haikola focused on the late Reformation and the era of orthodoxy. He began historically with the reception of Lutheran teaching on the law during the 1550s, and took as a point of departure the 1556 Eisenach Synod. As might be expected, in time Haikola wrote more about Melanchthon than Bring had. Haikola published three books during the 1950s, most notably for present purposes, *Usus Legis*. He summarized the essentials of his thinking about Melanchthon at the International Luther Research Congress of 1960, in an essay contrasting Luther’s doctrine of justification with that of the *praeceptor*.

Haikola contended that differences over the law between Luther and Melanchthon colored the entirety of their respective theologies. While he allowed that both men traced the law’s ultimate source and grounding to God’s will, not to an eternal and universal order to which the Lord Himself was supposed to be subject, nonetheless Haikola noted that Melanchthon regarded this law willed by

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70The 1556 Eisenach Synod marked the start of the second antinomian controversy among Lutherans in the sixteenth century. “Gnesio-Lutherans” disagreed with one another over its main thesis, which was formulated over against the position of George Major and Justus Menius, that “bona opera sunt necessaria ad salutem in doctrina legis abstractive et de idea.”

71Bring’s comments on Melanchthon had been largely confined to the Augsburg Confession and the Apology.


God as an eternal, universally valid, objective order, a *lex aeterna*. According to Melanchthon, then, the objective order of the law set the boundaries of human life in relation both to God and the world.74 Here Haikola drew a contrast to Luther who, he claimed, even in occasionally using the phrase “eternal law” meant God’s loyalty (*Treue*) to himself instead of a law that assumes a definitive, fixed form in human experience.75

For Melanchthon, Haikola continued, the law constantly made demands and promised rewards to those who meet them. Although man in the pre-fall state of innocence could not bring about blessedness for himself by obeying the law, he could *preserve* it through such obedience. But since the fall man cannot keep the law. Therefore he comes under its condemnation.76 In this sinful condition, people are confronted with law and gospel. Haikola offered this summary of Melanchthon’s view: “The law promises life only to him who really is righteous in the sense of the law. The gospel, on the other hand, pronounces righteousness on

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74See “Vergleich,” 89-90.

75Usus Legis, p. 101, note 53. Haikola’s juxtaposition of Luther and Melanchthon has not escaped criticism. Lowell Green has written that “Haikola makes a statement of comparison which is partly right and partly wrong (pp. 97-98): ‘Eine lex aeterna als ein Gesetz, das eine ewige und objective Ordnung darstellt . . . kennt Luther nicht’ makes of Luther an antinomian and is a false statement; but the material in the ellipse is correct: ‘. . . aus der man materielle Normen für jedes gerechte handeln Gottes und des Menschen ablesen könnte, kennt Luther nicht.’ But neither does Melanchthon teach such a distortion. The next sentence is a misunderstanding of Melanchthon: ‘Gottes Anspruch auf den Menschen kann nie erschöpfend durch menschliche Regeln umschrieben werden, wie das nach Melanchthon möglich ist’” (Lowell C. Green, How Melanchthon Helped Luther Discover the Gospel [Fallbrook, California: Verdict Publications, 1980], p. 209, note 4).

76See “Vergleich,” 91.
man freely (gratuita iustitid) on the grounds of obedience to the law by another.”

Haikola maintained that for Melanchthon the law was and remained the principal way of salvation. Since sinners could not earn blessedness and salvation through the law, Christ did it for them, satisfying its demands and suffering under its punishments, and thus “legally” entitling them to salvation.

Melanchthon taught that salvation is received in faith. Still, works entered the picture, according to Haikola. He characterized Melanchthon as holding that “Faith that receives is the minimal achievement [Minimaleistung] that is demanded

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77"Vergleich," 92, emphasis original.

Hans-Georg Geyer said that Melanchthon took the position “ex lege non est iustitid” because people do not have the power to keep the law and thus cannot obtain righteousness in this way. In maintaining such a view, Geyer said, Melanchthon was conserving the classical connection between the performance of the law and righteousness. He differed from the ancient philosophers only over human capacity to keep the law.

But Geyer went on to bring up a second prospect: that fulfillment of the law would not have the righteousness of the law-keeper as its goal and object. This prospect would disconnect the classical combination of law-fulfillment and righteousness. In this view, the impossibility of fulfilling the law would not show a lack of power to fulfill it, but rather that a contradiction exists between the law’s goal and its essence, or at least between the use that the natural man makes of the law in his self-love on the one hand and the meaning that God has attached to His law on the other hand.

Geyer admitted that the second prospect was more radical, and he clearly sympathized with it. He added once more, though, that it cannot be found in Melanchthon’s work. In fact, Geyer cited no sources at all as he set forth his second prospect. Haikola’s work may well have been on his mind. (Hans-Georg Geyer, Von der Geburt des wahren Menschen: Probleme aus den Anfangen der Theologie Melanchthons [N.p.: Neukirchener Verlag des Erziehungsvereins GmbH, 1965], 168-169).

78Haikola claimed that the teaching of Christ’s active and passive obedience characteristic of later orthodoxy was already to be found in Melanchthon. He added that Melanchthon’s soteriology followed in a necessary way from his doctrine of the full satisfaction of the law ("Vergleich," 93).
from men as a condition for justification.”79 Further, as a result of the forgiveness of sins an actual regeneration is worked by God at the same time. “Through the forensic declaration of justification and through the partial rebirth man finds himself in a situation similar to the original condition” before the fall. Haikola said that Melanchthon thought it necessary for the reborn Christian with God’s help to preserve faith and the state of grace.80 This could be done by avoiding gross sins, i.e., sins against conscience. But “for venial, unintentional sins [the Christian] receives forgiveness readily under the mild discipline of the law (tertius usus legis).”81

Haikola had a great deal of criticism for this view. Like Bring, he said that so far as a Christian is old man he needs the first and second uses of the law, but so far as he is new man he is totally free of the law. Haikola concluded that in the third use concept there was an admixture of law and gospel in which the gospel ended up mitigating the law’s demands.82 In any case, he went on, Luther subsumed the categories of law and gospel, judgment and grace, under the broader heading of

79“Der empfängende Glaube ist die Minimalleistung, die vom Menschen als Bedingung für die Rechtfertigung gefordert wird” (“Vergleich,” 94).

80Haikola said that the doctrine of the law’s third use rests on the assumption that man in his original state could preserve blessedness through keeping the law, and that in the state of grace he actually contributes to such preservation (Usus Legis, 91).

81“Vergleich,” 97.

82Usus Legis, 82-83. Echoing Bring, Haikola also said the kind of thinking that stood behind the third use idea moved Lutherans of the period of orthodoxy to accept Luther’s formulation “simul iustus et peccator” only on the understanding that it really meant “partim iustus — partim peccator” (Usus Legis, 53).
the two ages. According to this perspective, already into the midst of this age of sin and death, God brings the new age of life and righteousness in which there is no law.\(^3\)

Haikola also expressed concern over Melanchthon's forensic doctrine of justification, which he saw as shaped by a legally-conditioned doctrine of the atonement. In the present, all that has to occur is that the sinner receives the intellectual awareness of the reconciliation wrought by Christ. Melanchthon, according to Haikola, failed to capture the dynamic character of the Word that so impressed Luther.\(^4\)

In sum, Haikola warned that for Melanchthon the third use of the law perpetuated within a Christian's life an essentially moralistic and legalistic approach to the relationship between God and man. He conceded that classic Lutheranism differed from Calvinism in its teaching of the third use of the law, for within Lutheranism justification did not give way to sanctification as the most significant doctrine. Lutheranism insisted that the main use of the law was the second, not the

\(^3\)Usus Legis, 125. Haikola's conclusion was consistent with Swedish Luther scholarship of the first half of the century. See Carlson, 69-70.

\(^4\)"Vergleich," 103. A criticism of Melanchthon as intellectualizer of the Christian faith was set forth even before the work of Haikola in Richard R. Caemmerer, "The Melanchthonian Blight," Concordia Theological Monthly 18 (May, 1947):321-338. Responses to this oft-cited article and its thesis have been ventured by such Melanchthon scholars as Peter Fraenkel and, more recently, John Schneider. See Schurb, "Twentieth-Century Melanchthon Scholarship," and the sources cited there.

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third. But Haikola lamented what he saw as a departure from Luther by Melanchthon and those in his train who taught that the law was eternal and that there was a special use of the law for the Christian.

Toward the end of *Usus Legis*, Haikola referred to Luther's advice in his disputations against the antinomians that the law should be "softened" (gemildert) through the gospel, so it is no longer presented as a damning word but as a mild admonition for the faithful to fight sin’s remains and perform good works. Before the end of this section, which was reminiscent of Ebeling, Haikola added that "damning" law versus "softened" law should not be taken as the equivalent of the second and third uses. Preachers, he said, cannot make this distinction. Instead, they should instruct their hearers to take account of the gospel’s effect in their hearts. Haikola insisted that this distinction between "softened" law and the full force of the law amounts to but a specific case of the overall distinction between law and gospel. The mild admonition, he said, does not constitute a new use of the law in addition to the accusing second use.

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85 *Usus Legis*, 7.
86 *Usus Legis*, 130-31, citing WA 39, 474.
87 *Usus Legis*, 141-42. The foremost exponent of Haikola’s ideas in the English-speaking world is Gerhard Forde. Building on the work of Haikola and Ebeling in his publications, most notably *The Law-Gospel Debate* (Minneapolis: Augsburg Publishing House, 1969), Forde rejects the idea that there is an objective content to the law that can be known and passed on. Rather, he emphasizes the law’s function. Law, he says, is “the reality of fallen humanity,” “anything which frightens and accuses ‘the conscience’” (177). In Forde’s view, knowledge of God’s will must be worked out existentially in every concrete situation of life. Moreover, like Haikola he says that the law is strictly temporary, a feature of the old aeon. 57
Wilfried Joest

In 1951 Wilfried Joest, the successor of Paul Althaus as professor of systematic theology at Erlangen, first published a monograph on Luther and the third use. Entitled *Gesetz und Freiheit*, this book went through three subsequent editions over the next 17 years. By the time the fourth edition appeared in 1968, the other scholars discussed above had either died or moved on to other projects. *Gesetz und Freiheit* is still widely considered to be the most comprehensive treatment of Luther and the third use that has yet appeared. It merits at least mention here, even though it offers no direct comment on Melanchthon. Mindful of his predecessor’s determination to do justice to the paranetic material of the New Testament, Joest devoted roughly the last third of the book to biblical exegesis. However, his comments on the third use in Luther’s thought are more interesting for present purposes.

Althaus’s influence becomes evident in Joest’s examination of Luther. Joest observed that in addition to the now-famous passage from the antinomian disputations that Elert had identified as a forgery, other expressions in Luther’s

Therefore, Forde has no use for the third use: “when law is understood in terms of the dialectic between the old and the new age, it makes little sense to attempt to reintroduce it again after the gospel. To do so would be to fail to recognize the radical nature of the break between the two ages” (194; see 226-27). See Mark C. Mattes, “Gerhard Forde on Re-envisioning Theology in Light of the Gospel.” *Lutheran Quarterly* (n.s.) 13 (Winter, 1999):373-393.

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writings approach the idea of the third use. Luther found it possible to recognize a positive sense of God’s command in the realm of the gospel, declared Joest.89

Luther’s radical opposition between law and gospel consisted in this: “either Christ will stand and the law perish, or the law will stand and Christ perish.”90 When Luther set law and gospel against one another, Joest explained, by “law” he did not mean the will of God as essentially expressed in the Ten Commandments or in the command to love. Rather, Joest said the reformer was referring to the law as demand and as accusation and threat of punishment for those who do not meet with its demands, in short, the “lex exactrix, accusans, reos a gens.”91 This is what gives way before the gospel. Joest continued that Luther was not “fighting against a principle of legality in general and for a principle of grace in general.” Instead, Luther was concerned that “law and gospel, both of them God’s genuine word and true order,” remained “whole and unmixed.”92 Thus, the gospel did not mean that God has changed His will concerning what is good and right before Him. Rather, under the gospel the relationship between God and man was changed so that the law no longer demands, threatens and punishes.

89See Joest, 14.


91Joest, 20.

92Joest, 130.
Joest supported Althaus’s proposal that the word “command,” not “law,” should be employed when reference is made to the life of a Christian. He wrote,

The law meets the sinner, also the Christian as sinner, as *lex implenda*: you must do this, with which you are saved. But the same law meets faith, so far as its contents are concerned, as *lex impleta*: Christ has done this and he does it evermore. Now you may do it too, because you are in Christ... You no longer first have to win the victory with your own obedience — He has won it, and now you may begin to gauge the extent of his victory with your actions.

Not unlike his predecessor Althaus, Joest ultimately characterized command as a use of the gospel (*usus evangelii*).

Joest went on to oppose a third use of the law, thinking that it would introduce reservations and conditions where there ought to be security and freedom. He expressed concern over putting the law into a place where Christ alone should stand. For to Joest the great difference between *law* and *command* came down to the *conditio de necessitate salutis*. Elert and Bring were right, he concluded, to deny

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93Joest, 197.


95Joest, 132. The expressions of William Lazareth, noted above in the section on Althaus, thus have affinities for Joest’s position too.

96Joest, 131.
that there was a third use of the law in Luther’s thought because Luther knew nothing of the law as a condition of salvation.97

As sinners, Joest summarized, Christians encounter Gebot as crushing Gesetz that says: you ought, but you cannot. As believers in Christ, they encounter the same command as encouragement: Christ can, you will. “The command as spoken to the sinner is law in all its sharpness; the command as spoken to faith in Christ, as paranasis, is paraclesis, encouragement, gospel in the fullest extent.”98 But, Joest added, Christians never meet with the command as a hybrid of the two. That is, it never says to them: indeed Christ has, but now you must also.99

Rolf Schäfer

Following such sweeping treatments of the third use, Rolf Schäfer took a more measured approach. In his first major scholarly work Schäfer, who went on to edit the two volumes of exegetical works in Robert Stupperich’s Melanchthon Studienausgabe and at length became a bishop of the Evangelical Church in Germany at Oldenburg, set about assessing Melanchthon’s thought on the relationship between faith and works — or in Schäfer’s terms, Christology and ethics. His was a study in systematic theology, like those of his predecessors, but it

97 Joest, 132-133.

98 “Das Gebot als dem Sünder gesagt ist Gesetz in ganzer Schärfe; das Gebot also dem Glauben an Christus gesagt, als Paraines, ist Paraklesis, Zuspruch, Evangelium in voller Mass” (Joest, 133, emphasis original).

99 This was an odd statement for Joest to have made while affirming that there was such a thing as obedience on the part of those for whom the question of salvation is answered.
was closely based on the 1521 edition of the *Loci*. Although Melanchthon had not formulated a "third use of the law" as such by 1521, Schäfer found the materials he investigated replete with implications for that teaching. 100

Schäfer was interested in the way Melanchthon moved from faith to works, from *Glauben* to *Handeln*. Specifically, he wanted to know from whence Melanchthon derived the "material content" of ethics, the answers to the question "what is to be done?" As Schäfer saw it, Melanchthon had two alternatives. One was to point the inquiring believer toward biblical law -- not to be justified, but to seek direction for ethics. This, Schäfer recognized, was basically the third use of the law position. The other possibility, he continued, was to seek a concept of faith that carried its own ethical authority and ethical content along with it, permitting works to grow immediately without being informed by the law. Schäfer hinted that the Holy Spirit had been conspicuous by his absence from Melanchthon’s summary theses on law, gospel, and faith in the 1521 *Loci*. Nor did Melanchthon derive ethical content from Luther’s concepts of the indwelling of Christ and the example of the historical Jesus who loved God and his neighbor. 101 Schäfer’s conclusion was

100 See especially Schäfer, 116-157.

101 Schäfer, 10-18. Taking into account Melanchthon’s later work, not only the 1521 *Loci*, Leif Grane arrived at an assessment somewhat different from this one of Schäfer. According to Grane, while Luther taught an organic connection between faith and good works, Melanchthon brought the Holy Spirit onto the scene “to make man moral” (Leif Grane, “Luther and the Augsburg Confession,” Concordia Theological Seminary, Ft. Wayne, Indiana, January 26, 1983). Professor Grane told the present writer that the germ of this idea, as well as others in his lecture, came from Ragnar Bring.
that although Melanchthon attempted to develop a "Geistethik," he failed in this attempt starting with the very first edition of the *Loci*.\(^{102}\) Even in this early work Melanchthon used the law to fill the gap of content between faith and activity.

Schäfer’s foundation for this assertion was unusual in that he drew attention to Melanchthon’s Christology. He said that in order to facilitate certainty of divine forgiveness, the *praecceptor* narrowed his teaching on Christ so that the atonement became little more than a *dictum probans* for the forgiveness of sins. Melanchthon taught “Christ for man” to the exclusion of “Christ in man.”\(^{103}\) He emphasized differences between the work of Christ and that of the Holy Spirit, not points of contact and similarity between the two.\(^{104}\) The third use of the law followed from this narrowing of Christology, in Schäfer’s view and to his regret.\(^{105}\)

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\(^{102}\)Thus, Schäfer disagreed with Engelland’s view, which he reported on the very first page of his book, that there was a shift in Melanchthon from an early, pure source of ethical activity to one informed by law.

\(^{103}\)Schäfer, 158-159.

\(^{104}\)Schäfer, 114.

\(^{105}\)While Schäfer approved of many of Ragnar Bring’s sentiments, he devoted an 11-page section to a critique of Bring’s treatment of the third use. His most potent reproof was that Bring distinguished the old man from the new man within the believer so sharply as not to take into account the possibility of the new man exercising leadership in the life of the believer (Schäfer, 152; see pp. 150 and 157). This insight points to a larger prospect that Bring did not consider at any length and to which he was resistant: the psychological unity of the Christian who is *simul iustus et peccator* in the world. Schäfer also took sharp issue with Bring’s claim (Bring, “Gesetz und Evangelium,” 62) that for Melanchthon obedience to the law in its third use became a means of justification (Schäfer, 155-156).
In the earliest edition of the *Loci*, Schäfer observed, Melanchthon held that the Holy Spirit brought into the human heart impulses in keeping with the law. In fact, Melanchthon identified the Spirit with God’s will to such an extent that the external law became superfluous. But before he finished writing the 1521 *Loci*, Schäfer went on, Melanchthon had problems maintaining this position. So far as it went, it resembled an ethic characteristic of those who claimed immediate inspiration from the Holy Spirit. Theologically and practically, Melanchthon saw that it could lead to the arbitrary positions adopted by the *Schwärmer*. Therefore Melanchthon tried to identify the activities into which the Spirit led with activities into which faith led. That is, the *praeeceptor* tried to shore up *Geistethos* via *Glaubensethos*, but this effort proved insufficient. Eventually, Melanchthon brought into play the externally-taught law. Thus ended any genuine Melanchthonian *Geistethik*, Schäfer concluded, not only in 1521 but also later.\(^{106}\)

Schäfer joined the ranks of scholars who have wondered whether the essential difference between Luther and Melanchthon was that the latter did not experience the truth in faith as the former did. While Schäfer acknowledged that the mysteries of personality and of personal faith render this subject difficult to probe,

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\(^{106}\) Schäfer, 114-115. See also pp. 91, 92, 96-97, 109-110, 156.
Michael Rogness agreed with Schäfer’s analysis: “Freedom from the Law is theologically true, but from a practical and ethical viewpoint, it is somewhat unworkable. The believer is still tainted with sin, so that the Law is always relevant, not to condemn but to guide. This ambiguity in the *Loci* eventually gave way to Melanchthon’s (and the Lutheran Church’s) teaching of the tertius usus legis, the ‘third use of the law’” (Michael Rogness, *Philip Melanchthon: Reformer Without Honor* [Minneapolis: Augsburg Publishing House, 1969], 44).
he contended that Luther traveled the way of inner understanding in Christ while Melanchthon went to Christ through Scripture and was therefore wont to content himself with the surface layer of biblical exposition. The praeceptor did not feel the paradox of wrath and grace simultaneously, Schäfer said. He questioned Melanchthon’s capacity to understand law and gospel.¹⁰⁷

Schäfer’s work was thus consistent with the run of mid-century critique of Melanchthon, especially as it set Melanchthon in contradistinction to Luther. But through his close attention to the 1521 Loci, Schäfer also called into question some of the accepted thinking on the praeceptor, particularly the developmental account of Melanchthon’s approach to the law that had become standard, dating back to Herrlinger and Engelland. By contrast, Schäfer traced the roots of Melanchthon’s thinking on the law and even aspects of its third use back to his most important early theological work. If Schäfer’s thesis held, then perhaps Melanchthon’s later emphasis on the law would turn out not to have been chiefly the product of a large-scale re-engagement with the study of Aristotle during the mid-to late 1520s.¹⁰⁸

Schäfer’s revisionist effort hardly stood immune from critique. Shortly after he wrote, Ernst Bizer responded. He noted that Schäfer admitted depicting Melanchthon’s theology as highly eclectic, incorporating conflicting elements, but

¹⁰⁷Schäfer, 162; see also p. 25. A similar analysis had already been offered by Peter Petersen, Geschichte der aristotelischen Philosophie im protestantischen Deutschland (Leipzig, 1921; reprint, Stuttgart: Friedrich Frommann Verlag [Günther Holzboog], 1964), 97.

¹⁰⁸As alleged by Bauer, 79-80.
Bizer thought it inherently improbable to characterize Melanchthon as having been rhetorically sloppy. Moreover, Bizer called into question Schäfer’s working conception of Luther’s theology. He said that in Schäfer’s view, Luther’s tropological exegesis of passages about Christ bypassed the distinction between law and gospel. It left hanging the question whether following the example of Christ was law or gospel. Bizer also wondered whether Schäfer was wise to isolate on Melanchthon’s great interest in giving comfort to the sinner who needs assurance of forgiveness, positing this Melanchthonian emphasis as a major point of contrast with Luther. Bizer recalled that the same concern bulked large in the reformer’s mind, thereby criticizing not only Schäfer but also earlier scholars such as Bring and Holl. Finally, Bizer suggested that if Schäfer was correct, Luther must have been seriously misled when he offered his various commendations of Melanchthon’s *Loci*.109

Summary

During the 1950s and early ‘60s, the next generation of scholars picked up the offensive against the third use where their teachers had left off, broadening the base for the attack. Bring’s student Haikola indicated that Melanchthon had deviated from Luther because he wrongly construed the law as an objective order which, even after Christ’s fulfillment the Christian also had to fulfill in order to preserve faith. Influenced by Althaus, Joest insisted that God’s will is either *Gebot* or

Gesetz, but that it never says: Christ has, but now you must also. Joest reaffirmed Althaus’ idea that for the Christian “command” is a *usus evangellii*, while Haikola extended Bring’s critique of Melanchthon in asserting that the *praecceptor* taught that faith amounted to little more than intellectual knowledge of salvation won by Christ. In their own ways, both of these scholars drew attention to the position that “good works are necessary for salvation” as a component of the problems they saw with the third use of the law.

Sharpening the discussion’s focus, Schäfer pointed out that even the first edition of Melanchthon’s *Loci* derived the content of ethics from law. While Schäfer was typical of his era in that he regarded this finding as yet another theological demerit for Melanchthon, his study of the 1521 *Loci* challenged the established developmental approach according to which Melanchthon did not have such recourse to the law until the mid- to late-1520s. Schäfer even respectfully criticized what he saw as excesses in the work of a venerable scholar such as Bring, even as Bizer in turn criticized Schäfer for tendentiously fastening on certain ideas regardless of the evidence. Schäfer’s book belongs, conceptually as well as chronologically, to the period when the initial offensive against the third use was being reinforced by younger systematic theologians who were attempting to ground the earlier claims in further textual research. While the work of Haikola and Joest work was extensive, Schäfer’s was more intensive. Perhaps for this very reason it
produced its most surprising result, its calling into question of the established developmental view.

The Continuing Debate

Additional groundbreaking research on the third use did not occur for some 30 years. Generally, during this time Europeans contented themselves to read the latest editions of Joest's book and related materials while American Lutheran theologians were catching up with the discussion both in their scholarship and in some of their denominational conflicts. But in the 1990s two more important treatments of Melanchthon appeared, even as a new interpretation of Luther arose among some Finnish scholars. It is necessary to consider these contributions in order to update the historiography to the present.

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Timothy Wengert

The latest examination of a phase in Melanchthon’s career to bear particularly on the third use of the law has been written by Timothy Wengert, a professor at The Lutheran Theological Seminary in Philadelphia and probably the most noteworthy scholar currently at work on Melanchthon’s theology in the United States. Studying the three successive editions of Melanchthon’s *Scholia on Colossians* (1527, 1528, and 1534) with an interest in that work’s utility as a vehicle for Melanchthon’s response to Erasmus in the debate over freedom/bondage of the human will, Wengert noticed that Melanchthon’s *Colossians* also reflected his skirmishes with John Agricola during the 1520s. These debates form the subject of Wengert’s book *Law and Gospel*, which reports that Melanchthon first formally articulated three uses of the law in the third (1534) edition of the *Colossians*. That is, the “three use” formulation did not make its initial appearance in the *Loci* of the following year. On this point Wengert corrects Herrlinger, Ebeling, and many others.

The last chapter of *Law and Gospel* is devoted to “The Origins of the Concept of the Third Use of the Law.” Wengert asserts that the *praeproceptor* moved increasingly to a law-centered theology after he wrote the Augsburg

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Confession and the Apology, and that this shift manifested itself mainly in Melanchthon's positions on forensic justification, the necessity of good works, and the third use of the law.

Only after the sharp articulation of forensic justification in the 1532 Romans Commentary was Melanchthon in a position to speak of three uses of the law, Wengert contends. For forensic justification did not do away with the law or one's obligation to keep the law, only with the law's condemnation. Over against such condemnation, Christians were declared righteous by God as if they had kept the law. Further, for Christians living in the world "the law had become the measure of righteousness in a good conscience," as Melanchthon termed it in his 1534 Colossians. "Thus," Wengert concluded, "forensic justification, far from eliminating the law from Melanchthon's theology, had actually increased its significance."  

In the 1534 edition of his Colossians Commentary, Melanchthon stressed the necessity of good works more than he had in the two previous versions. He also said that good works are acceptable to God not because they truly fulfill the law's demands but because they are done by one who is in Christ. In fact, God's gracious approval of these good works moved Christians to do them, according to

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113 Wengert, Law and Gospel, 179.

114 Wengert, Law and Gospel, 184 and 185.
Melanchthon. This may not seem at first to be a legalistic point. But Wengert summarizes: “The very order of his argument — from the necessity of knowing how we are forgiven, to the necessity of obeying the law, to the necessity of knowing how this obedience pleases God — placed the law and obedience to it squarely at the center of Melanchthon’s theology.” By 1534 Melanchthon’s theological thinking had come to be so dominated by the law, Wengert added, that the consolation he offered to sinners derived less from the gospel and more from a knowledge of doctrine.

The introduction of a third use of the law became the apex of an increased emphasis on the law in Melanchthon’s theology. Wengert cautions against too quickly joining in with modern scholarship’s attempts to say either that Melanchthon thereby abandoned Luther’s theology or to defend Melanchthon’s continuity with previous Reformation theology, his own and Luther’s. While citing without criticism the work of scholars such as Schäfer who traced the roots of the third use teaching to Melanchthon’s earlier theological work, Wengert urges readers not “to overlook the historical moment” in which the praeceptor actually introduced it.

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115 Wengert, Law and Gospel, 185, 187, 188.

116 Wengert, Law and Gospel, 189.

117 Wengert, Law and Gospel, 190. There are strong similarities between Wengert’s position in this section on Melanchthon’s increasingly law-centered theology and the views of Haikola.

118 Wengert, Law and Gospel, 200, 195.
Profiling the various component parts of that moment proves to be a complex task, though. First Wengert calls attention once more to forensic justification, in which “the law, rather than coming to its true end in the gospel, simply has lost its accusatory voice.”\(^{119}\) He notes that the “third use” formulation arose in part to exclude works from salvation, based as it was on the idea that believers, as forensically justified, were already saved and thus could not be threatened by the law.\(^{120}\) But via the third use legal conditions found a place in the Christian life.

Still attempting to account for the various aspects of the historical moment when Melanchthon first articulated the third use, Wengert contends that “A crucial factor is the memory of Melanchthon’s encounter with John Agricola. There is little doubt that Agricola’s denigration of the Decalog -- itself a reaction to Melanchthon’s theology -- caused Melanchthon to strengthen his defense of the law in the Christian’s life.”\(^{121}\) Wengert goes on briefly to describe two meetings at which


\(^{120}\) See Wengert, *Law and Gospel*, 200. In a public lecture, Wengert elaborated on this point. Melanchthon did not want to dilute the idea of the gospel as gift, so he resisted expressions to the effect that the gospel gave direction to good works. Wengert said that although the third use of the law is sometimes thought to be a legalistic concept -- and, it might be added, while Wengert himself so depicts it in *Law and Gospel* -- Melanchthon actually articulated it in part out of a desire to safeguard the integrity of the gospel (Timothy J. Wengert, Convocation Address, Concordia Seminary, St. Louis, Missouri, April 8, 1997).

It might be noted that Wengert's observation in the lecture echoes Melanchthon's breakfast remark to Agricola at Torgau in November of 1527, in which the *praecceptor* argued that law by any other name is still law (Wengert, *Law and Gospel*, 135).

Melanchthon encountered moderate Roman Catholics during 1534.\textsuperscript{122} Partly as a result of these meetings, Wengert says, the praecceptor took it as his challenge to develop an alternative to a theology of merit on one hand and the sort of antinomianism represented by an Agricola on the other. To avoid the latter, "while eliminating human works from God’s declaration of righteousness, Melanchthon asserted that the law continues in terms of obedience"\textsuperscript{123}; hence, the third use.

The great virtue of Wengert’s research is that he approaches Melanchthon’s first assertion of the law’s third use, in the 1534 Colossians, against the backdrop of theological and literary enterprises with which Melanchthon was involved in 1534 and for several previous years. The weakness of Wengert’s study as it concerns the third use formulation, at least on the face of it, is that while Melanchthon and Agricola had locked horns already during the second half of the 1520s, Melanchthon did not start referring to three uses of the law until 1534. Thus, it becomes questionable whether the conflict with Agricola truly looms as such a crucial provocation for Melanchthon’s enumeration of three uses as Wengert describes it. The reference near the end of his book to Melanchthon’s 1534 colloquies with the moderate Romanists forms a tacit admission of this point.

While Wengert’s work does not tie together all the strands it traces, it offers this summary of Melanchthon’s mature position: “To inform the good conscience

\textsuperscript{122} Wengert, Law and Gospel, 200-205.

\textsuperscript{123} Wengert, Law and Gospel, 205.
and encourage it to obedience, a third use of the law is necessary.” Thus, Wengert sees the third use as a motive for good works in Melancthon’s thinking.

Matthias Richter

In a section at the end of his recent book on the second antinomian controversy, Matthias Richter casts a glance back earlier in time than the material that had occupied the body of his study. He traces some of his findings to their precursors in the first half of the sixteenth century, and deals specifically with Luther and Melanchthon. His is the twentieth century’s last broad-scale treatment of the third use issue. Despite Richter’s sympathies for the theologians who fought against Melanchthon’s formulation of the third use during the second half of the sixteenth century, his concluding treatment of the praeparator is even and comparatively restrained.125

First Richter describes Luther. The reformer held that the law is not necessary for good works, Richter indicates, for the old self within the Christian remains completely unreformed. The law does nothing with this old self but to accuse and condemn it.126 Thus, Luther taught that a work extorted by the law could not be a genuine good work, but rather one of death and hell. The possibility of

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124 Wengert, Law and Gospel, 205.


126 Richter, 357, 362.
“good” works arose first when a person was justified, therefore blessed, and thus 
“good.” Then the law no longer played the role of a fixed norm, but came from 
within, on account of the unity between Christ and the believer.127

Melanchthon, by contrast, attached great significance to works as showing forth faith. Richter found that the praecptor held to an inchoate righteousness of works. This righteousness was grounded in justification, but it had to be shown in the works that followed. The continuing necessity of the new obedience emerged from Melanchthon’s understanding of the law as God’s invariable ordinance.128 For the praecptor, Richter explains, the duty even of the reborn Christian to obey God was based on the premise that there is an immutable order for the new life and its good works. Melanchthon conceded that the new obedience must be spontaneous, but still he had problems maintaining the unity, the organic connection, between faith and new life.129 Hence, Richter concludes, Melanchthon resorted to forms of necessity for doing good works that went beyond even those of command and debt

127Richter, 359, 366. It might be noted that these are not necessarily exclusive phenomena. A standard that is internalized in one way or another does not necessarily become less “fixed” in the process.

128Richter, 371-373.

129Richter, 373-375.
(that is, owing obedience to God), including his claim that good works are necessary to retain faith.\(^{130}\)

Like Schäfer, Richter notes that the indwelling of the Holy Spirit and of the Trinity in the believer did not play as great a role in Melanchthon’s theology as it did in Luther’s.\(^{131}\) Nor does Richter think that Melanchthon was very close to Luther in asserting that good works are necessary because an unvarying divine order requires them.\(^{132}\) In his own subdued way, Richter joins the previous interpreters who at least suspected, and often said outright, that Melanchthon motivated Christian conduct out of the third use.

The “New Finnish” Interpretation of Luther

A noteworthy school of Luther interpretation emerged toward the end of the twentieth century. Several Finnish scholars associated with Professor Tuomo Mannermaa of the University of Helsinki have put forth a revised version of Luther’s teaching on salvation and its implications for other aspects of theology.\(^{133}\) Thus far, this new school of thought has made no direct contribution to the literature on Melanchthon. But it has not been able to avoid the Formula of Concord, if only

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\(^{130}\)Richter wondered whether this expression, from the 1543 *Loci*, was not one more indication of the *praecceptor*’s complicity in what later would be called Majorism, the teaching that good works are necessary to retain salvation (Richter, 374).

\(^{131}\)Richter, 376.

\(^{132}\)Richter, 377 and 378.

by way of defining itself over against the Formula’s teaching, starting with FC III, “The Righteousness of Faith before God.” As they put forward their new interpretation of Luther, which makes much of perceived affinities between Luther and the eastern Christian concept of *theosis* (participation in God), members of the new Finnish school implicitly and sometimes explicitly plead for a reappraisal of the Formula in the name of what they call a more genuinely Lutheran (because putatively more Luther-like) position.¹³⁴

Finding the underpinning for Luther’s ethics in the Golden Rule, for example, Antti Raunio asserts that in the reformer’s view Christ acted toward sinners according to this very rule. That is, Christ treated sinners in the way that he would have wanted to be treated in their situation. Thus, he himself shouldered the burden of their sin and gave them instead power, righteousness, and wisdom. Raunio concludes, “This means that through Christ, who is present in faith, the Christian participates in the divine attributes. The attributes are essential qualities; therefore, the Christian participates through them in the divine essence itself.”¹³⁵


The premise that God in Christ gives his own essential attributes to the Christian stands at a place of central importance to the work of the new Finnish school.\textsuperscript{136}

American Lutheran theologian Carl Braaten insists that this motif does not amount to the position of Andreas Osiander, which was eventually rejected by the Formula of Concord: that Christ is the Christian's righteousness only according to his divine nature.\textsuperscript{137} Braaten's statement is correct, so far as it goes. The Christology of the new Finnish school does not simply reprise the views of Osiander, who ended up facing opposition from Melanchthon and Melanchthon's Gnesio-Lutheran opponents alike. Mannermaa writes,

Justification and communication of attributes form in Luther's theology expressions and different aspects of one and the same thing... The Christ present in justifying faith communicates in the 'joyful exchange' the redeeming attributes of God to the believer. God is righteousness — in faith man is granted righteousness; God is joy — in faith one takes part in joy; God is life — in faith one has a part in life; God is strength — in faith one takes part in strength, etc.

As Mannermaa had put it a few pages earlier, "the defeat of the powers of destruction decidedly takes place in Christ's own person."\textsuperscript{138}

But at just this point Mannermaa and his colleagues come into conflict with the Formula of Concord, as they themselves recognize. For in the process of

\textsuperscript{136}See Simo Peura, \textit{Mehr als ein Mensch? Die Vergöttlichung als Thema der Theologie Martin Luthers von 1513 bis 1519} (Mainz: Verlag Philipp von Zabern, 1994).

\textsuperscript{137}Carl E. Braaten, "Response to Simo Peura, Christ as Favor and Gift," \textit{Union with Christ}, 73.

rejecting Osiander’s position, the Formula repeatedly declared that God reckons the “total obedience” of Christ’s “total person” (“der ganzen Person Christi ganzer Gehorsamb,” “tota totius personae Christi obedientia”) to the Christian as righteousness. The Finnish school downplays the work of Christ as the basis of justification. It looks instead to justification at least in part via a transfer of qualities from the person of the Christ who is present in faith to the believer with whom he is present.

To the point of the Formula’s teaching on the third use, in the revisionist Finnish view there could be no instructional use of the law set in the context of justification as imputed righteousness which results in a renewal and rebirth of a sinner’s human nature. Rather, for the Finns justification consists in being made righteous as well as being declared righteous. A believer united with the divine nature “realizes” righteousness in daily living. Another Mannermaa student, Simo

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140 To the Reformer [Luther], justifying faith does not exclusively mean the reception of imputed forgiveness of sins on the basis of Christ’s merit (Mannermaa, “The Doctrine of Justification and Christology,” 210).

141 James Kittelson comments that “it is by no means apparent that simple presence carries with it the sense of ontological change and the works of love that would follow. If it does not, then [Tuomo] Mannermaa’s attempt [and, it might be added, the attempts of his followers] to drive a wedge between Luther and the Formula of Concord fails” (James M. Kittelson, “To the Finland Station: A Review Essay,” dialog 38 [Summer, 1999]:237).

142 See Peura, 296. It should be noted that Mannermaa relegates the distinction between justification and sanctification to the periphery of Luther’s theology (see Marquart, 203).
Peura writes: “a Christian is protected by Christ’s grace insofar as gift (i.e., renewal) is realized in his life. In this sense we could say that the Christian’s renewal is the necessary condition for grace and for staying under Christ’s protection.” Thus, while Peura says nothing about the third use of the law, he makes an assertion very similar to Melanchthon’s “good works are necessary to retain faith” formulation that Richter saw as related to the third use teaching.

The sort of claim advanced by Peura has begun to provoke response. Lowell Green notes that any sort of justification involving theosis will turn out to be an ongoing process, involving believers in “a gradual program of moral perfection.” Their salvation would be based at least in part on inner, intrinsic righteousness. Green observes that “These views obliterate the [classic Lutheran] distinction of law and gospel.”

Gottfried Martens, a German Lutheran scholar who says he is open toward seeing justification as union with Christ in writings such as Luther’s

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143 Simo Peura, “Christ as Favor and Gift: The Challenge of Luther’s Understanding of Justification,” Union with Christ, 57. Peura’s assertion conflicts with article IV of the Formula, which rejected that idea that “faith accepts righteousness and salvation only at the beginning, and then delegates this function to works, as if works should henceforth preserve faith, the righteousness that has been received, and salvation” (FC SD IV 34; Tappert, 556; see Kolb and Wengert, 579). “Dagegen aber hat es diese Meinung nicht, dass der Glaub allein im Anfang die Gerechtigkeit und Seligkeit ergreife und darnach sein Ampt den Werken übergebe, dass dieselbige hinfürder den Glauben, die entpfangene Gerechtigkeit und Seligkeit erhalten müssten” (BKS, 948). It is hardly surprising that Peura writes, “In my opinion, the FC and modern Lutheran theology have not correctly communicated Luther’s view of grace and gift” (Peura, “Christ as Favor and Gift,” 47).

comments on Galatians 2:20 (the Bible passage that said: “I have been crucified with Christ; it is no longer I who live, but Christ who lives in me”), is nonetheless unwilling to go as far as Peura. Rather, Martens insists that even in such texts “Christ, with whom I am united by God’s Word and Sacrament, remains my justitia aliena.” The sinner’s moral behavior thus would not contribute to his status as justified before God.145

Finnish scholars of the “new school” express dissatisfaction that in the Formula of Concord and in traditional Lutheran dogmatics bearing a Melanchthonian stamp “the inhabitatio Dei is distinguished conceptually as a separate phenomenon that is logically subsequent to justification”146, whereas they regard Luther as having made integral to justification a dwelling of God within believers that results in a change of those believers. So long as such claims are made concerning Luther’s theology, there will be opposition to the third use of the law. For traditionally the third use applied to believers who were justified through imputed righteousness, in whom renewal of life remained partial to the extent that the old sinful nature clung to them.


146 Tuomo Mannermaa, “Justification and Theosis in Lutheran-Orthodox Perspective” Union with Christ, 27.
Summary

During the 1990s there was some renewed attention to texts bearing on the third use of the law. Wengert concerned himself with the successive editions of Melanchthon’s Colossians, while Richter studied the “second antinomian controversy” during the second half of the sixteenth century and commented on Melanchthon as a precursor to it. Their work has had the effect of underlining the most enduring conclusions reached by previous scholarship. Wengert asserted that Melanchthon’s vigorous articulation of forensic justification beginning in 1532 set the stage for him to articulate a more law-intensive theology which came to its apex with the third use of the law in 1534/35. He noted that during these years the praecceptor placed greater stress on the necessity of good works. Richter found the roots of this emphasis in the understanding of the law as God’s unchanging ordinance, and he drew attention to Melanchthon’s assertions that righteousness had to be shown in works and that good works are necessary to retain faith. By contrast, Richter indicated, Luther looked to the inner unity of Christ and the Christian to produce and guide good works, not to a fixed standard.

Such inner unity has been the chief interest of the Finnish school, which rejects or bypasses Melanchthon’s kind of teaching on the abiding character of the

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147 Wengert does not specifically take up Melanchthon’s codicil that good works are necessary for salvation. He summarizes Melanchthon’s intentions and expressions as follows: “Melanchthon wanted desperately both to defend the Reformers from the charge that they denied the necessity of good works and at the same time to avoid robbing the conscience of the gospel’s consolation. So he devised a way to speak of the necessity of works for the believer by excluding their necessity for justification” (Wengert, Law and Gospel, 188).
law and on forensic justification — elements that undergird the third use of the law — while in effect reasserting his claim that good works are necessary for salvation.

The Finnish school has the potential to heighten still more the contrast between Melanchthon and Luther, on the third use of the law and other matters, through its approach to Luther.

Conclusion

The twentieth-century attack on the third use of the law has a long and somewhat complex history. It began with its greatest intensity after World War II, as theologians such as Elert, Althaus, Ebeling, and Bring contended with their own pressing theological challenges as well as the historical evidence regarding Melanchthon and his contributions to Lutheranism. The next generation more carefully set about making the case against the third use through extensive (Haikola and Joest) and intensive (Schäfer) examination of texts from the standpoint of systematic theology. Most recently, through their historical work Wengert and Richter have once again called attention to elements of older objections to the third use in Melanchthon’s theology: forensic justification as giving way to a preoccupation with the law grounded in a concept of the law as God’s unchanging ordinance, resulting in an insistence on the necessity of good works and, Richter adds, the necessity of good works for salvation. Meanwhile, eschewing ideas such
as forensic justification and an ongoing significance of the law in the Christian life, members of the new Finnish school of Luther research arrive at a similar insistence that good works as the realization of renewal form a necessary condition for retaining grace. Their work obliquely raises the question whether these Melanchthonian ideas constituted the decisive prompt behind such an insistence. Overall, their work portends renewed, if somewhat differently-based, dissatisfaction with the third use of the law from the standpoint of Luther scholarship.

While there was considerable unity within the twentieth-century attack on the third use, the impression should not be left that the offensive formed a monolith until the appearance of the new Finnish school in the 1990s. There were many details on which the previous scholars did not agree with one another. In effect, they tossed so many rocks at Melanchthon that some of their projectiles could not help but impact concepts that the thrower, or at least a great many of his kindred contemporaries, would not have wanted to see damaged at all. Examples include:

- Elert’s radical dialectic which makes law accuse simply because it is law and automatically rules out any positive function for it, as criticized by Althaus;
- the reduction of the law by Ebeling and Haâkola (with Wengert concurring) to a description of life after the fall, while Althaus and Joest held out for the viability of “command” as a good and valuable expression of God’s will to the Christian;
- Bring’s refusal to consider the psychological unity of the Christian, as criticized by Schäfer;
• Joest's denial that Luther would have approved the idea "Christ has, but now you must," despite his own affirmation that there was such a thing as obedience on the part of those for whom the question of salvation is answered;

• Schäfer's effective dismissal of Luther's praise for the Loci, as pointed out by Bizer;

• and the tendency of Althaus, Bring, and Joest to suggest that the gospel includes the command to do good works.

In the last instance, the interpreters assailed the third use of the law, only to introduce something very much like it under the heading of the gospel. At the very least, they thereby suggested that Melanchthon and others who upheld the third use of the law during and since the time of the Reformation had seized upon an issue that needed to be addressed.

148 Although Lowell Green in a recent review was referring specifically to Lutheran theologians in America, his observations also have application to some of the Europeans by whom they were influenced. He wrote of those who "insisted that not the law but only the gospel informs the Christian what he should do. When the law is thus rejected and replaced by the gospel, the resultant gospel is no longer the gospel" (Lowell C. Green, "A Review Article: Law and Gospel: Philip Melanchthon's Debate with John Agricola of Eisleben over 'Poenitentia'," Concordia Theological Quarterly 64 [January, 2000]:64. On the previous page, Green had called it a "general truth that when one thinks to remove the law, the gospel inevitably becomes a new law, and thus becomes an adulterated gospel" (Green, "Review Article," 63).
Addendum: Law and natural law

Melanchthon lived at a time and place of growing unrest over the role played by law and lawyers in society. Within these circumstances, he became an apologist for written law in general and for Roman civil law in particular, especially against rising tides of anarchy in the 1520s and influences from Schwärmerei and Anabaptists during the 1530s and ’40s. He held that Roman law answered best to the dictates of natural law with which all people were endowed.

This story has been told, with slight variations, by a variety of scholars. Bauer’s work on the theoretical level has already been mentioned. Guido Kisch noted the large and small duties that repeatedly brought Melanchthon up against questions and problems in the legal field, as well as the influences in his own background and interests that might have helped incline him toward making a philosophical examination of natural law. Gerald Strauss extends Kisch’s discussion of the potentially-explosive political situation. Ralph Keen and Sashiko Kusukawa point out that Melanchthon grew concerned over the claim and, in some cases, the real prospect that the Lutheran movement was promoting lawlessness.

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prompting him in response to set about developing a credible, defensible ethical system with foundations in natural law.\textsuperscript{151}

As a side note to a study of the third use of the law, it is important to ask whether Melanchthon pressed the third use of the law into the service of promoting discipline and order in society. The case can be and has been argued from both sides. Strauss was not explicitly trying to argue it, but he pointed out that in 1524 Melanchthon starting describing the law as an instrument of civilization. In so doing, the \textit{praecceptor} used the term "\textit{paedagogia politia}" — his characteristic expression for the first use of the law, not the third. The law in its first use served as a teacher for society in general.\textsuperscript{152}

On the other hand Keen, like Kusukawa a younger scholar who places a premium on seeing Melanchthon's career as a whole rather than piecemeal, ventures a different claim. He says that Melanchthon not only projected the third use into the social and political sphere, but also that he specifically and deliberately paralleled it to the role of the magistrate:

Melanchthon leaves no doubt, either in 1521 or 1535, that the individual is to relate to the magistrate in the way that he relates to the law in its third use: by recognizing it as a part of the divine ordering of human society. The analogy between the magistrate and the law has validity if we keep in mind the fact that the magistrate, despite the fullness of power, is not coercive, and that the subject despite the degree of obedience owed to the magistrate, is never alienated,


\textsuperscript{152}Strauss, 228-229. See Kisch, 81.
because the obedience is always freely rendered. Where the analogy encounters difficulties is when one realizes that the divine law, in Melanchthon's mind, is always tempered by mercy, whereas there is no mention that the magistrate has a consoling counterpart in the way that the law is always accompanied by the gospel. One may wonder whether Melanchthon, in the desire to promote the evangelical movement, has done so at the cost of his own systematic structure.

Keen continued that when Melanchthon identified the secular authority with the third use, he was making magistrates responsible for promoting piety and reflecting or pointing to consolation in Christ.\(^{153}\)

Keen's statement raises two questions. The first is rhetorical and has two parts: were magistrates truly non-coercive and was obedience always freely rendered? Second, while Keen elsewhere rightly points out that Melanchthon repeatedly characterized the gospel itself as a sort of epieikeia of the divine law, "since it regards people as righteous even if they cannot fulfill the legal requirements for such righteousness," was he stretching so far to link together Melanchthon's civil and religious thought that he twisted Melanchthon's concept of the law's third use out of its shape in the process?\(^{154}\) In short, did Melanchthon deploy the third use of the law to promote discipline and order in society?

\(^{153}\)Ralph Keen, Divine and Human Authority in Reformation Thought: German Theologians on Political Order, 1520-1555 (Nieuwkoop: DeGraaff Publishers, 1997), 53.

\(^{154}\)The quote is from Melanchthon's Epitome ethices, via Keen, "Moral World," 187.
CHAPTER TWO

FORMULA OF CONCORD ARTICLE VI

The Formula of Concord (1577) addressed several theological controversies that had broken out among Lutherans. In some instances, like the use of the law, aspects of these controversies had flared up already during the reformer’s lifetime. The authors of the Formula consciously attempted to build upon the earlier Lutheran confessional writings and apply their theology to questions that had become hotly-contested after Luther’s death in 1546. Of all the documents and their various parts included in the Book of Concord (1580), article VI of the Formula constituted the most direct articulation of the third use of the law.

It was also a normative articulation. The Formula of Concord stands out as an exceedingly important document, for once it appeared the internecine controversies that had so prominently marked Lutheran history during the third quarter of the sixteenth century were for the most part laid to rest. Particularly in Germany, the Formula became a formal confessional statement. Churches, pastors, and professors bound themselves to teach in accord with it.
In addition to examining Formula of Concord article VI itself, this chapter will also review the work of scholars who have sought to explicate what the Formula meant by the third use of the law. There are two reasons for the chapter to have this dual focus. First, as the authoritative expression of the position on the third use at which sixteenth-century Lutheranism eventually arrived, the text of FC VI can profitably be compared with the work that Melanchthon had done earlier in the century. The second reason is historiographical. Several of the scholars who have written on the third use question also expressed themselves on the relationship between Melanchthon’s position and that of the Formula. Neglecting their specific comments on FC VI would fail to do justice to their arguments.

Within the body of literature that has accumulated, it has grown increasingly difficult to find widespread agreement on the comparison between Melanchthon’s views and those set forth by the Formula. Thinking on this subject generally developed through three stages during the twentieth century. At first, scholars said that the Formula of Concord took essentially the same position Melanchthon had taken. Around the middle of the century, the view emerged that the Formula made a clever attempt to teach Luther’s doctrine in Melanchthon’s words. Proponents of this interpretation such as Elert and Bring thought the Formula utilized Melanchthonian terms like “third use of the law” while setting forth a position more
in accord with Luther’s thinking. More recently, it has come somewhat into vogue to claim that the Formula was vague and rather confused in its article on the third use of the law.

**The subject of FC VI**

An important question confronts the reader at the very beginning of article VI “Concerning the Third Use of the Law.” The question is not readily evident upon reading either part of the Formula, the Solid Declaration or the Epitome, by itself. It comes into focus when the two are compared.

In keeping with the Formula’s usual procedure, article VI began with a short definition of the subject at hand and brief characterizations of the conflicting claims that had been made concerning it, all in an effort to pinpoint the issue that required resolution. The first paragraph of article VI in the Solid Declaration said:

1. The law of God not only serves that through it external discipline and decency are maintained against wild and disobedient people; 2. likewise, that through it men are brought to a knowledge of their sin; 3. but also, when they

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are born anew through the Holy Spirit, converted to the Lord, and the veil of Moses is taken away from them, they [Latin translation adds: are taught by the law to] live and walk in the law [Latin substitutes: in true piety]. A controversy has arisen among a few theologians concerning this third and last use of the law.\(^3\)

This paragraph said that the controversy was about the third point, the third use of the law.

The shorter version of the Formula, the Epitome, described "the chief question at issue in this controversy" in this way:

The law has been given to men for a threefold reason: First, that through it external discipline is maintained against the wild and disobedient. Second, that through it men are led to knowledge of their sin. Third, after they are reborn, and although the flesh holds on to them, that they on account of it ["umb desselben willen"; "ob causam"] have a definite rule according to which they should pattern and regulate their whole life. A controversy has arisen between a few theologians over the third use of the law. That is: should such a thing [solches] be urged upon reborn Christians, or not? [Latin: A controversy has arisen among a few theologians over the third use of the law, namely whether or not the law should be inculcated upon the reborn and its observance urged among them.] One party said Yes, the other No.\(^4\)

\(^3\)FC SD VI 1 (Tappert, 563-564; see Kolb and Wengert, 587). "1. Nachdem das Gesetz Gottes nicht allein dazu nützet, daß dadurch äußerliche Zucht und Ehrbarkeit wider die wilden, ungehorsamen Leute erhalten, 2. desgleichen, daß durch solches die Menschen zur Erkenntnis ihrer Sünden gebracht, 3. sondern auch, wenn sie durch den Geist Gottes neugeboren, zu dem Herrn bekehret und also ihnen die Decke Mosis aufgedeckt, in dem Gesetz leben und wandeln: hat sich über diesen dritten und letzten Brauch des Gesetzes ein Zwiespalt etlicher wenig Theologen zugetragen." "Cum constet, triplicem esse legis divinae usum (I. Lege enim disciplina externa et honestas contra feros et indomitos homines utcunque conservatur. II. Lege peccatores ad agnitionem peccati adducuntur. III. Denique qui per spiritum Dei renati et ad Dominum conversi sunt, et quibus iam velamen Mosis sublatum est, lege docentur, ut in vera pietate vivant et ambulent): orta est de tertio illo usu legis controversia inter paucos quosdam theologos" (BKS, 962).

\(^4\)FC Ep VI 1 (Tappert, 479-480; see Kolb and Wengert, 502). "Nachdem das Gesetz den Menschen umb dreierlei Ursach willen gegeben: Erstlich, daß dadurch äußerliche Zucht wider die Wilden, Ungehorsamen erhalten. Zum andern, daß die Menschen dadurch zur Erkenntnis ihrer Sünden geführt. Zum dritten, nachdem sie wiedergeboren, und gleichwohl das Fleisch ihnen anhängt, daß sie umb desselben willen eine gewisse Regel hatten, nach welcher sie ihr ganzes Leben anstellen und regieren sollen: hat sich ein Zwiespalt zwischen etlichen
This paragraph listed three uses of the law, and it definitely said that the controversy was over the third use, the one that concerns only Christians. But in the formulation of the question to be answered, the wording grew a bit ambiguous. The "such a thing" that perhaps should be urged on Christians seems to be the third use of the law in the German original of the Epitome. But could it perhaps refer to the law as a whole? The Latin translation suggests that the controversy about the third use was over the question whether the law should be urged on Christians — potentially, in any or all of its uses.

A question arises from this comparison of the Solid Declaration and the Epitome texts (especially the Latin translation of the Epitome): precisely what was article VI was written to address? Did it set out to affirm that for Christian the law could take on a role distinct from the first two uses? Was it intended to say that all three uses come into play in the life of a Christian? Or was the Formula simply reiterating what had already been established in the "first antinomian controversy"?

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wenden Theologen über dem dritten Brauch des Gesetzes zugetragen. Ob nämlich auch bei den wiedergeboren Christen solches zu treiben sei oder nicht? Der eine Teil hat ja, der andere nein gesagt." "Cum constet, legem Dei propter tres causas hominibus datam esse: primo, ut externa quaedam disciplina conservetur, et feri atque intractabiles homines quasi repagulis coerceantur; secundo, ut per legem homines ad agnitionem suorum peccatorum adducantur; tertio, ut homines iam renati, quibus tamen omnibus multum adhuc carnis adhaeret, eam ipsum ob causam certam aliquam regulam habeant, ad quam totam suam vitam formare possint et debeat etc.: orta est inter paucos quosdam theologos controversia super tertio usu legis, videlicet an lex etiam renatis inculcanda et eius observatio apud eos urgenda sit an non. Alii urgendam legem censuerunt, alii negarunt" (BKS, 793).

^See Meyer, 227ff.
of the 1530s, the one in which Agricola pitted himself against Luther after sparring with Melanchthon over *poenitentia* in the 1520s? That is, was the Formula simply reaffirming that the law must be preached to Christians? If so, the case could be made that the Formula was not necessarily going so far as to support a distinct third use of the law.

Just this case was made by mid-20th-century interpreters like Elert and Bring. Despite the title of FC VI, they insisted that this article was not teaching a distinct third use of the law. Bring wrote: “It must be especially carefully noted that here the Formula of Concord in an adept way states the question in such a form that from the start it can formally say *yes* to the third use of the law [as a more or less empty term] while at the same time *maneuvering to the side* the meaning of the third use that Melanchthon actually introduced . . .”.

However, this reading of the Formula has a couple of significant points against it. Especially in the more detailed Solid Declaration, and also in the Epitome, the original German text of the Formula quite clearly stated wherein the controversy consisted. It was not about any or all use of the law on Christians; rather, it concerned the third use. Furthermore, if the point of controversy in article

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5"Es muss besonders beachtet werden, wie die Konkordienformel hier also in geschickter Weise die Frage in solcher Form vorbringt, dass sie von Anfang an den dritten Gebrauch des Gesetzes formell *bejahen* kann *unter* gleichzeitiger *Beiseiteschiebung* der von Melanchthon tatsächlich eingeführten Bedeutung des dritten Gebrauchs . . .” (Bring, “Gesetz und Evangelium,” 84-85, emphasis original). Elert agreed: “If we still wish to continue to use the concept [of the third use of the law] in theology, it must be applied as it is in the *Formula of Concord* only for answering the question of the realm of the law’s validity, but not for indicating a special function of the law” (*Law and Gospel*, 43, emphasis original).
VI were to have been shifted over to the law’s general applicability to the believer, then the article would not have spoken to the controversy that had actually been going on during the second half of the 16th century. On the contrary, such a way of stating the status controversiae would have so seriously missed the real point of dispute that both of the parties then arrayed against each other would have ended up on the same side of the question. If that sort of statement had been placed at the beginning of FC VI, it would have proven almost worthless in delineating the positions at stake.

Why, then, did the Latin translation of the Epitome say that the question about the third use was whether the law was to be applied to Christians? A conclusive answer to this question is not possible here, but it should be noted that throughout article VI of the Formula the first and second uses of the law were treated as well as the third. For while these three uses could be distinguished, they could not be separated from one another, either in day-to-day Christian experience or in an exposition written to reflect biblical teaching on the Christian life such as FC VI.

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7 This controversy was most recently detailed by Richter, Gesetz und Heil.

8 This point is conceded by Meyer, who in the main sympathizes with Bring’s and Elert’s reading of FC VI. Encouraged in this view by the Latin translation of Ep paragraph 1, he takes the word “solches” in the question in the German text to refer to the law in general, not particularly to the third use. But at length he writes, “Durch die Tilgung [the decision to formulate the question as it stands, and not as Jacob Andreae’s Urschrift had it] ist die Formulierung so allgemein geworden, dass praktisch keine Spitze gegen eine der beiden Parteien im zweiten ‘Antinomisten’-Streit vorhanden ist” (Meyer, 227).
The argument of FC VI

Both in the longer Solid Declaration and in the Epitome, article VI started with the point that Christians are not without the law, but should exercise themselves in it. The Epitome and Solid Declaration both noted that already prior to the fall into sin, God's law was written on the human heart. Also in paradise God had promulgated a law to the first man, the Solid Declaration added, presumably the prohibition against eating the forbidden fruit. In short, the Formula began by setting forth biblical arguments for the abiding nature of God's law.

Next, article VI pointed out that renewal of life remains incomplete in this world. Christians still have their old sinful nature (the "Old Adam") hanging on. The Formula insisted on this point even as it asserted that the third use of the law was for the "reborn" ("sie durch den Geist Gottes neugeboren"; "qui per spiritum Dei renati"). Earlier, in article III, the Solid Declaration had offered this clarification:

When we teach that through the Holy Spirit’s work we are reborn and justified, we do not mean that after regeneration no unrighteousness in essence and life adheres to those who have been justified and regenerated, but we hold that Christ with his perfect obedience covers all our sins which throughout this life still inhere in our nature.

9FC Ep VI 2; SD VI 4-5 (BKS, 793-794, 963-964; Tappert, 480, 564; see Kolb and Wengert, 502, 587-588).

10FC SD VI 1 (BKS, 962).

11FC SD III 22 (Tappert, 543; see Kolb and Wengert, 565). "Wann wir aber lehren, dass durch die Wirkung des Heiligen Geistes wir neugeboren und gerecht werden, hat es nicht die Meinung, dass den Gerechtfestigten und Wiedergeborenen kein Ungerechtigkeit nach der
As to receiving the righteousness of Christ in faith, believers are justified and as a result reborn. Their justification is complete since it is founded on the perfect obedience of Christ. But in another sense their rebirth is incomplete in this world, for the old sinful nature remains in them too. At its very beginning article VI in the Epitome set side-by-side the fact of the believers’ rebirth (resulting from justification) with the incompleteness of that rebirth (as they live the Christian life):

“after they are reborn, and although the flesh still inheres in them...”  

Wiedergeburt im Wesen und Leben mehr sollte anhangen, sondern dass Christus mit seinem vollkommenen Gehorsam alle ihre Sünde zudeckt, die doch in der Natur in diesem Leben noch stecken.” “Quando autem docemus, quod per operationem spiritus sancti regeneremur et justificemur, non ita accipiendum est, quod iustificatis et renatis nulla prorsus inustitia (post regenerationem) substantiae ipsorum et conversationi adhaeret, sed quod Christus perfectissima obedientia sua omnia ipsorum peccata tegat, quae quidem in ipsa natura (in hac vida) adhuc infixa haerent” (BKS, 921). In the immediately preceding paragraphs, the Formula had noted that the term “regeneration” sometimes referred to both the forgiveness of sins and the subsequent renewal, at other times it referred only to the forgiveness of sins, and at still other times it referred only to the renewal that follows justification by faith.

12FC Ep VI 1 (Tappert, 479; see Kolb and Wengert, 502). “... nachdem sie wiedergeboren, und gleichwohl das Fleisch ihnen anhangt...” (BKS, 793).

It could also be noted, to bring the thought full circle, that the Formula of Concord specifically disapproved the idea that there was any sort of delay or interval in time between justification and the activity of the new creature in Christ. The Formula held that “After the person is justified, he is next renewed and sanctified by the Holy Spirit, and from this renewal and sanctification the fruits of good works will follow” (FC SD III 41; translation altered from that in Tappert, 546; see Kolb and Wengert, 569). “... darnach, wenn die Person gerechtfertigt ist, so wird sie auch durch den Heiligen Geist verneuert und geheiliget, aus welcher Verneuerung und Heiligung alsdann die Früchte der guten Werk folgen.” “Cum vero persona iam est iustificata, tum etiam per spiritum sanctum renovatur et sanctificatur; ex ea renovatione et sanctificatione deinceps fructus, hoc est, bona opera, sequuntur” (BKS, 928). But it immediately continued, “And these things are not torn asunder as if true faith could coexist for some time with a bad purpose” (FC SD III 41; translation altered from that in Tappert, 546; see Kolb and Wengert, 569). “Et haec non ita divelluntur quasi vera fides aliquando et aliquamdiu stare possit cum malo proposito” (BKS, 928; here the “German” text is the same as the Latin). Thus, the Formula held that faith “is never alone but is always accompanied by love and hope,” although imperfectly and sinfully so (FC Ep III 11; Tappert,
If it were not for this old Adam, the Formula said, “of themselves and altogether spontaneously, without any instruction [Lehr; doctrina], admonition, exhortation, or driving by the law they would do what they are obligated to do by the will of God.” They would be like the heavenly bodies running their courses set by God or the angels who obey God spontaneously. As matters stand, though, “believers in this life are not renewed perfectly, through and through, in a complete or consummate way.”

As the Formula described it, this imperfect renewal formed the reason why believers had to have the law proclaimed to them in this world. They needed to hear it on account of their sinful nature, not for the sake of their new nature in Christ.

474; see Kolb and Wengert, 496. “... dann nimmer allein ist, sondern allezeit Lieb und Hoffnung bei sich hat.” “Fides enim vera nunquam sola est, quin caritatem et spem semper secum habeat” (BKS, 784). The Formula’s position on this matter nonetheless strikes members of the “new Finnish” school of Luther interpretation as unsatisfying. They object to its teaching that the indwelling of Christ in the believer forms part of the renewal that is — logically even if not temporally — subsequent to justification. Compare Mannermaa, “Justification and Theosis in Lutheran-Orthodox Perspective,” 27 with FC SD III 54 (BKS, 932-933; Tappert, 548-549; see Kolb and Wengert, 571-572).

13FC SD VI 6 (Tappert, 564-565; see Kolb and Wengert, 588). “... sie täten für sich selbst und ganz freiwillig ohne alle Lehre, Vermahnung, Anhalten oder Treiben des Gesetzes, was sie nach Gottes Willen zu tuen schuldig sein.” “sponte et liberrimo spiritu, sine omni doctrina, admonitione, cohaertione aut impulso legis, ea ipsa facerent, quae iuxta voluntatem Dei agere debent” (BKS, 964).

Referring to these words, Elert wrote: “Note: ‘without instruction’ — the law no longer serves a pedagogical function. This is a decision against Melanchthon who had made it the special task of the law to instruct the just as such” (Christian Ethos, 299). Elert maintained that in Melanchthon’s teaching the third use was necessary for Christians not insofar as the Old Adam remains in them, but insofar as they are new creatures in Christ.

14FC SD VI 7 (Tappert, 565; see Kolb and Wengert, 588). “... die Gläubigen in diesem Leben nicht vollkommlich, ganz und gar, completive vel consummative, verneurt werden” (BKS, 964).
Scholars like Elert, Bring, and Hans Philipp Meyer claimed that this insistence on the part of the Formula did not correspond to the intentions of Melanchthon, who thought that the third use of the law was needed by the Christian also insofar as he is a new man.\(^{15}\)

Implicit in the Formula's term “believers” was the theological point that Christians in this world have to live by faith. They do not yet see the riches of their blessings in Christ. “Believers” are encumbered with the sinful flesh.\(^{16}\)

It is especially noteworthy that the Formula said that the law was written on the human heart already before the fall into sin. Likewise, it maintained that a completely renewed man in Christ, relieved of the old Adam, would need no instruction in the law. The law would be “implanted” in such a man, so to speak. It would not have to be proclaimed to him.

On the other hand, the Formula said that the law has to be proclaimed to those who are not totally renewed, who still have the old Adam. Yet it is impossible

\(^{15}\)See the reference to Elert, two notes above, and Bring, “Gesetz und Evangelium,” 85. More recently, Meyer said: “Weiter wird dann ausdrücklich festgestellt, dass das Gesetz (nur) wegen der verbleibenden Sünde nötig wäre . . . Auch die Begründung der Notwendigkeit des Gesetzes im Verbleiben der Sünde fügt sich schlecht zum tertius usus und entspricht kaum Melanchthons Intention” (Meyer, 229; compare 231).

\(^{16}\)This use of the term “believers” helps to relieve the difficulty to which Richter and others have pointed, that the Formula used the term “reborn” (Wiedergeborenen) in different senses, sometimes meaning those who are fully and only righteous like the saints in heaven, and sometimes meaning those who have been converted but still live in this world where they have the sinful flesh hanging on (Richter, 346). Despite Richter’s claim, the wording and the context enable the reader to differentiate between the two.
to preach to believers in this world and address only the old man or the new man in Christ. Christians are *simul iustus et peccator*, as Luther said.

The Formula echoed this thought. While Christians have their sins covered up through the perfect obedience of Christ, so that they are not reckoned to believers for damnation, and although the Holy Spirit has begun the mortification of the Old Adam and their renewal in the spirit of their minds, nevertheless the Old Adam still clings to their nature and to all its internal and external powers. Concerning this the apostle writes, “I know that nothing good dwells within me, that is, in my flesh.” And again, “I do not know what I do, for I do not do the good I want, but that which I hate is what I do.” Likewise, “I see in my members another law at war with the law of my mind and making me captive to the law of sin.” Likewise, “The desires of the flesh are against the spirit and the desires of the spirit are against the flesh, for these are opposed to each other, to prevent you from doing what you would.”

Under these “saint-and-sinner” circumstances Christians hear the law’s proclamation, but not for the sake of their new nature. The law is proclaimed to

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them on account of their old Adam. When they encounter the law, though, from the perspective of their new nature they can regard it under an aspect other than that of accusation and threat. As the previous quotation said, their sins are not reckoned to them for damnation. At the same time, though, believers can lack firm knowledge of what God wants them to do. Thus, they stand in need of guidance from God’s law.

Due to the incompleteness and imperfection of the believers’ renewal, then — in other words, because the old Adam still inheres in them — the Formula maintained that “it is necessary for the law of God constantly to light their way lest in their merely human devotion they undertake self-decreed and self-chosen acts of serving God.” This is the third use of the law.¹⁸

Although the Formula maintained the law’s importance in the Christian life, it insisted that the law gives neither the power nor the motivation for this life. Only

¹⁸FC Ep VI 4 (Tappert, 480; see Kolb and Wengert, 502). “... umb welches alten Adams willen, so im Vorstande, Willen und allen Kräften des Menschen noch stecket, damit sie nicht aus menschlicher Andacht eigenwillige und erwählte Gottesdienste vornehmen, ist vonnöten, daß ihnen das Gesetz des Herrn immer vorleuchte.” “Et propter veterem Adamum, qui adhuc in hominis intellectu, voluntate et in omnibus viribus eius infixus residet, opus est, ut homini lex Dei semper praeluceat, ne quid praeluceat, ne quid privatæ devotionis affectu in negotio religionis confingat et cultus divines verbo Dei non institutos eligat” (BKS, 794). Compare FC Ep VI 1.

¹⁹Gerhard Forde is of the opinion that a basic confusion exists within the Formula on the subject of the third use. Article VI, he says, “vaccillates on the issue. On the one hand, it speaks of a third use of the law to be applied to the regenerate, but then it goes on to say this is necessary because regeneration is incomplete in this life. It is an attempt to have it both ways and thus threatens only to obscure the issue” (Forde, “The Christian Life,” 460). The Formula’s teaching, however, was that the third use (no less than the first and second) applied to the Christian insofar as he was not completely renewed in this life. This was a consistently-held position, not a vacilliation between two alternatives.
the Holy Spirit, Who is not given through the law but through the Gospel, can do that.\textsuperscript{20} The Gospel teaches that the spiritual sacrifices of Christians are acceptable, not because they are perfect but for Christ’s sake.\textsuperscript{21} Thus, the Formula did not set forth the third use of the law as a motivation for Christian conduct.\textsuperscript{22} Nor was it a way to become or to remain acceptable before God.

If the Holy Spirit provides power through the Gospel, the Formula continued, he next uses the law to instruct (\textit{lehret; doceat}) the regenerate in the good

\textsuperscript{20}FC SD VI 11 (Tappert, 565-566; see Kolb and Wengert, 589). “Denn das Gesetz sagt wohl, es sei Gottes Wille und Befehl, das wir im neuen Leben wandeln sollen, es gibt aber die Kraft und Vermögen nicht, daß wirs anfangen und tuen können, sondern der Heilige Geist, welcher nicht durch das Gesetz, sondern durch die Predigt des Evangelii gegeben und empfangen wird, Gal. 3, erneuert das Herz.” “Lex enim inculcat quidem, esse voluntatem et mandatum Dei, ut in nova vita ambulemus, at vires et facultatem non donat, quibus novam obedientiam inchoare et praestare possimus; spiritus autem sanctus, qui non per legis, sed per evangelii praedicationem datur et accipitur, cor hominis renovat” (BKS, 965-966).

Compare the Latin translation’s first sentence of FC SD VI 21, a paragraph that dealt with the second use: “Sed et aliam ob causam doctrina legis in exercitio bonorum operum credentis necessaria est” (BKS, 968). The law excites good works in believers in the sense that its accusation precedes and prepares for the forgiving and comforting word of the Gospel.

\textsuperscript{21}FC SD VI 22 (BKS, 968; Tappert, 567; see Kolb and Wengert, 591).

\textsuperscript{22}It might be noted that some of the language written by Jacob Andreae, one of the authors of the Formula and the drafter of the Epitome, was edited out of the final version of article VI, paragraph 1 in the Epitome. Andreae’s formulation was clearer in some respects than the final wording (which, as noted above, was: “should such a thing be urged upon reborn Christians, or not?”). But the end of Andreae’s preliminary formulation could have been proven confusing. Andreae had posed the question: “Whether or not the reborn should learn from the law the new obedience and in which work they should walk here, and whether such obedience or admonition to it should also be urged [treiben] among Christians from the law?” “Ob nämlich die Wiedergeborenen den neuen Gehorsamb und in welchem Werk sie hier wandeln sollen, aus dem Gesetze lernen und solcher Gehorsamb oder Vermahnun zu demselben aus dem Gesetze auch bei und unter Christen zu treiben sei oder nicht?” (BKS, 793; see Meyer, 227 and 244). These words of Andreae could have been taken to mean that the law provides power, if of a negative sort, for the Christian life.
and acceptable will of God (Romans 12:2), the works God had prepared for them to
pursue (Ephesians 2:10). Further, the Spirit admonishes (vermahnnet; exhortatur)
Christians to do these works, and when the flesh causes them to neglect or resist
these works he reproves (straffen; arguit) them through the law. At this point the
Formula did not attempt to identify which use of the law is reflected in each of these
works of the Spirit, except to say that “to reprove [Latin adds: sins] is the real
[“eigentliche”; proprium”] function of the law.” Together with reproof via the
law, the Spirit raises fallen sinners and administers comfort to them through the
gospel. In the words of the Old Testament, he “kills and brings to life, he brings
down into Sheol and raises up” (1 Samuel 2:6). (This is the closest the Formula
comes to describing the Spirit’s work of mortifying the Old Adam: paralleling it to
rebuke or reproof for sin.)

The Formula distinguished between “works of the law” and “fruits of the
Spirit.” The former were extorted out of people via coercion, threat, and
miseries. The latter were defined as acts performed by believers insofar as they

22FC SD VI 14 (Tappert, 566; see Kolb and Wengert, 589). “strafen ist das eigentliche
Amt des Gesetzes”; “Arguere autem peccata est proprium officium legis” (BKS, 966).

23FC SD VI 11-14 (BKS, 965-966; Tappert, 565-566; see Kolb and Wengert, 589).

24FC Ep VI 5 (BKS, 794; Tappert, 480; see Kolb and Wengert, 503); SD VI 16ff.
(BKS, 966-967; Tappert, 566-567; see Kolb and Wengert, 589-590).
were reborn, works done spontaneously "as if they knew of no command, threat, or reward."  

Matthias Richter thinks he has caught the Formula in a self-contradiction at this point. He observes accurately that this paragraph described the fruits of the Spirit in the lives of Christians in the world. Yet, he alleges, it says something about them that SD VI 6 reserves for the angels in heaven or a strictly-hypothetical Christian who is fully renewed in this life: that they spontaneously do God's will. But Richter fails to take into account two points made in FC Ep VI 6: 1.) that Christians perform spontaneous obedience in so far as they are reborn ("sowie sie wiedergeboren sind" "quatenus renati sunt") and 2.) that it is as if these Christians knew of no command, not that believers actually do not know of any such command or that no one has preached the law to them.

Drawing on wording from Romans 7, the Formula summarized:

Since, however, believers are not fully renewed in this life but the Old Adam clings to them down to the grave, the conflict between spirit and flesh continues in them. According to the inmost self they delight in the law of God; but the law in their members is at war against the law of their mind. Thus though they are never without law, they are not under but in the law, they live and walk in the law of the Lord, and yet do nothing by the compulsion of the law.  

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26FC Ep VI 6 (Tappert, 481; see Kolb and Wengert, 503). "als wann sie von keinem Gebot, Trauen oder Belohnung wüßten" "quasi nullum praeceptum unquam accepissent, nullas minas audivissent nullamque remunerationem exspectarent" (BKS, 794-795). Compare FC SD VI 17 (BKS, 967; Tappert, 566-567; see Kolb and Wengert, 590).

27Richter, 349.

28FC SD VI 18 (Tappert, 567; see Kolb and Wengert, 590). "Nachdem aber die Gläubigen in dieser Welt nicht vollkommen erneuert, sondern der alte Adam hängt ihnen an bis in die Gruben, so bleibt auch in ihnen der Kampf zwischen den Geist und Fleisch. Darnumb
According to their inmost self, that is, according to the impulses that arise from the new man, Christians are not compelled. They walk naturally in the law of the Lord.

But according to their old man, they are compelled by the law. In both the Epitome and the Solid Declaration, article VI said that the law not only informs but also coerces. “Lest the Old Adam go his own self-willed way,” the Epitome said, “he must be coerced against his own will not only by the admonitions and threats of the law, but also by its punishments and plagues, to follow the Spirit and surrender himself a captive.” Was this a further unfolding of the third use? Or was it a reference back to the first use? These are important questions to ask in tracing the shape of the third use in the Formula.³⁰

²⁹FC Ep VI 4 (Tappert, 480; see Kolb and Wengert, 502). “daß auch der alte Adam nicht sein eigen Willen gebrauchen, sondern wider seinen Willen nicht allein durch Vermahnung und Trauung des Gesetzes, sondern auch mit den Strafen und Plagen gezwungen, daß er dem Geist folge und sich gefangen gebe.” “ne vetus Adam pro suo ingenio agat, sed potius contra suam voluntatem, non modo admonitionisbu et minis legis, verum etiam poenis et plagis coerceatur, ut spiritui obsequatur seque ipsi captivum tradat” (BKS, 794).

³⁰Haikola indicated that theologians of Lutheran orthodoxy, beginning already with Martin Chemnitz (one of the main authors of the Formula of Concord), in essence rolled the first and second uses together with the third within the life of a Christian. Haikola correctly observed that the Lutheran distinction between the various uses of the law did not derive from any change in the law’s content. But then he went on to say that early Lutheran orthodoxy
The Solid Declaration contained a similar section. After setting forth the
distinction between works of the law and fruit of the Spirit, paragraph 19 went on:

“As far as the Old Adam who still adheres to them [believers] is concerned, he must
be coerced not only with the law but also with miseries, for he does everything
against his will and by coercion, just as the unconverted are driven and coerced into
obedience by the threats of the law (I Cor. 9:27; Rom. 7:18, 19).”

An important clue lies in the last few words. At the beginning of article VI, the Formula had
made it clear that the third use of the law applies only to the Christian. Therefore,
the third use cannot be compared to the law’s impact on an unbeliever, as in this

distinguished three different conditions of the human heart and exclusively assigned one of the
law’s three uses to each: 1.) the unregenerate needing external discipline in society, 2.) the
unregenerate needing justification, and 3.) the justified and reborn. Thus Haikola claimed that
Chemnitz in his Loc. theol. set forth a “third use of the law” solely for people in the third
category, i.e., Christians, and that this “third use” included essentially all three of the uses
described in the Formula. Even so, Haikola did not attempt to find in the Formula of Concord
an extension of the law’s third use to include coercion and accusation for Christians. He
characterized the Formula’s definition of the third use as short and not exhaustive (Haikola,
Usus Legis, 27-31).

FC SD VI 19 (Tappert, 567, emphasis added; see Kolb and Wengert, 590). “Soviel
aber den alten Adam belangt, der ihnen noch anhängt, muß derselbe nicht allein mit [dem]
Gesetz, sondern auch mit Plagen getrieben werden, der doch alles wider seinen Willen und
gezwungen tut, nicht weniger als die Gottlosen durch Dräunungen des Gesetzes getrieben und im
Gehorsam gehalten werden, 1 Kor. 9; Röm. 7.” “Quod vero ad veterem Adamum attinet, qui in
ipsis adhuc haeret, ille non mode lege, verum etiam poeniss urgendus et coerendus est, et tamen
omnia invitus et coactus facit, non minus quam impii, qui comminationibus legis urgentur et in
officio et obedientia inviti utcunque retinentur” (BKS, 967-968).

Toward the end of article VI the Epitome said: “the unregenerated man -- just like the
regenerated man according to the flesh -- does what is demanded of him by the law under
coercion and unwillingly” (FC Ep VI 7; Tappert, 481; see Kolb and Wengert, 503). “... noch
nicht wiedergeboren, dem Gesetz aus Zwang und unwillig (wie auch die Wiedergeborenen nach
dem Fleisch) tut, was von ihm erfordert.” “... non renati legi obedientiam qualemcumque a
lege requisitam praestant, sed coacti et inviti id faciunt (sic etiam renati faciunt, quatenus
adhuc carnales sunt)” (BKS, 795).
The coercion thus described in paragraph 19 is accordingly a manifestation of the first use of the law, not the third.

Throughout FC VI the point was made that the law coerces the old man within the believer, for the old man never weakens or relents in opposition to God. But in the Solid Declaration, paragraph 19 most clearly showed this coercion to be an aspect of the law's first use. It did so both by its specific wording, as noted just above, and also by its position within the article.

In paragraphs 20 and 21 the Solid Declaration went on to emphasize the ongoing applicability of the second and third uses to the Christian, although not in that order and without employing the explicit numbering. The law's third use was

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32See FC SD VI 9; also 19 and 24 (BKS, 965, 967-968, 969; Tappert, 565, 567, 568; see Kolb and Wengert, 588-589, 590, 591).

33Timothy Wengert sees confusion in the final text of the Formula on the motivation for good works. Referring to an aspect of the “Second Antinomian Controversy” of the sixteenth century, Wengert writes, “Musculus argued that good works flow from faith naturally and spontaneously, not through the threats of the law. Praetorius again insisted upon a third use of the law (to which Musculus objected), but denied that this implied any coercion. This dispute was far more bitter than the others . . . Although branded as an antinomian, Musculus contributed to the final draft of the Formula of Concord. Article 6 attempted to incorporate their conflicting views, emphasizing the necessity of good works and the third use of the law alongside the spontaneity of good works and the law's singularly coercive powers” (Wengert in Hillerbrand, ed., “Antinomianism,” 53, emphasis added). While in the Formula the first use of the law coerces the flesh of believers, and while Wengert’s brief characterization of article VI (in the words italicized above) is valid, what he reports is not actually a conflation of conflicting views. For, as Wengert notes, even Praetorius denied that there was coercion in the third use of the law.

34Still, the fact that paragraphs 20-21 discussed the second and third uses of the law, after paragraph 19 treated the first, provides a hint that a synthesis between work done by Jacob Andreae and Andrew Musculus (two of the formulators of the Formula of Concord) may not have been as difficult to achieve as Wengert suggests (Timothy J. Wengert, “Reflections on
necessitated by the lack of clarity believers might experience, as sinners living in a
sin-filled world, in trying to understand God's true will: “Believers, furthermore,
require the teaching of the law so that they will not be thrown back on their own
holiness and piety and under the pretext of the Holy Spirit’s guidance set up a self-
elected service of God without his Word and command . . . .”35 The second use
remained necessary because of sinful pride, “otherwise they can easily imagine that
their works and life are wholly pure and perfect. But the law of God prescribes
good works for the believers in such a way that, as in a mirror it shows and
indicates to them that in this life they are imperfect and impure . . . .”36

By making these two points in this particular order the Formula was
reflecting Luther’s well-known treatise On the Councils and the Church (1539).
There the reformer had written: “We need the Decalogue not only to apprise us of
our lawful obligations, but we also need it to discern how far the Holy Spirit has

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35FC SD VI 20 (Tappert, 567; see Kolb and Wengert, 590). “So ist auch solche Lehre
des Gesetzes den Glaubigen darum nösig, auf das sie nicht auf eigene Heiligkeit und Andacht
fallen und unter dem Schein des Geistes Gottes eigen erwählten Gottesdienst, ohn Gottes Wort
und Befehl anrichten . . .” (BKS, 968).

36FC SD VI 21 (translation altered from that in Tappert, 567; see Kolb and Wengert,
590-591). “. . . dann sonst kann ihm der Mensch gar leicht einbilden, daß sein Werk und Leben
ganz rein und vollkommen sei. Aber das Gesetz Gottes schreibt den Gläubigen die guten
Werke also für, das es zugleich wie in einem Spiegel zeigt und weist, das sie in uns in diesem
Leben noch unvollkommen und unrein sein.” “Facile enim homo imaginari et persuadere sibi
potest, vitam et opera sua omnino pura et perfecta esse. At lex Dei credentibus bona opera ad
eum modum prescribit, ut simul tamquam in speculo nobis commonstret, ea omnia in nobis in
hac vita adhuc imperfecta et impura esse” (BKS, 968).
advanced us in his work of sanctification and by how much we still fall short of the goal, lest we become secure and imagine that we have now done all that is required."

The Formula went on to marshall biblical support for its juxtaposition of these two points concerning the law. It cited two biblical writers, one from the New Testament, the other from the Old. "Thus, when Paul admonishes those who have been born anew to do good works, he holds up before them precisely the Ten Commandments (Rom. 13:9), and he himself learns from the law that his works are still imperfect and impure (Rom. 7:18, 19). David says, 'I will run in the way of thy commandments' (Ps. 119:32), but also, 'Enter not into judgment with thy servant; for no man living is righteous before thee' (Ps. 143:2)." That in these instances the authors of the Formula in these cases echoed Luther by reserving the accusing "second use" for last confirms that they attached overarching importance to the accusing or reproving function of the law in the Christian life.38

37AE 41, 166. "Denn darumb müssen wir auch den Decalogum haben, Nicht allein darumb, das er uns Gesetzes weise sage, was wir zu thun schüldig sind, sondern auch, das wir drinnen sehen, wie weit uns der Heilige geist mit seinem heiligen bracht hat, und wie fern es noch feilet, auff das wir nicht sicher werden und dencken, wir habens nu alles gethan . . ." (WA 50, 643).

38FC SD VI 21 (Tappert, 567; see Kolb and Wengert, 590-591). "Also, da Paulus die Neugeborenen zu guten Werken vermahnt, hält er ihnen ausdrücklich für die zehn Gebote, Rom. 13.; und daß seine guten Werke unvollkommen und unrein sein, erkennet er aus dem Gesetz, Rom. 7.; und David spricht Psal. 119.: 'Viam mandatorum tuorum cucurri, ich wandle auf dem Wege deiner Gebote; aber gehe mit deinem Knechte nicht ins Gerichte, denn sonst wird kein Lebendiger für dir gerecht sein', Psal. 143." "Quare cum divus Paulus renatos hortatur, ut bona opera faciant, expresse Decalogum eis proponit, et opera sua imperfecta et impura esse ipse ex lege agnoscit. Et David inquit: Viam mandatorum tuorum cucurri. Interim tamen orat:
Throughout article VI and elsewhere, the Formula of Concord called the law God's "eternal and immutable will" (ewigen und unwandelbaren Willen Gottes) or His "immutable will" (immutabilem voluntatem Dei). The Formula provided no further explanation or elaboration about what it meant by the terms "eternal" or "immutable." However, article VI explicitly stated the premise that stood behind much of the argumentation in which it employed these terms. It said works that did not accord with God's law could not be truly good works before Him. Therefore, self-invented or self-chosen works are to be avoided.

Finally, the Solid Declaration looked ahead to the time after the Old Adam is completely put off and Christians are entirely renewed in the resurrection of the dead. At that time, it said, they will require neither the preaching of the law nor

Non intres in iudicium cum servo tuo, quia non iustificabitur in conspectu tuo omnis vivens" (BKS, 968).

Elert misread this section of FC VI. He noted that here the article displayed the third and second uses of the law side by side. He observed, "there can be no law for the earthly life of the regenerate which serves purely as information ..." (Elert, Christian Ethos, 299). But Elert did not mean, as the Formula did, that the law in its second use would speak to believers no less than in the third use, and that in this second use the law would accuse both sin and sinners. Rather, Elert was claiming that there really was no distinct third use: "If we mean by the third use that we can listen to the law without its threats, we indulge in pure fiction" (Elert, Christian Ethos, 298).

39FC SD VI 3, 15 (BKS, 963, 966; Tappert, 564, 566; see Kolb and Wengert, 587, 589); see SD III 57 (BKS, 934; Tappert, 549-550; see Kolb and Wengert, 572); SD V 17 (BKS, 957; Tappert, 561; see Kolb and Wengert, 584) and FC Ep VI 7 (BKS, 795; Tappert, 481; see Kolb and Wengert, 503).

40Haikola, Usus Legis, 101, was not pleased that this "Melanchthonian" formulation became incorporated in the Formula of Concord.

41FC SD VI 15, 20 (BKS, 966, 968; Tappert, 566, 567; see Kolb and Wengert, 584, 585).
that of the gospel. They will spontaneously and joyfully do God's will forever.\footnote{FC SD VI 24-25 (BKS, 969; Tappert, 568; see Kolb and Wengert, 586).} It is worth noting again that the Solid Declaration did not say that Christians would actually live without the law, not even in "the life of the world to come." Instead, it said they would live in eternity without the proclamation of the law, just as they will experience the gracious presence of Christ face to face and thus not need to have the gospel preached to them.

**Summary**

To what extent did Melanchthon lay the groundwork for article VI of the Formula? As subsequent chapters of this dissertation take up Melanchthon's writings, it will be helpful to bear in mind the following summary of the points made in FC VI\footnote{FC SD VI 24-25 (BKS, 969; Tappert, 568; see Kolb and Wengert, 586).}:

1. God's law is his eternal, immutable will which was in the world before the fall into sin (4-5). It will remain in eternity, although the resurrected saints will not need to have it preached to them (24-25).

2. Because believers are not perfectly renewed in their Christian lives -- which is to say, since their old Adam persists -- they do not spontaneously do God's will. They need the law to instruct as well admonish and coerce them. That is, they need the proclamation of the law in its third use, like the other two, insofar as they remain old man, not new (6-9).
3. Since their justification before God and reconciliation with him is complete, Christians know that their sins are not reckoned to them for damnation. From this perspective, they can look at the law but not see it as a threat (5, 7). Therefore the third use of the law, unlike the other two, applies only to those who have faith in Christ (1).

4. Power for the Christian life is given not by the law but by the Holy Spirit, who comes through the preaching of the gospel (11).

5. While the law's instruction is non-threatening for the Christian when seen from the perspective of his new man (third use), the same law coerces (first use) and reproves (second use) the Christian as old man. This reproof is never outgrown by Christians in this world. It applies to them throughout their lives. The law's coercion brings about mere "works of the law," not "fruit of the Spirit" (12-19; 24).

6. Because of their old Adam, believers need the instruction of the law (third use) in this life lest they try to serve God in self-chosen ways. The law also shows them that their works are imperfect (second use). The third use of the law does not afford an opportunity to become or to remain acceptable to God (20-21). The works of Christians are acceptable to God only for Christ's sake through faith (22-23).

Numbers in parentheses in the following summary refer to paragraph numbers in the
Conclusion

The Formula of Concord took a carefully-nuanced position on the third use of the law. It said that Christians need to hear the law proclaimed, in any of its uses, only because their renewal is not complete in this life. Their Old Adam still hangs on to them. That is, a Christian needs the law insofar as he is old man, not new.

According to the Formula, the third use is the function that the law has in the life of a believer who, insofar as he is new man, examines the law which is presented to him insofar as he is old man. From this standpoint of forgiveness and justification in Christ, believers can encounter God’s law yet not regard it as a threat. Instead, under the renewing of the Holy Spirit they can recognize in this immutable will of God the way they freely and spontaneously want to live. The law itself does not change. What changes is a person’s relationship to it when he is in Christ. Still, since the law continues to accuse the Christian of sin insofar as the old Adam hangs on, the law’s second use remains the most important.

The Formula did not advocate understanding the Christian’s relationship to the law in an abstract way. Its article on the third use of the law, which discussed all three uses, recognized that in this life believers remain *simul iustus et peccator.*
CHAPTER THREE

THE 1521 LOCI

In addressing his famous treatise De Servo Arbitrio to Erasmus, Luther declared that Melanchthon had written an unsurpassed book on Christian doctrine. He added that this "invincible book [is] in my opinion worthy not only of immortality but also of the church’s canon." These words, written in 1525, referred to the first (1521) edition of the Loci communes. Such a lavish endorsement from so illustrious a source paved the way for Melanchthon’s most important early theological work to become a classic. As with other works, Melanchthon kept revising it in successive editions and printings. But, as Wilhelm Pauck summarized, the Loci communes "gained its great reputation from the first edition, for this was marked by a spirit of immediate enthusiasm, eloquence, and great clarity of diction reflecting the moving power that went forth from the person of Martin Luther."

1 "Invictum libellum, meo iudicio non solum immortalitate, sed canone quoque ecclesiastico digno" (WA 18, 601).

The first edition of the *Loci* forms the beginning point for the present inquiry after the praecceptor's position on the third use of the law. Interestingly, although it did not include a discussion of the "third use" as such, nor did Melanchthon even have a formulation of "three uses" of the law worked out at the time when he wrote it, the first edition contained almost all the essentials of his mature position on the subject.

A word about the plan and purpose of the 1521 *Loci* is in order. In its prefatory material, Melanchthon disclaimed any desire to write a book to which readers would turn instead of the Bible. On the contrary, his expressed desire was to invite them to study Scripture, the sure source of Christian teaching. Scripture had the power to transform people. Therefore the praecceptor indicated that he was preparing more an index than a commentary. To assemble this index, Melanchthon employed his theory of loci communes: "In the individual disciplines it is customary to seek out certain topics (loci) in which the summary (summa) of each discipline is comprehended." As a summa, these loci could serve as a rhetorical

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Press, 1969), 16. Unless otherwise noted, all translations of the 1521 *Loci* come from this volume. Notes will provide page numbers in both the Latin text, found in St.A. 2/1, and the translation from the volume edited by Pauck.

3Wengert reports that the first explicit definition even of two uses of the law by any Wittenberg theologian was in Luther's sermon for New Years' Day in the 1522 *Church Postil* (Wengert, *Law and Gospel*, 121, n. 75).

4St.A. 2/1, 4; Pauck, 19.

5Translation altered from that in Pauck, 20. "Requiri solent in singulis artibus loci quidam, quibus artis cuiusque summa comprehenditur, qui scopi vice, ad quem omnia studia dirigamus, habentur" (St.A. 2/1, 5). The subtitle that Melanchthon gave the *Loci*, 115
scopus, providing direction for all further studies. This perspective was typical of a rhetorical approach that continued throughout Melanchthon's career. He consistently drew attention to the gist of a subject and therefore exhorted students always to know the purpose of a presentation.⁶

In the Loci communes, Melanchthon applied this approach to theology. He claimed that the time for such application was ripe, for previous summaries of doctrine had gotten off the main points of theology by including too much human opinion and speculation. Melanchthon wanted instead to start with a tightly-circumscribed scopus. "To know Christ is to know his benefits" was his motto. He drew from the biblical message a powerful "existential" insistence: "... as for the one who is ignorant of... 'The Power of Sin,' 'The Law,' and 'Grace,' I do not see how I can call him a Christian."⁷ Melanchthon saw everything in the


Kathy Eden noted that Melanchthon's writings on rhetoric were intended even more for readers than for writers. She added her assessment that, put together with the 1521 Loci, these rhetorical writings formed a hermeneutical system (Kathy Eden, Hermeneutics and the Rhetorical Tradition [New Haven, Conn.: Yale University Press, 1977], 80).

⁷Pauck, 21. “Christum cognoscere, beneficia eius cognoscere.” “... peccati vim, legem, gratiam, qui ignorarit, non video quomodo Christianum vocem” (St.A. 2/1, 7).
Scriptures coalescing around the theme of salvation, man's need of it and God's provision of it in Christ. Thus, he wrote, "For unless you know why Christ put on flesh and was nailed to the cross, what good will it do you to know merely the history about him?" Through his rhetorical sophistication, Melanchthon the accomplished humanist and novice lay theologian was combining biblical exposition with what might be called pastoral sensitivity. No wonder Luther was so pleased.

Sin

Melanchthon had indicated that a Christian needed knowledge of "'The Power of Sin,' 'The Law,' and 'Grace.'" He began by discussing the power of man after the fall, especially the issue of free will, then he turned to sin as such. These realities of the human situation before God set the context for his treatment of the law, which followed in the succeeding chapters. He established the perversity and depravity of human nature first, even though — as he himself noted — sin's power is best discerned when it is revealed by the law. Melanchthon was emphasizing the inevitability of sin. In effect, he was already engaging the subject of the law, for the topics of sin and the law entailed one another. As Melanchthon put it, "... just as the Christian life must certainly begin with the knowledge of

\[\text{Ni scias, in quem usum carmen induerit et cruci adfixus sit Christus, quid proderit eius historiam novisse?} \) (St.A. 2/1, 7).

\[\text{St.A. 2/1, 30, 73; Pauck, 40, 76. He went on to say, "Among hypocrites the law does nothing, but they fashion a shadowy imitation of the law by their simulated, hypocritical righteousness. The law truly and properly works in those to whom sin is revealed"} \] (Pauck, 79). \[\text{In hypocritis nihil agit lex, sed ipsi quandam legis umbra quadam hypocritae iustitiae referunt. In his vere ac proprie lex agit, quibus ostenditur peccatum} \) (St.A. 2/1, 76).
sin, so Christian doctrine must begin with the function of the law.”¹⁰ In short, “law” formed the first grouping of topics in the 1521 Loci, the first main part of the big picture that Melanchthon was trying to project.

Melanchthon offered a sharp alternative to theological thinking on sin outside of Wittenberg at his time. He put uncommon psychological and theological tools of analysis in the service of a quest for honesty and integrity in human affairs. He was disappointed in his contemporaries’ denial that under the sway of original sin all human efforts and deeds turned out sinful. Melanchthon determined to probe beneath surface assessments of human character based on outward appearances. To be sure, he declared, Cato was brave — but out of a love of praise. The tolerance of Socrates hid a love of glory and self-satisfaction over his own virtue.¹¹ Here theology made for radical thought. “Philosophy looks at nothing except the external masks of men,” he wrote. But “the Holy Scriptures look at the deepest, incomprehensible affections.”¹² Sin, he had already noted, was a “depraved affection, a depraved motion of the heart against God’s law.”¹³

¹⁰Pauck, 83. “... nempe a peccati cognitione, vita Christiana auspicanda est, ita a legis officio Christiana doctrina auspicanda est” (St.A. 2/1, 81). See Elert, Structure, 30-33.

¹¹St.A. 2/1, 21-22; Pauck, 33-34.


¹³Translation altered from that in Pauck, 31. “Pravus affectus pravusque cordis motus est contra legem dei, peccatum” (St.A. 2/1, 18).

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Melanchthon regarded affections as notions of the heart that either are drawn to particular objects or flee from them. Their power was not to be underestimated, power even over the human will, to say nothing of human knowledge. "Just as the senate is subject to the despot, so is knowledge to the will (voluntas), with the consequence that although knowledge gives good warning, yet the will (voluntas) casts knowledge out and is borne along by its own affection." 14 In fact, "... by experience and habit we find that the will (voluntas) cannot in itself control love, hate, or similar affections, but affection is overcome by affection." 15 Of course, an act can be purely external, one in which a person goes along with something favored neither by his will nor his affections, e.g., pretending friendliness. 16 For this reason Melanchthon called it deceptive to judge actions by appearances, as he said philosophy and his theological opponents did. 17

Melanchthon stressed that in the fallen world, people are filled with evil affections. "Thus," he explained, "it happens that the soul, lacking heavenly light and life, is blinded, loves itself most passionately, and seeks its own ends ... It

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14 Pauck, 24. "... ut senatus tyranno obnoxius est, ita voluntati cognitio, ita ut, quamquam bona moneat cognitio, respuat tamen eam voluntas feraturque affectu suo ... ." (St.A. 2/1, 9).

15 Pauck, 27. "Experientia enim usque comperimus non posse voluntatem sua sponte ponere amorem, odium aut similes affectus, sed affectus affectu vincitur" (St.A. 2/1, 13).

16 St.A. 2/1, 13-14; Pauck, 28.

17 St.A. 2/1, 24; Pauck, 35. Melanchthon later criticized the "Paris theologians" for not identifying certain sins as such because "they do not have an understanding of the affections; but they think that sin is a matter of outward deeds" (Pauck, 131). "... quod affectuum rationem non habuerunt, sed externis factionibus peccari putaverunt" (St.A. 2/1, 138).
despises God, and how can I express in words the depravity of the human heart?

For it is inevitable that the creature which the love of God has not permeated loves itself most.”

Self-love was thus the dominant affection of human nature.

Suggesting simplicity of approach, Melanchthon recalled the words of Christ in John 3:6, “That which is born of the flesh is flesh.” “If it is flesh,” he wrote, “it therefore seeks its own ends and loves itself.”

Like Luther, Melanchthon emphatically rejected the notion of a synteresis, a spark of good in the human heart. Further on in the 1521 Loci, he called it a

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18 Pauck, 31. “Ita fit, ut anima luce vitaque coelesti carens excaecetur et ses ardentissime amet, sua quaerat... contemnens dei et qui possum ego verbis consequi humani cordis pravitatem. Fieri enim nequit, quin sese maxime amet creatura, quam non absorpsit amor dei” (St. A. 2/1, 18).

Wilhelm Maurer suggested that when Melanchthon wrote, later in the 1521 Loci, “Therefore, no matter how many works of the law are done without faith, man sins” (Pauck, 92; “Quare quantacunque legis opera fiant sine fide, peccatur,” St. A. 2/1, 92) and “For anyone who sins openly sins either out of contempt for God or because of despair of his mercy” (Pauck 108; “Nam quisquis palam peccat, is aut contemptu dei aut desperatione misericordiae dei peccat,” St. A. 2/1, 111), he was offering a corrective to the early chapters that might make sin appear to be the breaking of a rule. But, as the text above shows, in the early chapters of the Loci Melanchthon did not fail to express the opposition to God entailed by sin. See Maurer, Junge Melanchthon, 2:276.

19 Pauck, 33. “Si caro est... erga sua quaerit, sese amat” (St. A. 2/1, 20).

Melanchthon was arguing against the position, for example, of Gabriel Biel. Biel had claimed that if lesser goods could be loved, greater goods like God himself, the highest Good, could be loved as well (St. A. 2/1, 31; Pauck, 41. See the sources cited in both of these works and Heiko Augustinus Oberman, The Harvest of Medieval Theology: Gabriel Biel and Late Medieval Nominalism, 3rd ed., [Durham, North Carolina: The Labyrinth Press, 1983] 133-134).

20 In his Romans lectures, delivered before Melanchthon’s arrival in Wittenberg, Luther had reflected on the teaching he himself learned as a student, “that by his own powers a person can love God above all things and can perform the works of the law according to the substance of the act but not according to the intentions of him who gave the command, because he is not in a state of grace.” He branded those who proclaimed this doctrine “fools” and “pig theologians.” “Quod homo ex viribus suis possit Deum diligere super omnia Et facere opera...
sophistic notion that there might be even a neutral quality of the soul common to
godly and godless alike.\textsuperscript{21} Therefore Melanchthon set himself against the heart of
via moderna soteriology, the assumption that man could meet the basic precondition
of justification — that he could \textit{facere quod in se est}.\textsuperscript{22} Citing mainly passages from
the Old Testament prophets and psalms, especially Psalm 14, Melanchthon
addressed contemporary theologians with the words: “You pretend that original sin
is not being denied by you, yet you teach that a man is able to do something good by
his own strength. A bad tree cannot bring forth good fruit, can it? Or do you not
see that here the prophet has described the tree with the fruit, speaking not only of
the heart of the fool, but also of all the pursuits, counsels, desires, works, and
attempts of man?”\textsuperscript{23} The \textit{praecceptor} affirmed that human beings have some freedom
in external matters, but he went on to deny that they have effective power over

\begin{quote}
precepti secundum substantiam facti, Sed non ad Intentionem precipientis, quia non in gratia.
O stulti, O Sawtheologen!” (WA 56, 274).
\end{quote}

\textsuperscript{21}\textit{St.A.} 2/1, 88-89; Pauck, 89.

\textsuperscript{22}Oberman, 131-145; see also Alister E. McGrath, \textit{Justitia Dei: A History of the
1:83-91 and 2:5-10.

\textsuperscript{23}Translation altered from that in Pauck, 35. “peccatum originale fingitis non negari a
vobis, et tamen docetis posse hominem suis viribus aliquid boni facere. Num arbos mala
bonum fructum ferre potest? Annon videtis, ut hic propheta arborem cum fructibus
descripsisset, cum non modo de corde insipientis, sed et de omnibus hominis studiis, consiliis,
desideriis, operibus, conatus loquitur?” (\textit{St.A.} 2/1, 24). On the next page, Melanchthon
added, “nothing good nor meritorious can be done by men through the power of nature, since
Scripture certainly says that every imagination of the thoughts of the human heart is vain and
depraved” (Pauck, 36). “... nihil neque boni neque meritorii fieri posse ab homine per vires
naturae. Quandoquidem dicit scriptura omne desiderium cogitationum cordis humani vanum
esse et pravum” (\textit{St.A.} 2/1, 25).
internal affections. He held that the only way to subdue evil affections resultant from original sin was with godly affections, which had to be created by the Holy Spirit.

Although Melanchthon distinguished for the sake of analysis between component parts of human nature, he was quite capable of describing man as a totality, especially in reference to sin. He took this idea of totality to be a tenet of biblical teaching.

We must therefore understand that the word “flesh” is used concerning all the powers of human nature. Otherwise, Paul’s arguments in the entire letter to the Romans will not stand. For he continually carries on his argument as follows: “The flesh could not fulfill the law; therefore there is need of the Spirit to fulfill it.” If we should here use the word “flesh” for only a part of man, how will Paul’s argument stand? For it could be eluded in this way: “Even if the flesh could not keep the law, yet some better part of man could have done so, and thus there would have been no need for the Spirit to fulfill the law.”

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24 St. A. 2/1, 16; Pauck, 29.

25 For what is clearer than that Paul says that the righteousness of the law is not fulfilled except in those who live according to the Spirit?” (Pauck, 39). “Quid enim clarius est, quam quod ait Paulus non impleri iustrificationem legis nisi in iis, qui secundum spiritum sunt” (St. A. 2/1, 29). Melanchthon also asserted, conversely, that without the Holy Spirit no good can be produced, including affections. See St. A. 2/1, 24, 25, 28, 29; Pauck, 35, 36, 38, 39.

26 Pauck, 37 “Opportet ergo intelligamus carnis vocabulum de omnibus humanae naturae viribus. Alioqui non consistent Pauli argumenta in tota epistola ad Romanos. Sic enim solet argumentari: Caro non potuit legem impleere, ergo spiritu est opus, qui impleat. Ibi si carnm pro parte hominis tantum usurpemus, quomodo consistet Pauli enthymema? Posset enim eludi ad hunc modum: Etsi caro legem facere non potuerit, potuisse tamen meliorem aliquam hominis partem atque ita spiritu non suisse opus ad impendam legem” (St. A. 2/1, 27).

This sort of reasoning on Melanchthon’s part led Heinrich Bornkamm to contend that Melanchthon’s teaching on the affections fit together nicely with two of Luther’s anthropological emphases, totus homo and simul iustus et peccator. If for Melanchthon the entire natural man is flesh, then no part of man is “more flesh” than the highest human capability (Heinrich Bornkamm, “Melanchthons Menschenbild,” Philipp Melanchthon: Forschungsbeiträge zur vierhundertsten Wiederkehr seines Todestages dargeboten in
But there could be no evasion. The flesh, or the old man, was "whatever in us [that] is foreign to the Holy Spirit."\textsuperscript{27} There was no way for this sinful flesh truly to keep God's commands. Melanchthon was addressing himself particularly to Christians, people in whom the Holy Spirit had worked but who still had within them the unrenewed flesh. "For our sanctification begins as an act of the Spirit of God, and we are in the process of being sanctified until the flesh is utterly killed off. So it is that the saints have a twofold nature, Spirit and flesh, new man and old, the inner and outer man."\textsuperscript{28}

Although the law prescribes what all should do, the flesh turned away from the law. For that reason, Melanchthon said, "it was impossible for the law to justify."\textsuperscript{29} Instead, the law does the reverse. It accuses all people of sin.

Law

Melanchthon had said he wanted Christian doctrine to begin with the law's function.\textsuperscript{30} While he devoted the burden of his attention in the 1521 \textit{Loci} to this

\textsuperscript{27}Pauck, 38. "... quidquid in nobis est a spiritu sancto alienum" (\textit{St.A. 2/1}, 28).

\textsuperscript{28}Pauck, 130. "Coepimus enim spiritu dei sanctificari sanctificamurque, dum caro illa prosus enegetur. Ita fit, ut duplex sit sanctorum natura, spiritus et caro, novus homo et vetus, interior homo et exterior" (\textit{St.A. 2/1}, 137).

\textsuperscript{29}Pauck, 41. "legi impossibile fuisse iustificare" (\textit{St.A. 2/1}, 31).

\textsuperscript{30}\textit{St.A. 2/1}, 81; Pauck, 83.
function, Melanchthon did not omit a definition of law. He wrote that law was “A judgment by which the good is commanded and the bad forbidden.” Later he called the law “the doctrine that commands what is and what is not to be done.” He covered both the law’s nature and function when he said that in it “upright actions are enjoined and sin is revealed.”

Throughout the 1521 *Loci*, Melanchthon tended to describe the law impersonally. Even in discussing the law’s accusing function, he often did not make it explicit that the accusation was *God’s* verdict upon the sinner. That is to say, Melanchthon did not emphasize that the law was the will of God, although this teaching certainly was not absent from the *Loci*. Prior to taking up the subject of the law, Melanchthon had described at length the personal condition of sin in which all people stood before the holy God.

Melanchthon reported that Scripture presented moral, judicial and ceremonial laws. Of particular interest to him were the moral laws, prescribed in the Decalogue.

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34Melanchthon’s manner of discussing the law cast it in the role of an objective order, although not independent from God, even before he started describing it as a *lex aeterna* in later writings. For him the first thought was not dependent on the second, as Haikola assumed (Haikola, “Vergleich,” 89-90).
and repeated throughout Scripture.\textsuperscript{35} Despite this repetition, Melanchthon observed, the moral law is not kept: “Certainly the law was given that we might live, but since we are not able to keep it, it is an instrument of death.”\textsuperscript{36} In the chapter on sin he had referred to Romans 8:7, which said that the hostile flesh not only \textit{does not} submit to God, but also that it \textit{cannot}. The law indeed shows sin, for it defines sin: “not to do the law, what else is that than to sin? For, indeed, every motion and impulse of the mind against the law is sin.”\textsuperscript{37}

Failure to keep the law does not make it go away. “This commandment [to love the Lord with all one’s all heart, soul, and mind] cannot be fulfilled while we live in the flesh, but it is not on that account dismissed. But we are all guilty as long as we do not pay what we owe.” Regarding the law’s “second table” (the commandments dealing with love for one’s neighbor), Melanchthon criticized his opponents for construing this part of the law as “dealing only with external acts,

\textsuperscript{35} Pauck, 53 (St.A. 2/1, 46).

\textsuperscript{36} Pauck, 80. “Prodita quidem lex est, ut viveremus; sed cum facere non possimus, mortis organum est” (St.A. 2/1, 77). Geyer said that Melanchthon presented the law as deadly, not in and of itself, but for the person who exists from and for self instead of from and for God. The problem, as Melanchthon went on to point out, was the opposition between the “spiritual law” and the “carnal I” (Geyer, 149). Melanchthon recognized the law as promising life to those who keep it. Haikola was correct on this point (Haikola, “Vergleich,” 92). Perhaps he was more correct than he would have wished, since Melanchthon took this position already in 1521, when the \textit{praecceptor} has been thought to have stood closer to Luther than he did in later years. In any case, even in 1521 Melanchthon did not agree with the kind of assertion made by Elert, that the law by its very nature oppresses and accuses (Elert, \textit{Structure}, 17-49).

\textsuperscript{37} Pauck, 39. “legem non facere, quid aliud est, quam peccare? Siquidem peccatum est omnis motus et impulsus animi adversus legem” (St.A. 2/1, 29). Later, Melanchthon added: “Sin is everything which resists the law of God” (Pauck, 131). “peccatum esse, quidquid adversatur legi dei” (St.A. 2/1, 138).
saying that the law is fulfilled if you do not commit adultery, if you are not openly an adulterer, etc.\textsuperscript{38} He suggested that it was only because his opponents had generally reduced the law of Moses to a matter of outward works that they could afford the luxury of speaking about Christ as the giver of a new law that made additional demands on the inner man. But the ten commandments already made such demands.\textsuperscript{39} Melanchthon mused that none were further from satisfying the law than the smug sinners who thought they could keep it.\textsuperscript{40}

The law provides a dose of shock treatment for those who entertain such thoughts. “We should . . . burn with trust and love of God and quake in fear of him; this is commanded in the First Commandment. But who does this?”, Melanchthon asked. Thus, “Do we not sin most disgracefully and atrociously in our sluggishness and cowardice of spirit even if we commit no other sin?”\textsuperscript{41}

\textsuperscript{38}Pauck, 56. “Impleri non potest, dum in carne vivimus, hoc praeceptum; at non ideo, non exigitur, sed omnes rei sumus dum non persolvimus, quod debemus . . . de externis tantum operibus, nemen satisfactum esse legis, si caedem non facias, si palam non scorteris etc.” (St.A. 2/1, 48-49).

\textsuperscript{39}St.A. 2/1, 70-71; Pauck, 74. Bornkamm noted, “Melanchthon kennt das katholische Grundschema von Natur und Übematur nicht, zu dem auch die übematurlichen Tugenden gehören. Die sittliche Frucht des Evangeliums, die neue Gerechtigkeit ist nicht die Erfüllung eines höheren Gesetzes, sondern des Gesetzes überhaupt” (Bornkamm, 88, emphasis original).

\textsuperscript{40}St.A. 2/1, 75; Pauck, 78.

\textsuperscript{41}Translation altered from that in Pauck, 131. “Flagrare amore dei, fiducia, paverre metu dei oportuit, quae primo praecepto exiguntur. Quae quis praestat?” “Tam si praeterea nihil pecces, nonne foedissime et atrociissime delinquimus torpore seu ignavia spiritus?” (St.A. 2/1, 138).
The law brings shame on the sinner, but moreover it "condemns because by ourselves we cannot satisfy it." Melanchthon noted that "Scripture calls the law 'the power of anger,' 'the power of sin,' 'the scepter of the avenger,' 'lightening,' 'thunder.'" By contrast, Melanchthon said, "Human reason calls it 'a corrector of crimes' and 'an instructor in living'." Here Melanchthon was emphasizing the law's accusing work to the exclusion of everything else. He offered additional biblical proof, then asked, "But why pile up so many passages, since the law is obviously one part of Scripture, and the work of the law is to kill and to damn, to reveal the root of our sin, and to perplex us?" In short, God's initial activity in bringing about the justification of sinners was to show their sin and terrify them over it. This he did through the law.

Melanchthon went one step further in describing the law and its effects. Noting that Galatians 3:19 asks, "Why then the law?" (if it gave no help toward attaining righteousness) and gives the answer, "It was added because of transgressions," Melanchthon concluded that the law was added actually to increase sin. Sin rages all the more against attempts at restraint, and human nature comes to

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42 Pauck, 76, emphasis added. "Lex damnat, quandoquidem per nos ei satisfieri nequit" (St.A. 2/1, 73).

43 Pauck, 77. "Scriptura legem vocat virtutem irae, peccati, sceptrum exactoris, fulmen, tonitru. Ratio humana emendationem vitorum et doctrinam vivendi" (St.A. 2/1, 74).

44 Pauck, 79. "Quamquam quid attinet multa congerere, cum plane altera scripturae pars sit, lex et legis opus occidere et damnare, ostendere radicem peccati nostri et confundere" (St.A. 2/1, 76).
hate the God who confines and judges it. Hence, sin increases. In every way,
then, "the law demands the impossible [and] the guilty conscience is convicted of
sin." Melanchthon said that the law accuses and kills for the reason that no sinner
can meet its demands to love God and the neighbor. Therefore it is not the
function of the law to justify . . . But the proper function of the law is to reveal sin
and especially to confound the conscience. Rom. 3:20: "Through the law comes
knowledge of sin." When God confounds the heart by giving it a sense of sin
through the law, it "does not know his goodness and therefore hates him as if he
were a tormentor."

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45St.A. 2/1, 80; Pauck, 82.
46St.A. 2/1, 78-79; Pauck, 81.
47Translation altered from that in Pauck, 85. “Exigit lex impossibilia, coarguitur
peccati rea conscientia” (St.A. 2/1, 84).
48“Finally, why is it that the law slays? The law is spiritual, that is, it demands
spiritual things — truth, faith glorifying God, love for God. But I am carnal, unbelieving,
without knowledge of God, senseless, loving myself, etc.” (Pauck, 80). “Et quae causa est
tandem, cur lex occiderit? Lex spiritualis est, id est, exigat spiritualia, veritatem, fidem
glorificantem deum, amorem dei; ego vero caralis sum, incredulus, ignorans dei, insipiens,
amans mei, etc.” (St.A. 2/1, 77-78). See St.A. 2/1, 122; Pauck, 117.
49Pauck, 117-118. “Ergo non est legis opus iustificare . . . Sed legis proprium opus est
ostendere peccatum adeoque confundere conscientiam. Ad Rom. III: ‘Per legem congitio
peccati’ . . . Cum cor humanum deus per legem sensu peccati confundit, nondum novit deum,
nempe bonitatem eius non cognoscit, ideo eedit velut carnificem” (St.A. 2/1, 122-123).
Gospel

Like “law,” the heading of “gospel” fit a number of discrete loci in Melanchthon’s organization of biblical teaching. He noted that “law and gospel are the two parts in the whole of Scripture.” Therefore, “gospel” formed the second element around which he would cluster several topics in his treatment. In fact, Melanchthon indicated that the gospel and grace would even shed light on aspects of his preceding discussion of the law. Therefore he had arranged his discussion so as to include sections on the power of the law and the abrogation of the law only after he had introduced the gospel.51

Just as Melanchthon discussed the law’s nature in close relationship to its function, he also described both the gospel’s nature and its function. He defined the gospel as “the promise of the grace or mercy of God, especially the forgiveness of sins and the testimony of God’s goodwill toward us.” He added, “I call the gospel the promise of the grace, blessing, and favor of God through Christ.” When he

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50Translation altered from that in Pauck, 70-71. “Duae in universum scripturae partes sunt Lex et Evangelium” (St.A. 2/1, 66).

51St.A. 2/1, 66; Pauck, 70.

52Pauck, 71. “... evangelium est promissio gratiae seu misericordiae dei adeoque condonatio peccati et testimonium benevolentiae dei erga nos” (St.A. 2/1, 67). Elsewhere Melanchthon wrote that “the gospel is the promise of grace and righteousness” “... evangelium promissio gratiae et iustitiae” (Pauck, 86; St.A. 2/1, 85).

53Pauck, 73. “Vocoque evangelium promissionem gratiae, benedictionis, benevolentia dei per Christum” (St.A. 2/1, 68-69). “The Gospel is the promise of grace or the forgiveness of sins through Christ” (Pauck, 119). “Evangelium est promissio gratiae seu condonatio peccatorum per Christum” (St.A. 2/1, 124).
turned to the gospel's function, Melanchthon especially drew the contrast between law and gospel. "The law shows sin, the gospel grace. The law indicates disease, the gospel points out the remedy. To use Paul's words, the law is the minister of death, the gospel is the minister of life and peace: 'The power of sin is the Law' (1 Cor. 15:56), but the gospel is the power of salvation to everyone who has faith (Rom. 1:16)."

Earlier in the Loci, Melanchthon had already put it thus: "... since it is impossible for us to keep the law because we are carnal, God sent his Son that he might satisfy the law for us who are dead to the flesh, but alive in the Spirit."\(^{55}\)

The gospel was the message that God satisfied the law in the person of his Son and removed its curse.

Christ took away that curse of the law and the right which it had so that even though you have sinned, even though you now have sin (for we must use the language of Scripture), yet you are saved. Our Samson has shattered the power of death, the power of sin, the gates of hell. This is what Paul means in Gal. 3:12: 'Christ redeemed us from the curse of the law, having become a curse for us.' In Gal. 4:4f., it is written: 'But when the time had fully come, God sent forth his Son, born of woman, born under the law, to redeem those who were under the law.' In Rom. 6:14 we read: 'For sin will have no dominion over you, since you are not under law, but under grace.' And this is the security which the prophets celebrate so vociferously, saying that those who are in Christ are above all power of the law. This means that although you have sin, you

\(^{54}\) Pauck, 71. "Lex peccatum ostendit, evangelium gratiam. Lex morbum indicat, evangelium remedium. Lex mortis ministra est, ut Pauli verbis utamur, evangelium vitae ac pacis: 'Lex virtus peccati est,' evangelium virtus salutis omni credenti" (St.A. 2/1, 66).

\(^{55}\) Pauck, 38. "cum impossibile sit legem fieri a nobis, quia carnales sumus, miserit deus filium, ut legi satisfaceret per nos, dum carne mortui spiritu vivimus" (St.A. 2/1, 28).
cannot be condemned, according to the passage, "Death is swallowed up in
victory." "O death, where is thy victory?" etc. (1 Cor. 15:55)."^{56}

Via the Bible passages he cited, Melanchthon described the saving work of Christ in
terms of victory, of redemption, of removing the curse, and of Christ's placing
himself under the law. Without writing a full chapter on the doctrine of Christ, he
simply concluded that this work results in freeing sinners from condemnation and
death, thus placing them "above all power of the law."

Christ was the answer to the law's accusation. Melanchthon wrote, "the
righteousness of Christ is our righteousness . . . the satisfaction Christ wrought is
our expiation, and . . . the resurrection of Christ is ours."^{57} This language was very

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^{56}Pauck, 122. "Eam maledictionem legis, id ius legis sustulit Christus, ut quamquam
peccaveris, quaquam iam nunc peccatum habeas — est enim utendum sermone scripturae —
tamen salvus es. Vm mortis, vm peccati, portas inferi Sanso noster effregit. Hoc illud est,
quod ad Galatas Paulus scribit: 'Christus nos redemit de maledicto legis, factus pro nobis
maledictum.' Item: 'Ubi venit plenitudo temporis, misit deus filium suum, factum ex muliere,
factum sub lege, ut eos, qui sub lege erant, redimeret.' Et Rom. VI.: 'Peccatum vobis non
dominabitur, non enim sub lege estis, sed sub gratia.' Atque haec securitas est, quam adeo
pleno ore nusquam non celebrant prophetae, nulla non potentia legis superiores esse eos, qui
sunt in Christo, hoc est, tametsi peccaris, tametsi habeas peccatum, damnari non posse, iuxta
illud: 'Absorpta est mors in victoria, ubi est, mors, victoria tua?' etc." (St.A. 2/1, 127). Cf.
St.A. 2/1, 67ff.; Pauck, 71ff.

^{57}Pauck, 89. "...Christi iustitia sit nostra iustitia . . . Christi satisfactio sit expiatio
nostri . . . Christi resurrectio nostra sit" (St.A. 2/1, 88).

Occasionally, Melanchthon described justification as incomplete for the believer. For
example, he wrote: "For here our justification is only begun" (Pauck, 125). "Nam iustificari
hic coepimus" (St.A. 2/1, 130). Or: "For justification has begun but is not consummated"
(Pauck, 106). "Coepta enim iustificatio est, non consummata" (St.A. 2/1, 108). The exact
meaning of these expressions, and the way they fit into the maturation of Melanchthon's
doctrine of justification, lies beyond the scope of this paper. For present purposes it can be
noted that in these contexts Melanchthon referred to the remnants of sin that abide in Christians
as tokens of the fact that they had not yet reached the consummation of their salvation in the
resurrection of the dead. Rogness affirms that Melanchthon had rejected the idea that
close to Melanchthon’s later expressions on the imputation of righteousness on account of Christ and of forensic justification. He summarized: “We have taught that [a person] is justified by faith alone, that is, that the righteousness of Christ is ours through faith, and that our works and efforts are nothing but sin. He who holds this has grasped the basic content of Scripture: believers are justified by the MERCY OF GOD.”

Thus, God’s favor was not to be expected in return for the sinful works of sinful people. Melanchthon noted that Scripture used the word “reward” at times, but if anything is owed to anyone it is only because God made himself a debtor to people who deserve nothing. He quoted the words of Jesus’ parable (from Luke 17:9-10): “Does [the master] thank the servant because he did what was commanded? So you also, when you have done all that is commanded you, say, ‘We are unworthy servants; we have only done what was our duty’.” That Melanchthon considered the unworthiness of God’s human servants to consist in their sin was clear from his next sentence, in which he quoted Romans 6:23, “For

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\text{justification is a process of becoming righteousness to be completed with human participation (Rogness, 39-40).}
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\[58\] Pauck, 147 emphasis original. “Nos docuimus iustificari sola fide, hoc est, Christi iustitiam nostram iustitiam esse per fidem, opera nostra, conatus nostros nihil nisi peccatum esse. Haec qui tenet, summam scripturae tenet, videlicet iustificari credentes misericordia dei” (St.A. 2/1, 158, emphasis original). Melanchthon also wrote, “If it is actually faith alone that justifies, there is clearly no regard for our merits or our works, but only for the merits of Christ” (Pauck, 118). “Siquidem ea sola fides justificat, meritorum nostrorum, operum nostrorum nullus plane respectus est, sed solorum meritorum Christi” (St.A. 2/1, 123). It is impossible to interpret even the young Melanchthon of the 1521 Loci as having
the wages of sin is death, but the free gift of God is eternal life."\textsuperscript{59} Unlike the Old Testament, Melanchthon said later, "the New Testament is nothing else than the promise of all good things without regard to the law and with no respect to our own righteousness."\textsuperscript{60}

**The Difference between the Old and New Testaments and the Abrogation of the Law**

About three-fourths of the way through the *Loci*, Melanchthon had treated law, then gospel, each under a series of separate headings. In a set of theses he offered a summary of virtually everything he had written up to that point. Thereupon he included a fairly lengthy chapter with the above title.

Melanchthon began the new chapter by summarizing the essential difference between the Old Testament and the New Testament. Briefly, in the Old Testament good was promised, but on the condition that people keep the law. But in the New Testament, he went on, the promise is unconditional.\textsuperscript{61} It should be carefully noted that Melanchthon regarded "Old Testament" and "New Testament" less as nicknames for portions of the Bible or periods of history, and more as designations

\textsuperscript{59}St.A. 2/1, 110; Pauck, 107.

\textsuperscript{60}Pauck, 120. "novum testamentum non aliud est nisi bonorum omnium promissio citra legem, nullo iustitiarum nostrarum respectu" (St.A. 2/1, 126).

\textsuperscript{61}St.A. 2/1, 125-126; Pauck, 120.
for two different ways by which God relates to human beings. This chapter on the
difference between the testaments and the abrogation of the law turned out to be his
most far-reaching discussion of law and gospel in the 1521 *Loci.* Here emerged
perhaps most vividly his rhetorical concerns for seeing the whole of the subject at
hand in its import for day-to-day Christian life.

Melanchthon distinguished between moral, judicial, and ceremonial parts of
the law. He immediately focused on the moral law, observing that it had been
abrogated no less than the others. The first Bible passage he cited was Jeremiah
31:31-34, which, as a Greek scholar he did not fail to note, was quoted in the New
Testament as well (Hebrews 8:8-12). Although Melanchthon did not employ the
term *scopus,* in his treatment of the relationship between the testaments (which
amounted to the relationship between law and gospel) that was the role he saw this
passage as playing. The passage raised the issue: in what sense has the law been
abrogated?

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*62* Just before this chapter, he had written: “So much on faith; we shall add certain
things on love a little later after we have dealt with the difference between law and gospel”
(Pauck, 120). “Hactenus de fide; de caritate paulo post quaedam adiiciemus, ubi absolverimus
hanc de discrimine legis et evangelii partem” (*St.A.* 2/1, 125).

*63* *St.A.* 2/1, 126; Pauck, 121.

Jeremiah 31:31-34: “Behold, the days are coming, says the Lord, when I will make a
new covenant with the house of Israel and the house of Judah, not like the covenant which I
made with their fathers when I took them by the hand to bring them out of the land of Egypt,
my covenant which they broke, though I was their husband, says the Lord. But this is the
covenant which I will make with the house of Israel after those days, says the Lord: I will put
my law within them, and I will write it upon their hearts; and I will be their God, and they shall
be my people. And no longer shall each man teach his neighbor and each his brother, saying,
‘Know the Lord,’ for they shall all know me, from the least of them to the greatest, says the
Lord; for I will forgive their iniquity, and I will remember their sin no more” (RSV).

134
Melanchthon observed that this key text from Jeremiah and Hebrews said that God abrogated the old covenant because people made it invalid by violating it, namely, by violating the Decalogue. Therefore the Lord spoke of bringing forth a new covenant, which Melanchthon took as another name for the gospel. At this point the praecceptor introduced the language of "freedom" in speaking of the law's abrogation, especially that of the moral law. It "would be a very cheap sort of Christian freedom, more like slavery," he commented, "if it should take away only the ceremonies, for this is the part of the law which is easiest of all to keep."^64

Melanchthon identified two aspects of Christian freedom. The first part was that the law no longer had the right to accuse and condemn.® Melanchthon cited several New Testament passages on Christ's work and its results, saying, "This is the freedom which Paul preaches almost everywhere." He added a brief discussion of Psalm 2, a Messianic psalm, in which he wrote: "Was not the Word of God, the law, preached before on Mt. Zion? But this is abrogated by the new preaching, now that the message concerning his Son Christ is begun. If nothing is preached but that Christ is the Son of God, it follows that the righteousness of the law [or] works, is

^64Pauck, 121. "Immo et vilissima fuerit libertas christianae et plus quam servitus, si solas ceremonias tollat, partem legis omnium facillime ferendam" (St.A. 2/1, 126-127).

®St.A. 2/1, 127; Pauck, 121. Similarly, Melanchthon wrote later, "The abrogation of the law means nothing else than that through Christ its right of condemning sinners has been taken away" (Pauck, 131). "Nec aliud est abrogatio legis, quam legi ad eum modum ius esse ademptum per Christum damnandi peccatores" (St.A. 2/1, 138). Engelland noted that the freedom of the conscience from the law's curse was Melanchthon's focal interest (Engelland, 58).
not demanded. Nor is anything else commanded except that we embrace that Son."

The italicized words form the first of several references made by Melanchthon to the law and its demands. Since the only freedom Melanchthon had treated so far was freedom from the law’s accusation and condemnation, he could have been saying that on account of Christ and his work Christians are not to be directed toward fulfilling any sort of demands in order to achieve peace with God. Or he could simply have meant that in light of the gospel, the law’s demands on the Christian are put aside.

In the second place, Melanchthon said, Christianity is freedom because those who have been renewed by the Spirit of Christ now, even without the law dictating [etiam non praeeunte lege], are led to those things which the law used to command [iubebat]. The law is the will of God. Nor is the Holy Spirit anything other than the living will and activity of God. Therefore, when we have been regenerated by the Spirit of God, who is the living will of God, we now spontaneously will that very thing which the law used to demand [exigebat].

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66 Translation altered from that in Pauck, 122, emphasis added. “Annon ante verbum dei praedicatum est in monte Zion, nempe lex? Ea vero nunc nova praedicatione abrogatur, ubi de filio Christo sermo instituitur. Quodsi non alius praedicatur nisi filium esse Christum, consequitur legis iustitiam, opera non exigi nec alius praecipi, quam ut filium illum exosulemur” (St.A. 2/1, 128).

67 Melanchthon wrote, “For what else is the gospel in general than the preaching of this freedom?” (Pauck, 123, emphasis added). “Nam quid in universum aliud est evangelium nisi huius libertatis praeconium” (St.A. 2/1, 128).

68 Translation altered from that in Pauck, 123. “Qui spiritu Christi innovati sunt, ii iam sua sponte, etiam non praeeunte lege, feruntur ad ea, quae lex iubebat. Voluntas dei lex est. Nec alius spiritus sanctus est nisi viva dei voluntas et agitatio, quare ubi spiritu dei, qui viva voluntas dei est, regenerati sumus, iam id ipsum volumus sponte, quod exigebat lex” (St.A. 2/1, 128).
The phrase “even without the law dictating” and the verbs in the imperfect tense suggested that the law no longer dictated, commanded, and demanded in the Christian life.\(^6\)

To support his assertion, Melanchthon quoted 1 Timothy 1:9 (“The law is not laid down for the just”), Romans 8:2 (“The law of the spirit of life in Christ Jesus has set me free from the law of sin and death”) and, in its entirety, Jeremiah 31:31-34. In briefly commenting on the Jeremiah text, Melanchthon again referred to the law’s demands. He said that the old covenant of justification by the law was useless, for no one could keep the law.\(^7\) “Therefore, the demand having been taken away [\textit{sublata exactione}], the law must now be inscribed in men’s hearts so that it can be kept.” Yet in the very next sentence Melanchthon said: “Therefore,

\(^6\)Herrlinger reported that the early Melanchthon said that the Christian was so grasped by the Spirit as to do good works even if no law existed (Herrlinger, 216). Much the same view can be found in Luther at the time. He said: “But those who are not under the law are those who do good and avoid evil regardless of the law with its threatenings and promises, punishments and rewards, but from a free, spontaneous spirit and love of the good and hatred of the evil, because they take delight in God’s law. Even if there never had been such a law, they would not want matters changed but would continue to do good and avoid evil. These are really children [of God], not produced by nature. But the seed of Abraham, Christ, by his blessing, through his grace and the Holy Spirit makes such people” (\textit{Church Postil} sermon for the Sunday after Christmas, Galatians 4:1-7). “Die aber nit unter dem gesetz sind, die thun das gutt und lassen das bose, unangesehen das gesetz mit seynem drewen, vorheyssen, straffen und belohnen, ssondern auf freyem, lustigen willen und liebe des gutten und hass des bosen, das uhn gottis gesetz so wol gefellet; wenss gleych nit gesetz were, wollten sie dennoch, das nit anders were, und thetten dennoch guttis und liessen das bosse. Das sind die rechten kinder, das vormag die natur nit, ssondern der same Abraham, Christus mit seyner benedeyung macht solche leutt durch seyne gnade und heylichen geyst” (WA 10\(^1\), 360).

\(^7\)\textit{St.A.} 2/1, 128-129; Pauck, 123. A bit further on, Melanchthon repeated his point that the law was abrogated because it could not be fulfilled (\textit{St.A.} 2/1, 132; Pauck, 126).
freedom does not consist in this, that we do not observe the law, but that we will and desire spontaneously and from the heart what the law demands [poscit].”

That is, immediately after characterizing the law’s demands on the Christian as relics confined to the past, Melanchthon wrote of them as realities continuing in the present.

In both cases, it was the role of the Holy Spirit to provide the motivation for the believer to keep the law. Indeed, Melanchthon cast the Holy Spirit in the role of substitute for the law. He returned to this point in summarizing the second aspect of Christian freedom (in this case, he said freedom from the Decalogue). The second aspect consisted in that “those who are in Christ are led by the Spirit to do the law and they really act by the Spirit. They love and fear God, devote themselves to the needs of their neighbor, and desire to do those very things which the law demanded. They would do them even if no law had been given. Their will is nothing else than the Spirit, the living law.”

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71 Translation altered from that in Pauck, 123, emphasis added. “Propterea sublata exactione iam legem cordibus inscribendum esse, ut exprimi possit. Ergo libertas est non, ne faciamus legem, sed sponte ab animo velle ac cupere, quod lex poscit” (St.A. 2/1, 129).

72 Earlier Melanchthon had written, “... the law was not enough, since it merely showed us what we should do, but it was also necessary that through Christ the Spirit should be given to inflame us to love the law” (Pauck, 40). “... non satis erat lex, quae ostenderet, quid faceremus, sed oportuit etiam spiritum conferri per Christum, qui nos ad legem amandum inflammaret” (St.A. 2/1, 30).

73 Pauck, 124, emphasis added. “... qui sunt in Christo, spiritu trahuntur ad legem faciendam et spiritu faciunt, amant, timent deum, proximi necessitatibus se accomodant atque ea ipsa cupiunt, quae lex praecipiebat, facturi, etiamsi nulla esset lex lata. Nec aliud est eorum voluntas, nempe spiritus, quam viva lex” (St.A. 2/1, 129).
was described here with an imperfect tense verb, and the Spirit emerged as "the living law." But Melanchthon's boldest and clearest statement followed a bit later.

He said that

the Decalogue cannot help being fulfilled now that the Spirit has been poured out into the hearts of the saints. Furthermore, the spiritual man is so free that unless the Spirit himself were bringing the fulfillment of the Decalogue by virtue of his own nature, we would not even be bound [to it]. Now, when the Spirit bestows a will of this kind, which is in itself the fulfillment of the Decalogue, the law is kept not because it is demanded but because nothing different can be done by the spiritual man.74

Yet even if the Holy Spirit was not imposing a demand, Melanchthon said that the same Spirit was making the moral law apply to the "spiritual man."75 It is important to recall that Melanchthon wrote these words in an effort to explain why the Decalogue is still kept by Christians even though it was abrogated to the same extent that the judicial and ceremonial laws of Moses were. In this discussion of the law's abrogation Melanchthon did not deploy the argument, which both he and Luther would use later, that Christians like all other people were to keep the Decalogue insofar as it agrees with natural law.76 Instead, he argued from the Holy

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74Translation altered from that in Pauck, 126-127, emphasis added. "... ita non potest non praestari decalogus effuso in corda sanctorum spiritu. Ceterum spiritualis sic liber est, ut nisi afferret ipse secum spiritus pro sua natura decalogi impletionem, ne deberemus quidem. Nunc, cum afferit spiritus eiusmodi voluntatem, quae sit ipsa decalogi impletio, fit lex, non quod exigatur, sed quia ne potest quidem a spirituali diversum fieri" (St.A. 2/1, 133).

75Engelland observed that as the will of God the moral law remained in force for the Christian, but he did not call attention to this role of the Spirit in his treatment of the 1521 Loci (Engelland, 58-59).

76A well-known statement of this position by Luther is in his 1525 treatise "How Christians Should Regard Moses." The reformer wrote: "We will regard Moses as a teacher,
Spirit's relationship to the various forms of the law. He said that the Decalogue differs from the judicial and ceremonial laws in that the Holy Spirit can be present in the heart without observance of externals. On the other hand, the "Spirit of God cannot be in the human heart without fulfilling the Decalogue." Melanchthon concluded, "The Decalogue is therefore observed necessarily." This necessity, Melanchthon had indicated, was no longer any obligation imposed by the law itself. It was a *non posse non* given by the Holy Spirit. But it also meant that the spiritual man was bound to the moral law that God in fact had given in a way that the same spiritual man was not bound to the ceremonial and judicial laws of the Old Testament. To this extent, Melanchthon found it appropriate to speak of the law's demands in the present tense. He said, "The reason why the saints keep the Decalogue is that it does not demand definite distinctions of places and times,

but we will not regard him as our lawgiver — unless he agrees with both the New Testament and the natural law" (AE 35, 165). "Mosen wollen wir halten für einen leere, aber für unser gesetzgeber wollen wir ihn nicht halten, Es sey denn das er gleiche stymme mit dem newen Testament und dem natürlichen gesetze" (WA 16, 373-374). Luther had included an adumbration of this argument in his lectures on Deuteronomy of 1523 (WA 14, 622; AE 9, 81).

For his part, Melanchthon at length wrote that the general applicability of the moral law was "not on account of Moses, but on account of natural law . . ." ("non propter Mosen, sed propter legem naturae . . .", CR 21, 392). See chapters five and six below for further detail on Melanchthon's treatment of this matter in the 1535 and the 1543 editions of the *Loci*.

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77Translation altered from that in Pauck, 127. "Esse non potest in humano corde spiritus dei, quin exprimat decalogum. Fit igitur necessario decalogus" (St.A. 2/1, 133).

78Melanchthon likened the Spirit causing the saints to fulfill the Decalogue to the way the sun brings about a bright day once it rises (St.A. 2/1, 133; Pauck, 126).
persons and things, beyond the righteousness of the heart, and also because the
Spirit is actually the righteousness of the heart.”

Thus, Melanchthon said, the Decalogue was abrogated “not in order that it
not be kept, but that it not condemn us if we fail in anything; then too it has been
abrogated that it may be kept.” This was the perspective of “a conscience which
perceives by faith that sin is forgiven.” In the language of Jeremiah 31,
Melanchthon noted that the law is abrogated “only in the case of those who have
believed in the later covenant, namely the gospel.”

Further, this freedom pertained even to those people only in that they were
reborn by faith. As Melanchthon summarized his chapter on the difference between
the Old Testament and the New Testament and the abrogation of the law, he said
that the Spirit of Christ “puts to death the remnants of sin in our flesh.” This
mortification, he added, was “not because the law demands it, but because the Spirit

79 Pauck, 126. “Quod autem decalogum faciunt sancti, hoc in causa est, et quod
decalogus praeter cordis iustitiam non exigat certa locorum, temporum, rerum, personarum
discrimina et spiritus ipsa cordis iustificatio sit” (St.A. 2/1, 132-133). He added, “. . . it is
evident why the Decalogue contains mostly negative laws. This is in order that it may be clear
that no definite work, circumscribed by persons, places, or times is required, but rather the
righteousness of the heart,” unlike in the ceremonial and judicial laws that arranged and
distributed “external matters” (Pauck, 127). “Hinc appareat, cur decalogus fere negativas leges
contineat, ut signifcetur nullum certum opus circumscriptum personis, locis, temporibus, sed
potius cordis iustitiam exigi” (St.A. 2/1, 133). Contrary to Haikola, (“Vergleich,” 97-98),
Melanchthon did not regard the moral law as a detailed guide to human behavior.

80 Pauck, 127. “decalogum antiquatum esse non, ut ne fiat, sed ut ne damnet, si quid
deliquimus, deinnde, ut et exprimi possit . . . libertas haec conscientiae est fide sentientis
condonari peccatum” (St.A. 2/1, 133). See St.A. 2/1, 131; Pauck, 125.

81 Pauck, 126. “. . . tantum, qui pacto postiori, hoc est, evangelio crediderunt” (St.A.
2/1, 132).
is such by nature that he cannot but mortify the flesh.” The Spirit employs the law
in this mortification of the flesh: “For believers, laws are prescribed through which
the Spirit mortifies the flesh. For freedom has not yet been consummated in us . . .
.” Melanchthon added that believers need the Decalogue, as opposed to the
ceremonial and judicial laws, because “the Decalogue is useful in mortifying the
flesh.”

That Melanchthon had recourse to the law on account of the stubborn flesh of
Christians should come as no surprise. Earlier in this chapter he had said, in terms
used by Romans 6-8, “insofar as we have been renewed by the Spirit we are free;
and insofar as we are flesh and old man, we are under the law. Yet for those who
believe, what is left of the old man is forgiven because of faith.” Still earlier, in
the chapter on “Love and Hope,” Melanchthon had written:

Paul is here [1 Cor. 13:2], just as in almost the whole of that letter, demanding
love in addition to faith. This is what he does elsewhere in all his letters,
demanding good works from believers, i.e., the justified. Although faith per se
is not without these fruits, he nevertheless demands them because of the

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82 Pauck, 130. “... spiritus Christi, quam concepimus, reliquias peccati in carne
mortificat. Non quod exigat lex, sed quod illa ipsa sit spiritus natura, ut non possit non
mortificare carnem . . . Et leges praescribuntur fidelibus, per quas spiritus mortificet carnem.
Nondum enim consummata in nobis libertas est . . . Estque decalogi usus in mortificanda carne”
(St.A. 2/1 136-137).

83 Contrary to Elert (Christian Ethos, 299) and Bring (“Gesetz und Evangelium,” 85),
Melanchthon did not say that the Christian needed the law insofar as he was a new man in
Christ.

84 Pauck, 124. “Proinde quatenus spiritu novati sumus, eatus sumus, quatenus
caro et vetustas sumus, sub lege sumus, quamquam credentibus, quod reliquum est vetustatis,
propter fidel condonetur” (St.A. 2/1, 130).
weakness of our faith . . . For although faith alone justifies, love is also demanded . . . .

Schäfer was right to say, in his terms, that Melanchthon found it impossible to implement a pure *Geistethik*. The *praecceptor* did not doubt that the Spirit as the “living law” would create ethical impulses in line with God’s will. But in view of the sinful flesh, he had to face the fact that these impulses might not result in positions that were truly God-pleasing or widely agreed-upon as such. Therefore he turned mainly to the statement of the moral law in Scripture.

It should be noted that Melanchthon took it for granted that Christians living in this world would come into contact with the moral law. For if nothing else, they would find it in the Bible. According to their new man the Holy Spirit would

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85 Pauck, 112. “. . . Paulum hic, sicut et paene in tota illa epistola, praeter fidem exigere caritatem non aliter atque a credentibus, a iustificatis alias exigit bona opera in omnibus epistolis. Tametsi illis fructibus per sese non vacet fides, tamen exigit propter fidei nostrae imbecillitatem . . . Quamquam enim sola fides iustificet, tamen et caritas exigitur . . .” (St.A. 2/1, 115-116).

The question can be raised whether a demand for works was the same thing as mortifying the flesh. The two were at least related in that the law’s demands for works would show how short sinners fall. Elsewhere in the *Loci*, Melanchthon referred to repentance as “the mortification of our old Adam and the renewal of the Spirit . . . Mortification is brought about through the law . . . for the law terrifies and slays our conscience” (Pauck, 140). “Est enim poenitentia vestustatis nostrae mortificatio et renovatio spiritus . . . Mortificatio fit per legem . . . Nam haec conscientiam terret et occidit” (St.A. 2/1, 149).

86 Schäfer, 114-115.

Bizer had understood only part of Melanchthon’s interest when he said that the *praecceptor* was only concerned about purity of affections, not about the content of the law (Bizer, 25-26). Based on his reading of Jer. 31:33, Melanchthon held that the Spirit wrote the law on the heart of the new man.

87 For example, Melanchthon noted the presence of paranetic sections in Paul’s epistles (St.A. 2/1, 70, 73; Pauck, 74, 77).
inspire in them the keeping of this moral law, while the same Spirit would use the Scriptures to demand conformity to the law from them according to their old man. In all this, Melanchthon pointed out, they were forgiven the sin remaining in them. Schäfer acknowledges that in practice Melanchthon saw the Christian as encountering the content of the moral law in Scripture. 

But Schäfer might have taken more into account the prominent place of Jeremiah 31:31-34 in Melanchthon’s entire case concerning the abrogation of the law. In Jeremiah 31 the old covenant was known, even through outward instruction in previous Scripture. The problem was that it was not kept. Hence, the Lord determined to write the new covenant on the heart. Yet in so doing he did not make previous Scripture obsolete or obviate the writing of subsequent Scripture. Thus, Melanchthon did not claim that that the Holy Spirit’s work in inculcating the law consisted in a purely internal communication within the believer, as opposed to external proclamation. On the contrary, he said that in episodes like God teaching Adam not to taste the fruit of the tree of knowledge or God giving warnings to Cain, “the Spirit of God was restoring the knowledge of natural law by constant proclamation.”

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88Schäfer, 110.

89Pauck, 71. “... legis naturae cognitionem instaurabat praedicatione continua spiritus dei” (St.A. 2/1, 67).

Incidentally, this was as close as Melanchthon came in the 1521 Loci to bringing natural law into a discussion of the extent of the Mosaic law’s abrogation. Earlier he had said that “The law which God has engraved on the mind of each [man] is suitable for the shaping of morals” (Pauck, 50). “... lex... quam deus insculpsit ciusque animo, ad formandos mores
Melanchthon referred to Scripture in order to clarify the law. Twice he cited Jesus’ and Paul’s summary of the second table, “you shall love your neighbor as yourself,” adding the second time, “I certainly cannot give a briefer or more suitable rule in regard to this aspect of love.”\(^90\) In criticizing monastic vows, Melanchthon quoted Ephesians 4:28 to say that God demanded that all Christians — not only monks — live in “evangelical poverty,” and he added regarding obedience that “each and every one of us owes this by divine law [\textit{iure divino}] to his parents, his teachers, and magistrates.”\(^91\) Likewise, Melanchthon said it was a demand of God that people make confession before him.\(^92\) On the other hand, “penalties are not due by divine right.”\(^93\) Melanchthon noted that the pope went against “\textit{ius divinum}” when he condemned Luther.\(^94\) Schäfer correctly observed that the

\[^{90}\text{Pauck, 147.} \text{ "Et huius quidem amoris ego nullam regulam breviorem aut aptiorem possum tradere, quam haec est"} (St.A. 2/1, 158). The earlier citation had been in St.A. 2/1, 116; Pauck, 112.\]

\[^{91}\text{Pauck, 60.} \text{ "Sed hanc singuli parentibus, praeceptoribus, magistratibus iure divino debemus"} (St.A. 2/1, 53).\]

\[^{92}\text{It is well established that a confession made before God is demanded by divine law. The passage from 1 John, ch. 1, cited above proves this.} \text{ "Exigi iure divino confessionem eam, quae deo fit, satis constat vel ex illa I. Johan. I. sententia . . . ." However, "divine law does not demand a rehearsal of your acts."} \text{ " . . . non exigit ius divinum recensionem factorum"} (Pauck, 144; St.A. 2/1, 154).\]

\[^{93}\text{Pauck, 143.} \text{ "Poenae vero non debentur iure divino"} (St.A. 2/1, 153).\]

\[^{94}\text{St.A. 2/1, 160; Pauck, 149.}\]
*praecaptor* used this term (or its ablative form, *jure divino*) indistinguishably from *lex dei*. It might be added that Melanchthon engaged in such discussion when there was controversy about what the law called for, and a temptation arose to invent one's own good works. Although earlier in the *Loci* he had pointed out the shallowness involved when smug human reason regards the law as “an instructor in living,” Melanchthon also turned to it for such instruction in the later chapters of the *Loci*.

**The Efficacy of Faith**

Melanchthon had still other ways of stating his teaching about the Christian life. He employed the biblical image of fruit to picture the ways in which faith serves others. He said that faith in its very nature pours itself out in love. It reaches out to its neighbor. Love of God and the neighbor are born from faith.

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95 Schäfer, 140, note 3. Maurer noted that in general use of the terms *lex* and *ius*, Melanchthon followed the traditional distinction that *lex* was a positive statement in which good was commanded and evil forbidden, while *ius* was the authority to act in the way determined by the law (Maurer, *Der junge Melanchthon*, 2, 287; cf. St.A. 2/1, 41; Pauck, 49). In the nature of the case, however, this clue does not shed much light on Melanchthon’s usage of the phrase *jure divino*. Schäfer’s point stands.

96 In his summary theses on law, gospel, and faith, Melanchthon had written: “Because the human heart is utterly ignorant of God, it turns aside to its own counsels and desires, and sets itself up in the place of God” (Pauck, 118). “Quia cor humanum prorsus est ignorans dei, ideo ad sua consilia et ad suas cupiditates deflectit et sese sibi pro deo erigit” (St.A. 2/1, 123).

97 See St.A. 2/1, 74; Pauck, 77.

98 St.A. 2/1, 113; Pauck, 109.

99 St.A. 2/1, 113; Pauck, 110.

100 St.A. 2/1, 114; Pauck, 111. See St.A. 2/1, 116; Pauck, 112.
Melanchthon wrote, “You have here the sum and substance of the whole Christian life, faith with its fruits.” ¹⁰¹ Such references to “fruit” provided Melanchthon, among others, an economical metaphor for the way in which faith produces good works spontaneously. The praecceptor characterized love for God as “the fruit of faith, for one who grasps the mercy of God in faith cannot help loving God in return. Therefore, love for God is a fruit of faith.” ¹⁰²

Yet it might be asked exactly what Melanchthon meant by a phrase such as “cannot help loving God in return.” In some places he made reference to the inner psychological workings of believers in the production of good works. He wrote, for example, “Because of this message [the Gospel], our minds, assured of God’s goodwill, believe that all guilt has been pardoned. Encouraged, they love and praise

¹⁰¹ Pauck, 110. “Summam habes universae vitae christianae, fidem cum fructibus suis” (St.A. 2/1, 114).

Elsewhere, Melanchthon returned once more to the Jeremiah 31 passage to support his contention that the gospel gives not only grace but also the gift of grace. He said that Jer. 31:33 (the Lord writing his law on the heart) was about the gift of grace, while verse 34 (“I will forgive their iniquity and I will remember their sin no more”) was on the grace itself (St.A. 2/1, 87-88; Pauck, 88.).

In a similar vein, Melanchthon wrote, “By the gospel sin is forgiven and the Spirit is given, who inflames the heart for keeping the law” (Translation altered from that in Pauck, 133). “Evangelio peccatum condonatur et exhibetur spiritus, qui ad faciendam legem cor inflammet” (St.A. 2/1, 140). This expression harkens back to Melanchthon’s description of conditions before the fall, when the Holy Spirit “inflamed” (inflammaret) people to do what was right. See St.A. 2/1, 18; Pauck, 31.

¹⁰² Pauck, 147. “... amorem dei esse fructum fidei. Non potest enim non redamare deum, qui fide misericordiam comprehendit, adeoque amor fidei fructus est” (St.A. 2/1, 158).

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God, rejoice and exult in God . . . .” Elsewhere he wrote: “For a knowledge of the mercy of God causes us to love God in return and also to subject ourselves spontaneously to all creatures, and this is love of the neighbor.” In these instances, could it be that Melanchthon was stepping back from the idea that good works grew out of the forgiveness of sins, as suggested by the “fruit” metaphor? Perhaps he was attempting more to account for good works in a more common “psychological” way.

103 Pauck, 71-72. “. . . quo testimonio certi animi nostri de benevolentia dei credant sibi condonatam omnem culpam et erecti ament, laudent deum, exhilarentur et exultent in deo” (St.A. 2/1, 67).

104 Translation altered from that in Pauck, 111. “Efficit enim cognitio misericordiae divinae, ut redametur deus, efficit, ut nos sponte omnibus creaturis subiciamus, qui proximi amor est” (St.A. 2/1, 114).

105 On just these grounds, Schäfer is critical of the theses with which Melanchthon summarized his discussion of law, gospel, and faith (Pauck, 118-120; St.A. 2/1, 122-125). There Melanchthon had used the term “fruit,” but in an unusual context. He wrote: “The result of faith is that for such a great blessing, the forgiveness of sins because of Christ, we love God in return. Therefore, love for God is a fruit of faith.” “Facitque ut pro tanto beneficio, pro condonato peccato propter Christum redametur deus. Adeoque amor dei fructus fidei est.” Schäfer noted especially the next two theses, “14. This same faith causes us to be ashamed of having offended such a kind and generous Father. 15. Therefore it causes us to abhor our flesh with its evil desires.” “XIV. Eadem fides facit, ut pudeat offendisse tam benigneum, tam liberalem patrem. XV. Adeoque facit, ut abominemur carnem nostram cum concupiscentiis suis” (Pauck, 118; St.A. 2/1, 123). Schäfer said that the fight against the flesh and its desires cannot be derived simply from the Christian’s peace of conscience and thankful love toward the beneficent God who forgives sins. Schäfer took this as an example of Melanchthon’s difficulty in relating faith and good works, justification and sanctification. He added that the Holy Spirit was conspicuously absent from the theses (Schäfer, 10-11). (In fairness it should be noted that Schäfer [p. 109] disclaimed involvement with criticisms of Melanchthon for “psychologizing,” and he pointed out that he did not use the term in his evaluation of Melanchthon’s theses. But the weakness he thought he had detected in the theses was of the same sort that others such as Bring had discussed. That is, Schäfer saw in Melanchthon an attempt to depict good works not as the natural outgrowth of faith but as the product of intervening factors in the human mind or heart.)
A first indication that Melanchthon was not veering seriously in such a direction was that he repeatedly pointed to the miraculous nature and function of the gospel message itself. He held that through it the blessings of Christ’s work were not only described for people but even more, were actually brought to them:

“Therefore, we are justified when, put to death by the law, we are made alive again by the word of grace which was promised in Christ or by the gospel that forgives our sins.” 106 He added, “it is certain that the gospel forgives sin not only once but again and again.” 107 This gospel was a dynamic word that brought forgiveness into the lives of sinners: “absolution is the gospel with which Christ forgives your guilt.” 108 Thus, Melanchthon took the gospel to be much more than information concerning the work of Christ that might make people feel better about God and grow to love him according to a normal process of the mind or the emotions.109

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106 Translation altered from that in Pauck, 88. “Justificamur igitur, cum mortificati per legem resuscitamur verbo gratiae, quae in Christo promissa est, seu evangelio condonante peccata . . . .” (St.A. 2/1, 88).

Similarly, “Vivification takes place through the gospel or through absolution. For the gospel is nothing else than absolution” (Pauck, 140). “Vivificatio fit per evangelium seu per absolucionem. Non enim aliud est evangelium nisi ipsa absolutio” (St.A. 2/1, 149).

107 Pauck, 141. “Certum est autem evangelium non semel tantum, sed iterum atque iterum remittere peccatum” (St.A. 2/1, 150).

108 Pauck, 145. “Est enim absolutio evangelium, quo Christus tibi condonat noxam” (St.A. 2/1, 155). Melanchthon also wrote that the Gospel is simply “condonatio peccati per Christum seu praedicatio gratiae” (St.A. 2/1, 107).

109 Bizer drew attention to this aspect of Melanchthon’s “theology of promise.” While he was critical overall of the 1521 Loci for failing to offer a treatment of this category that integrated the various types of “promise” mentioned by Melanchthon — personal promises of forgiveness, Messianic prophecies, and promises of physical blessings — on this point he noted that Melanchthon was definitely following Luther (Bizer, 50-51).
Further, Melanchthon's doctrine of the affections said that such a normal process would not produce truly godly impulses. Good affections were produced by none less than the Holy Spirit. Paraphrasing both Christ and Luther, Melanchthon asked rhetorically whether a bad tree could produce good fruit.\textsuperscript{110}

Why, then, did Melanchthon use the "psychologizing" language at some points? He did not directly engage this question in the 1521 \emph{Loci}, but he left two suggestive clues. First, in order to present an alternative to the shallow views of human nature that he found throughout the works of his theological opponents, Melanchthon wanted to maintain that "By the term 'good work' Scripture means not only the external aspect of a deed, but the total work, that is, the good disposition and the fruit of that disposition."\textsuperscript{111} Second, through expressions like these Melanchthon could emphasize God's grace and the resulting peace between God and man as the basis for all good works. Discussing Abraham's attempted sacrifice of Isaac (Genesis 22:1-14), he asked, "Do you think that the son would have obeyed the father unless each had trusted in the divine mercy and entrusted himself to it?"\textsuperscript{112} Put positively, "trust in the goodwill or mercy of God first calms our hearts and

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From this early stage in his theological career, then, Melanchthon did not reduce the gospel to simply imparting information about forgiveness. Contrast Haikola, "Vergleich," 103; Wengert, \emph{Law and Gospel}, 190; also Caemmerer, 328.
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\textsuperscript{110}\textit{St.A.} 2/1, 24; Pauck, 35.

\textsuperscript{111}Pauck, 107. "Bonum opus vocat scriptura non simulationem tantum externam operis, sed totum opus, hoc est, bonum affectum et eius affectus fructum" (\textit{St.A.} 2/1, 110).
then inflames us to give thanks to God for his mercy so that we keep the law gladly and willingly.” In Melanchthon’s usage, such “psychologizing” expressions ran in a parallel track with those about “fruit.”

Summary

“This, then, is Christian knowledge,” Melanchthon had declared early in the 1521 Loci: “to know what the law demands, where you may seek power for doing the law and grace to cover sin, how you may strengthen a quaking spirit against the devil, the flesh, and the world, and how you may console an afflicted conscience.” He kept fairly close to these essentials in the chapters that followed.

Melanchthon set his discussion of the law in the context of sinners’ inability to love God and their neighbors. With their affections corrupted through original sin, Melanchthon said their only opportunity even to begin to keep the law consisted in godly affections that could only be created by the Holy Spirit. Meanwhile, he affirmed that the law, although originally given so people would live, ruthlessly

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112 Pauck, 101. “Putas filium obtemperaturum fuisse patri, ni uterque confisus misericordia divina illi se commisisset?” (St.A. 2/1, 103).

113 Pauck, 92. “Ea fiducia benevolentiae seu misericordiae dei cor primum pacificat, deinde et accendit velut gratiam acturos deo pro misericordia, ut legem sponte et hilariter faciamus” (St.A. 2/1, 92). See also St.A. 2/1, 112; Pauck, 109.

114 Pauck, 22. “Haec demum christiana cognitio est scire quid lex poscat, unde faciendae legis vim, unde peccati gratiam petas, quomodo labascentem animum adversus daemonem, carnem et mundum erigas, quomodo affliectam conscientiam consoleris.” (St.A. 2/1, 7).
accuses and condemns those who do not keep all its exacting demands, and even increases sin as sinners chafe under it and rebel against it.

Hence, the need for grace to cover sin and comfort the conscience. The gospel declared that Christ satisfied the law. He is our righteousness, Melanchthon said. Believers were justified by God’s mercy on account of Christ, regardless of their own righteousness. For them, the law was abrogated in two ways. First, the law no longer accused and condemned them. Second, although they were relieved even from the demands imposed by the moral law itself, moved by the Holy Spirit they were responsible to the law and spontaneously conformed to it. The Holy Spirit further used this law to mortify their flesh, especially in repentance where he exposes sin by the law.

Melanchthon frequently employed the metaphor of good works as the fruit of faith, emphasizing the natural causality by which they were produced in hearts renewed by the Holy Spirit. Occasionally he delved into the psychological workings of the believer’s mind, not to overlook the miraculous dimension in the Holy Spirit’s creation of new affections and resultant good works, but to emphasize the total work of a forgiving God on inner motivation as well as external action. He maintained that the Holy Spirit, not the knowledge of the law’s dictates, “inflamed” the Christian to keep the law.

Schäfer correctly noted that the 1521 Loci already contained many of the elements of Melanchthon’s later third use of the law doctrine. In this early work the
praeceptor said that the law did not inherently accuse, but rather was given that people might live. The law accused them because of their sin. Melanchthon wrote that people did not pay God what they owed him and hence were guilty in his sight. He did not explicitly add that Christ paid what people owe, but he did indicate that Christ satisfied the law, removed the curse, and became the sinner’s righteousness. The law could not condemn the sinner who is in Christ, despite his or her sin.

The Loci indicated that the Christian lived with a twofold nature: spirit and flesh or new man and old. The Holy Spirit lead the believer, insofar as he is new man, to conform to the law’s dictates spontaneously and voluntarily. At the same time, on account of the flesh the Spirit brought Christians living in this world into contact with the law in Scripture and elsewhere. While it did not form a detailed guide to behavior in every situation, the moral law helped Christians avoid self-chosen works that did not truly accord with God’s will. As will be noted below, all of this early teaching carries through with remarkable consistency into Melanchthon’s later years.

Thus, the third use of the law doctrine, even if it was not formulated in those terms, was already well on its way with the 1521 Loci. In fact, apart from the lack of an explicit “three uses” formulation in the 1521 Loci, there was but one major

115 Schäfer was right that the 1521 Loci hardly said a word about the “Christ in us” or about Christ as an exemplar (Schäfer, 10-18). In a way, he was agreeing with Wilhelm Maurer, who had observed that while Luther in his treatise On Christian Freedom (1520) spoke in terms of a Christian’s outflow of love to his neighbor from his fellowship with Christ, Melanchthon contented himself to speak of the Spirit (Maurer, “Zur Komposition der Loci Melanchthons von 1521,” Luther-Jahrbuch 25 [1958]:170).
discrepancy between the 1521 *Loci* and article VI of the Formula of Concord (which was finalized 56 years later) on the subject of a positive, informing function of the law for believers. While the 1521 *Loci* said it is only through the work of the Holy Spirit that the moral law applies at all to the Christian as new man, for its part the Formula called the law the "immutable will of God" and said that the Christian as new man is obligated to it as such. Like the 1521 *Loci*, the Formula went on to say that the new man carries out this will of God spontaneously, without any instruction, admonition, exhortation, or driving by the law.\footnote{FC SD VI 6.}
CHAPTER FOUR

THE AUGSBURG CONFESSION AND THE APOLOGY

If Philip Melanchthon had authored little or nothing else on any subject, a place would be secure for him in church history and the history of theology as the writer of the Augsburg Confession and its Apology. The Augsburg Confession, a statement of faith to which Lutherans around the world still adhere in various ways, was presented to Emperor Charles V in both German and Latin texts by a group of Lutheran princes at the imperial diet in Augsburg on June 25, 1530. The beginnings of its “Apology” (defense) can be found in the succeeding weeks during which the emperor appointed a team of theologians to prepare a reply called the Confutation, and Melanchthon undertook the preparation of a rejoinder.

During 1531, Melanchthon produced two editions of the Apology in Latin. He expanded the rapidly-composed original apology that the emperor had refused to receive at the diet on September 22, 1530. Melanchthon published his expansion in a quarto volume together with the Augsburg Confession in May, 1531. But he was not yet finished. Feeling a need for further improvement in the Apology, he sought the critique and advice of others including Luther. In September, 1531 a revised
edition of the Apology appeared in octavo format. It was somewhat shorter and more focused than the quarto text, especially in the lengthy fourth article on justification. As Melanchthon was completing this second edition of the lengthy apology, his Latin was being translated into German by Justus Jonas. Jonas worked closely with Melanchthon. He frequently followed the octavo version.

In fact, the later octavo version turned out to be the more frequently-printed text of the Apology in Latin, at least during the sixteenth century. Its printings outnumbered those of the quarto by a count of 38 to four. Interestingly, Nicholas Selnecker's Latin edition of 1580 contained the octavo. But the official Latin Book of Concord, produced in 1584, incorporated the earlier quarto text of the Apology. Over the centuries since, including the twentieth, the quarto text has been used in original language editions and translations of the Apology.

The pendulum is beginning to swing in the other direction, however. The latest English translation of the Apology is based on the octavo text. Of even greater importance, the editors of Die Bekenntnisschriften der evangelisch-

\[\text{CR 2, 541.}\]

\[\text{The sixteenth-century printing history of the Apology has been exhaustively analyzed by Christian Peters, Apologia Confessionis Augustanae: Untersuchungen zur Textgeschichte einer lutherischen Bekenntnisschrift, 1530-84 (Stuttgart: Calwer Verlag, 1997).}\]


\[\text{This translation is contained in Kolb and Wengert, 109-294.}\]
lutherischen Kirche, the internationally-recognized critical edition of the Lutheran Confessions, are considering incorporating the octavo text into their next edition.

The present chapter is informed by both Latin versions of the Apology. It mainly follows the quarto text, but notes significant changes made by Melanchthon in the octavo version.5

Augsburg Confession article VI

The Augsburg Confession's first explicit reference either to God's law or to good works occurred in article VI, which was given the heading, "The New Obedience." The beginning of article VI said that the evangelical churches "also teach that this faith is bound [debeat] to bring forth good fruits and that it is right [oporteat] to do the good works commanded by God on account of God's will, not because we are confident that we merit justification before God through these works."6 The corresponding German text, which has identical status with the Latin as a church confession, said: "It is also taught that such faith should bring [bringen soll] good fruits and good works, and that for God's sake one must [musse] do all sorts of good works that God has commanded, but not place trust in such works to merit favor before God through them."7 This sentence, the Augsburg Confession's first indication

5This chapter is largely based on Ken Schurb, "'The Law Always Accuses' in the Augsburg Confession and the Apology," Concordia Journal 23 (October, 1997):338-349.

6"Item docent, quod fides ilia debeat bonos fructus parere, et quod oporteat bona opera mandata a Deo facere propter voluntatem Dei, non ut confidamus per ea opera justificationem coram Deo mereri" (CA VI I [BKS, 60]).

7"Auch wird gelehrt, dass solcher Glaube gute Frucht und gute Werk bringen soll,
of the relationship between faith and works and the relationship between works and God’s law, has been interpreted in two basic ways.

One way takes the verbs *deberet/sollen* and *oportere/mussen* as all basically interchangeable. Therefore the two clauses in which they occurred were describing the same thing: human obligation to obey God’s commands. Luthardt, for example, held that it was the Formula of Concord that brought Luther’s conception of good works as the fruit of faith together with Melanchthon’s basic theme (which was reflected in the Augsburg Confession) that works are *debita* owed to God.\(^8\)

Support can be found for the idea that the above-listed verbs in CA VI were all teaching human obligation to God, for example, in CA XX 27, a sentence with content parallel to CA VI 1. If anything, in CA XX the Latin expressed necessity or obligation still more clearly than it had in the earlier article, saying: “*it is necessary* to do good works” (*necesse sit bona opera facere*). The corresponding German text employed both verbs from CA VI as it said that “good works should and must be done” (*gute Werk sollen und müssen geschehen*).\(^9\)

A similar interpretation, if not specifically of the first sentence in CA VI then at least in general, was provided by the Formula of Concord:

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\(^8\) Luthardt, 54, 57-58.

\(^9\) BKS, 80.
it is evident that in discussing the question whether good works are necessary or free, both the Augsburg Confession and the Apology often employ formulas like these: “Good works are necessary [nötig/necessaria]”; again, ‘It is necessary [nötig sei/necessse sit] to do good works because they necessarily follow [notwendig . . . folgen sollen/necessario . . . sequi debent] faith and reconciliation’; again, ‘We should and must [tuen sollen und tuen müssen/sint facienda] of necessity do good works that God has commanded.’ Likewise, Holy Scripture itself uses words like ‘necessity [not/necessitatis],’ ‘necessary [nötig/necessaritii],’ ‘needful [notwendig],’ ‘should [sollen/debemus],’ and ‘must [müssen/oportet]’ to indicate what we are bound to do because of God’s ordinance, commandment, and will . . . [But] when the word ‘necessary’ [nötig/necessitatis] is used in this context, it is not to be understood as implying compulsion but only as referring to the order of God’s immutable will, whose debtors we are, as his commandment indicates when it enjoins the creature to obey its Creator.10

On the other hand, in the alternative assessment of CA VI 1 its two key verbs are regarded as referring to very different things. According to this view, debere/sollen denoted “natural causality rather than a moral compulsion,” while oportere/imussen gave “a clear command to do good works.” This interpretation is preferred, for example, by twentieth-century Christian ethicist Helmut Thielicke.11 Seen thus, CA VI

10FC SD IV 14, 16 (Tappert, pp. 553-554; see Kolb and Wengert, 576, 577). “was belanget Notwendigkeit oder Freiwilligkeit der guten Werke, ist offenbar, dass in der Augsburgischen Confession und derselben Apologia gebraucht und oft wiederholet werden diese Reden: dass gute Werke nötig sein. Item, dass es nötig sei, gute Werk tuen, welche auch notwendig dem Glauben und der Versöhnung folgen sollen. Item, dass wir notwendig gute Werk, so Gott geboten, tuen sollen und tuen müssen. So wird auch in der Heiligen Schrift selber das Wort not, nötig und notwendig, item sollen und müssen also gebraucht, was wir vorwegen Gottes Ordnung, Befehl und Willen zu tuen schuldig seind . . . wann dies Wort nötig gebraucht, soll es nicht von einem Zwang, sonder allein von der Ordnung des unwandelbaren Willen Gottes, des Schuldner wir sind, verstanden werden, dahin auch sein Gebot weiset, dass die Kreatur ihrem Schöpfer gehorsam seie” (BKS, 942-943).

11Helmut Thielicke, Theological Ethics, ed. William H. Lazareth, vol. 1, Foundations (Philadelphia: Fortress, 1966; reprint, Grand Rapids: Eerdmans, 1979), 54. Thielicke himself called this distinction somewhat into question a few pages later as he quoted words of Luther in which debere formed a synonym for oportere. In that instance, both words referred to the command to do good works. Luther was placing works that “are
would have anticipated the Apology's later statement: "Our opponents slanderously
close that we do not require good works, whereas we not only require them [what
Thielicke called the *opertere* of CA VI] but show how they can be done [the *debere* of
CA VI]."\(^{12}\)

Likewise, when the Apology returned to the question behind the first sentence
in CA VI ("Why do good works?"), it said that "Good works should be done [1]
because God has commanded them and [2] in order to exercise our faith, to give
testimony, and to render thanks. For these reasons good works must necessarily be
done."\(^{13}\) The first reason, God's command, is recognizable as the one that Thielicke
associated with *opertere* in CA VI: one does good works because God commands
them. The second reason (actually, an amalgam of several reasons) generally

\(^{12}\) Ap IV 136 (Tappert, 126; see Kolb and Wengert, 142). "Falso igitur
calumniantur nos adversarii, quod nostri non doceant bona opera, cum ea non solum
requirant, sed etiam ostendant, quomodo fieri possint" (BKS, 187).

Bring cited Ap IV 136 as proof for his contention that Melanchthon rolled together
the ethic of faith with that of works (Bring, *Verhältnis*, 186, note 26). Bring was criticizing
Engelland, who cited Ap IV 136 to show that for Melanchthon works both flow from faith
and comply with God's command (Engelland, 168). Interestingly, Ap IV 136 has an earlier
parallel in the German text of the Augsburg Confession: "Consequently this teaching
concerning faith is not to be accused of forbidding good works but is rather to be praised
for teaching that good works are to be done and for offering help as to how they may be
done" (CA XX 35 [Tappert, 46; see Kolb and Wengert, 56]). "Derhalb ist diese Lehre
vom Glauben nicht zu schelten, dass sie gute Werke verbiete, sondern vielmehr zu ruhmen,
dass sie lehre, gute Werk zu tun, und Hilf anbiete, wie man zu guten Werken kummen
muge" (BKS, 81).

\(^{13}\) Ap IV 189 (Tappert, 133). "Sunt enim facienda opera propter mandatum Dei,
item ad exercendam fidem, item propter confessionem et gratiarum actionem. Propter hos
causas necessario debent bona opera fieri" (BKS, 197).
corresponds to the first verb in CA VI, *debere*, Thielicke’s term of “natural causality.”

But at this point in the Apology Melanchthon was not characterizing such natural causality at its most basic level. Rather, he described the initial result of the causality, namely, a desire to exercise faith, give testimony, and render thanks.14

The two broad ways of reading CA VI 1 differ over whether or not it referred to this “natural causality.” (There is fairly wide consensus that it dealt with the human obligation to obey God’s commands.) At this juncture an important point should not be overlooked, although such an oversight could occur so long as attention fastens only on the verbs in CA VI 1. Both the German and the Latin texts CA VI said that faith *debeat/soll* bring forth *fruit.*15 “Fruit” suggests not necessity or obligation, but rather spontaneity and natural growth.16 Regardless of the precise meanings of the verbs

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14In the octavo text of the Apology, Melanchthon re-wrote this section. He made the same two points about why good works are to be done, with emphasis on the “natural causality”: “For good works must be done because God requires them. Therefore they are effects of regeneration, just as Paul teaches in Ephesians 2, ‘For we are his work, created in Christ Jesus for good works, which God prepared beforehand that we might walk in them.’ Thus good works ought to follow faith [sequi fidem debent] as thanksgiving toward God, likewise so that faith is exercised in them, grows and is shown to others in order that by our confession others are might be invited to godliness.” “Sunt enim facienda bona opera, quia Deus ea requirit, ideoque sunt effectus regenerationis, sicut Paulus docet Ephes 2. Ipsius opus sumus, conditi per Christum Iesum ad bona opera, quae praeparavit Deus, ut in eis ambularemus. Itaque bona opera sequi fidem debent, tanquam gratiarum actio erga Deum, Item ut in eis fides et exerceretur, et crescat et ostendatur aliiis, ut nostra confessione alii invitentur ad pietatem” (CR 27, 478, note 100; see Kolb and Wengert, 150).

15It is difficult to understand Wilhelm Maurer’s assertion that “the organic image of the tree and its fruits is pushed aside completely” in CA VI (Wilhelm Maurer, *Historical Commentary on the Augsburg Confession*, trans. H. George Anderson [Philadelphia: Fortress Press, 1986], 369).

16“Fruit” is a biological term, a parable from nature. And one can speak of the life of nature only in indicatives. In this realm, there is no question of what ought to happen, but only of what does in fact happen” (Althaus, *Divine Command*, 38).
debere and sollen in CA VI, the article indicated the "natural causality" between faith and good works if only by depicting good works as the fruit of faith.¹⁷

The Apology contains many references to this "natural causality," whether or not it was the idea behind the word debeat in CA VI. "Since faith brings the Holy Spirit and produces [parit] a new life in our hearts, it is necessary that it produce [pariat] spiritual impulses in our hearts."¹⁸ The Spirit "naturally" sets in motion good works in which Christians begin to obey the law. "We do not overthrow the law, Paul says (Rom. 3:31), but uphold it; for when we have received the Holy Spirit by faith, the keeping of the law necessarily follows [necessario sequitur], by which love, patience, chastity, and other fruits of the Spirit gradually increase."¹⁹ These works flow from

¹⁷Edmund Schlink argued that in the Lutheran Confessions words like debere, oportere, and necesse all "are to be understood in a twofold sense," making the same two points seen by Thielicke in CA VI: first, that good works spring naturally from faith, and, second, that God demands these works. Schlink added that the first point — good works as the fruit of faith — was the Confessions' emphasis "above all" in reference to the new obedience (Schlink, 113). Wengert cites a letter from Melanchthon to Agricola in which the verb debent might be read either way (Wengert, Law and Gospel, 120).

¹⁸Ap IV 125 (translation altered from that of Tappert, 124; see Kolb and Wengert, 140). "Quia vero fides affert spiritum sanctum et parit novam vitam in cordibus, necesse est, quod pariat spirituales motus in cordibus" (BKS, 185).

¹⁹Ap XX 15 (Tappert, 229; see Kolb and Wengert, 237). "Non enim abolemus legem, inquit Paulus, sed stabilimus, quia cum fide accepimus spiritum sanctum, necessario sequitur legis impletio, qua subinde crescit dilectio, patientia, castitas et alii fructus Spiritus" (BKS, 316).

Similarly, the quarto text said: "We are justified for this very purpose [Ideo], that, being righteous, we might begin to do good works and obey God's law. For this purpose [Ideo] we are reborn and receive the Holy Spirit, that this new life might have new works and new impulses, the fear and love of God, hatred of lust, etc." (Ap IV 348-49, Tappert, 160). "Ideo iustificamur, ut iusti bene operari et obedire legi Dei incipiamus. Ideo regeneramur et spiritum sanctum accipimus, ut nova vita habeat nova opera, novos affectus,
forgiveness. "Christ frequently connects the promise of forgiveness of sins with good works . . . good fruits ought to follow of necessity." The Apology could add that where these good fruits do not follow, penitence is false.\textsuperscript{20} For in the "natural causality," faith is bound to bring forth good fruits. The octavo text said that "Faith without good works is hypocrisy."\textsuperscript{21}

But, as previously mentioned, while the two interpretations of CA VI \textit{1} differ with regard to "natural causality," they agree that this sentence characterized good works as commanded by God, also the good works of Christians.\textsuperscript{22} Therefore Althaus had good reason to write in criticism of Elert:

\begin{quote}
\textit{timorem, dilectionem Dei, odium concupiscentiae, etc." (BKS, 227). This section was omitted from the octavo text.}
\end{quote}

\textsuperscript{20}Ap IV 275 (Tappert, 148). "Christus saepe annectit promissionem remissionem peccatorum bonis operibus . . . . necessario sequi debent boni fructus . . . . hypocrisin et fictam poenitentiam esse, si non sequantur boni fructus." (BKS, 214). The octavo text was similar: "it is a hypocritical and fake repentance unless good fruits follow." "... hypocrisin et simulationem poenitenciae esse, nisi sequantur boni fructus" (CR 27, 518; see Kolb and Wengert, 162).

Compare Luther's words in the Schmalkald Articles (1537): "... if good works do not follow, our faith is false and not true" (SA III xiii 3, Tappert, 315; see Kolb and Wengert, 325). "... wo gute Werk nicht folgen, so ist der Glaube falsch und nicht recht" (BKS, 461).

\textsuperscript{21}"... fides sine bonis operibus, hypocrisis est" (CR 27, 524; see Kolb and Wengert, 172).

\textsuperscript{22}Nestor Beck compares this point in the Augsburg Confession with its predecessor documents: "Art. VI states in second place which works must be done, namely, those which God has commanded . . . The Schwabach and Marburg articles, too, list true good works, but do not include this point. It presumably derives from the \textit{Instructions for Visitors}. This work states in the section on the Ten Commandments that good works are called good not only because they are done for the sake of the neighbor, but also because God has commanded them" (Nestor Beck, \textit{The Doctrine of Faith: A Study of the Augsburg Confession and Contemporary Ecumenical Documents} [St. Louis: Concordia Publishing House, 1987], 101, referring to WA 26, 204 [AE 40, 277, 280]). Leif Grane
the summary of the position of the Lutheran Confessions with reference to our problem offered by Elert will not suffice. ‘In agreement with all the apostles,’ he states, ‘the Confessions insist that good works are necessary because they are inevitable where faith is not dead but alive . . . It is the nature of faith which makes these works necessary’ (The Christian Ethos, pp. 249ff). This is unquestionably correct. But it is not the whole story. When the Lutheran Confessions speak of the necessity of good works, they refer not only to the nature of faith, but also to God’s commands (cf. Apology IV, 189).23

There is no escaping the Augsburg Confession’s assertion that ‘. . . it is necessary to do good works, not that we should trust to merit grace by them but because it is the will of God.’24 Likewise, the Apology indicated that ‘Because of God’s command, honorable works commanded in the Decalogue should be performed.’25

calls attention to the Schwabach and Marburg articles’ depiction of the connection between faith and works as an organic relationship and adds, from his point of view, that “One cannot avoid the conclusion that the AC here offers an expression of the Lutheran teaching that is inferior to its predecessors” (Leif Grane, The Augsburg Confession: A Commentary, trans. John H. Rasmussen [Minneapolis: Augsburg Publishing House, 1987], 83).

23Althaus, Divine Command, 39, note 26. It might be noted that in articles IV and VI the Augsburg Confession took essentially the position that Joest said was impossible, “Christ has, but now you must also.” See Joest, 133.

24CA XX 27 (Tappert, 45; see Kolb and Wengert, 57). “quod necesse sit bona opera facere, non ut confidamus per ea gratiam mereri, sed propter voluntatem Dei” (BKS, 80).

There is a similar expression in the German translation of Ap IV 188: “After that [the teaching of forgiveness] we also teach about good works and about the law, not that we merit forgiveness of sins through the law, or that we for the sake of the law are acceptable to God, but that God wants to have good works.” “Darnach lehren wir auch von guten Werken und von dem Gesetz, nicht dass wir durch das Gesetz verdienen Vergebung der Sunde, oder dass wir um des Gesetzes willen Gott angenehm sein, sondern dass Gott gute Werk haben will” (BKS, 197).

25Ap IV 22 (Tappert, 110; see Kolb and Wengert, 124). “. . . propter mandatum Dei necessario sint facienda honesta opera” (BKS, 164). Wengert, Law and Gospel, 190, makes the strange claim that prior to the Romans commentary of 1532, “Melanchthon still spoke only of regeneration, of growing in faith, and of the results of justification. The language of obedience to the law played no role in the discussion!” In fairness, it should be
Thus, God’s command gives shape to good works. Put differently, in the
Augsburg Confession and the Apology good works were none other than what God
commands. The Apology’s argument resembled Luther’s then-decade-old critique of
monastic vows: “So it is silly to maintain that it is a service to God to leave
possessions, friends, wife, and children without the command of God.” The
confessors at Augsburg had already said that “… traditions have also obscured the

pointed out that Wengert had qualified this strong statement somewhat on the previous page
by pointing out that a turn in Melanchthon’s theology toward the necessity of good works
had been “foreshadowed” in the Augsburg Confession and the Apology (Wengert, Law and
Gospel, 189). His characterization is still misleading though, for the Augsburg Confession
and the Apology were doing far more than “foreshadowing” the language of obeying the
law.

26“Additur et doctrina bonorum operum, quae Deus praeceptit” (Ap XXIV 48
[BKS, 363; see Tappert, 258 and Kolb and Wengert, 267]). Compare the end of the section
on the Ten Commandments in Luther’s Large Catechism: “Here, then, we have the Ten
Commandments, a summary of divine teaching on what we are to do that our whole life
might be pleasing to God. They are the true fountain from which all good works must
spring, the true channel through which all good works must flow. Apart from these Ten
Commandments no deed, no conduct can be good or pleasing to God, no matter how great
or precious it may be in the eyes of the world” (LC I 311 [translation altered from that in
Tappert, 407; see Kolb and Wengert, 428]). “So haben wir nu dir zehen Gepot, ein
Ausbund gottlicher Lehre, was wir tuen sollen, dass unter ganzes Leben Gotte gefalle, und
den rechten Born und Rohre aus und in welchen quellen und gehen müssen alles, was gute
Werk sein sollen, also dass ausser den zehen Gepoten kein Werk noch Wesen gut und Gott
gefällig kann sein, es sei so gross und köstlich für der Welt, wie es wolle” (BKS, 639).
Thus, Bring was overstating a contrast between Melanchthon and Luther when he wrote
that for Melanchthon love was essentially grounded in duty while for Luther the activity of
the new creation was free and undetermined by law (Bring, Verhältnis, 61-63, 159).

27Ap XXVII 42 (Tappert, 276; see Kolb and Wengert, 284). “Ita ridiculum est
sentire, quod cultus Dei sit deserere possessiones, amicos, coniugem, liberos sine mandato
Dei” (BKS, 390). See Luther’s 1521 treatise On Monastic Vows, WA 8, 577-669 (AE 44,
243-400). Significantly, in the Apology Melanchthon said: “Since Luther discussed this
whole issue carefully and fully in his book called Monastic Vows, we want to be interpreted
here as reiterating that book” (Ap XXVII 10, Tappert, 270; see Kolb and Wengert, 279).
“Cum autem haec tota causa diligenter et copiose a Ludio tractata sit in libro, cui titulum
feci: De votis monasticis, volumus hic librum illum pro repetito habere” (BKS 380).
commands of God, for these traditions were exalted far above God's commands . . . On the other hand, other necessary good works were considered to be secular and unspiritual: the works which everybody is obliged to do according to his calling."^28 Engaging in "invented" works, as monks did, amounted not only to a fruitless attempt to pacify God's wrath and mollify one's own guilty conscience^29; it also ignored the commands God had really given^30. Thus, it presented an affront to the law as well as the gospel. "For all service of God that is chosen and instituted by men to obtain righteousness and God's grace without the command and authority of God is opposed to God and the holy Gospel and contrary to God's command."^31

^28CA XXVI 8, 10 (Tappert, 65; see Kolb and Wengert, 76). "... solche Traditionen Gottes Gebot verdunkelt; dann man setzt diese Traditiones weit über Gottes Gebot . . . . Daneben hielt man andere notige gute Werk fur ein weltlich, ungeistlich Wesen, nämlich diese, so jeder nach seinem beruf zu tun schuldig ist" (BKS, 102). See CA XVI 5-6 (BKS, 71; Tappert, 38; see Kolb and Wengert, 48-51), XX 1-3, 36-38 (BKS, 75-76, 81; Tappert, 41, 46; see Kolb and Wengert, 52-54, 56-57).

Robert Kolb points out that Melanchthon somewhat uncharacteristically utilized Luther's "structure of vocation" in the Augsburg Confession. Elsewhere Melanchthon spoke more simply of God's commands, without much reference to specific stations in life. Kolb calls attention to the difference in CA XX 37 between the Latin text, which did not speak in terms of vocation, and the German text, which did (Robert Kolb, "God Calling, 'Take Care of My People': Luther's Concept of Vocation in the Augsburg Confession and Its Apology," Concordia Journal 8 [January, 1982]:6-8).

^29CA XX 20-21 (BKS 78; Tappert, 43-44; see Kolb and Wengert, 54-55); Ap IV 204 (BKS, 199; Tappert, 135; see Kolb and Wengert, 151).

^30CA XXVII 57 (BKS, 118; Tappert, 80; see see Kolb and Wengert, 90-91).

^31CA XXVII 36 (Tappert, 76; see Kolb and Wengert, 86-87). "Dann aller Gottesdienst, von dem Menschen ohn Gottes Gebot und Befehl eingesetzt und erwählt, Gerechtigkeit und Gottes Gnad zu erlangen, sei wider Gott und dem heiligen Evangelio und Gottes Befehl entgegen" (BKS, 116).
Holsten Fagerberg aptly characterized the Lutheran Confessions, including the Augsburg Confession and the Apology, as having taken a “middle position” between spontaneity in moral action at one pole and necessity at the other. Fagerberg said the Confessions included both. “The motive power for moral action lies with God the Holy Spirit,” Fagerberg went on, “but since the power of the affections is never broken, we are not perfect (Ap IV 146) but need God’s command — besides the natural law — to obtain enlightenment concerning His will.”

Excursus: The Augsburg Confession and the Apology on the Affections

While Melanchthon did not offer an extended discussion of the affections in the Augsburg Confession or the Apology, the influence of this doctrine was very much in evidence. Its most salient point was the impact of Christian faith upon human affections. First, “without the Holy Spirit man’s powers are full of ungodly affections and are too weak to do works which are good in God’s sight.”

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Carl Maxcey summarized the teaching of the Apology on good works, in overlapping categories, as follows: “1) good works are required of all Christians; 2) good works ought (debeat) to follow faith; 3) works follow the remission of sins, but are not therefore the cause of that remission; 4) works are fitting (oporet), they ought (debeat) to be performed, and they are necessary (necesse esse) for a morally Christian life; 5) we are renewed by justification and thereafter do good works; 6) we are commanded by God to do good works; 7) we are rewarded in and after this life for works performed; 8) works are not a propitiation and are not causally followed by salvation or the remission of sins” (Carl E. Maxcey, Bona Opera: A Study in the Development of the Doctrine in Philip Melanchthon [Nieuwkoop: B. de Graaf, 1980], 65).

33 CA XX 31 (Tappert, 45; see Kolb and Wengert, 56-57). “Nam humanae vires sine spiritu sancto plenae sunt impiis affectibus et sunt imbecilliores, quam ut bona opera possint efficere coram Deo” (BKS, 80).
result, “human nature cannot possibly do the works of the First or Second 
Commandments . . . . when there is no faith and trust in God, all manner of lusts 
and human devices rule in the heart.” 34 These evil affections ruin what seem to be 
good works. “Therefore men really sin even when they do virtuous things without 
the Holy Spirit; for they do them with a wicked heart, and (Rom. 14:23) ‘whatever 
does not proceed from faith is sin’. 35 In short, “In this life we cannot satisfy the 
law, because our unspiritual nature continually brings forth evil desires 
[ffectus] . . . .” 36

Over against any myopic vision that sees only on the plane of civil 
righteousness, blind to evil affections, Melanchthon championed a view including 
“both elements, namely, the inward spiritual impulses and the outward good 
works.” 37 Good affections are possible, he said, but only for the Christian 
“because through faith the Holy Spirit is received, hearts are renewed and

34CA XX 36-38 (Tappert, 46; see Kolb and Wengert, 56-57). “. . . nullo modo 
potest humana natura primi aut secundi praecpti opera facere . . . . Ita regnant in corde 
omnes cupiditates et humana consilia, cum abest fides et fiducia erga Deum” (BKS, 81).

35Ap IV 35 (Tappert, 112; see Kolb and Wengert, 126). “. . . vere peccant 
homines etiam cum honesta opera faciunt sine spiritu sancto, quia faciunt ea impio corde, 
iuxta illud: Quidquid non est ex fide, peccatum est” (BKS, 166).

36Ap IV 146 (Tappert, 127; see Kolb and Wengert, 143). “Nam in hac vita non 
possimus legiatisfacere, quia natura carnalis non desinit malos affectus parere . . .” 
(BKS, 189).

37Ap IV 136 (Tappert, 126; see Kolb and Wengert, 142). “Et complectimur simul 
utrumque, videlicet spirituales monus et externa bona opera” (BKS, 187). See Ap IV 130 
(BKS, 186; Tappert, 125; see Kolb and Wengert, 141) and Ap XVIII 7 (BKS, 312; 
Tappert, 225-226; see Kolb and Wengert, 234).
endowed with new affections as to be able to bring forth good works. Then starts the battle of flesh versus Spirit, of old evil affections against new spiritual impulses, with which Christians live so long as they are in this world.

Law for the Christian

The recognition of God’s command to do good works that are defined in His law amounts to but one way in which the Augsburg Confession and the Apology indicated the law’s presence and impact in the Christian life. At one point, the Apology went so far as to speak of an “eternal” law. Complaining about the opponents who looked only at the second table but ignored the first, Melanchthon wrote that “They utterly overlook that eternal law [aeternam legem], far beyond the senses and understanding of all creatures: ‘You shall love the Lord your God with all your

38CA XX 29 (Tappert, 45; see Kolb and Wengert, 56-57) “quia per fidem accipitur spiritus sanctus, iam corda renovantur et induunt novos affectus, ut parere bona opera possint” (BKS, 80). Compare Ap IV 45 (BKS, 168-169; Tappert, 113; see Kolb and Wengert, 127), 125 (BKS, 185; Tappert, 124; see Kolb and Wengert, 140).

39This point was moved to a different place in the octavo text, but it remained intact (CR 27, 458, note 86; see Kolb and Wengert, 148). Compare Ap IV 169-170 (BKS, 194-195; Tappert, 130).

Grane is critical of “psychologizing” in CA XX. He writes: “When good works are explained by the new ‘affections’ which faith creates in the heart then faith becomes the inner change which demands its outer continuation in the form of works. This moralistic understanding of works easily leads to the actual identification of the ethical with a ‘civil righteousness.’ This is a long way from Luther’s distinction between works of faith and works of the law, which are indistinguishable from each other by any visible marks” (Grane, Augsburg Confession, 204). However, it is also a long way from Melanchthon in the Augsburg Confession and the Apology, too, as indicated by the citations above. Rather than identifying the ethical with outward righteousness, Melanchthon’s doctrine of the affections served as an adjunct to his insistence that works could be outwardly good yet fatally flawed from an ethical standpoint.
heart.' Specifically in this instance, the eternal law is to recognize, honor, and love the eternal God. This highest and most important obligation of the creature, this "law," abides as long as God Himself does.

The Apology spoke in still other ways about the law in the life of the Christian. In addition to the reference to the "eternal law," it contained a brief discussion of the law as an agent of civil discipline. It said far more about the law as accuser (a subject to be treated below). Also, it repeatedly asserted that the law is kept after a person receives faith, adding that the law is to be taught to one who has received faith in Christ.

The law is kept after faith is created. The Apology advised that both in interpreting Bible passages about the law and in preaching it, the first thing to be borne in mind is that "we cannot keep the law unless we have been reborn by faith in Christ, as Christ says (John 15:5), 'Apart from me you can do nothing'.” Melanchthon was

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40 Ap IV 131 (Tappert, 125; see Kolb and Wengert, 141). “Illam aeternam legem et longe positam supra omnium creaturarum sensum atque intellectum: Diliges Dominum Deum tuum ex toto corde, prorsus non considerant” (BKS, 186).

41 The German translation used the word “eternal” at this point in reference to “the Deity itself and the honor of the eternal majesty” (“die Gottheit selbst und die Ehre der ewigen Majestät”BKS, 186). There was no change from the quarto to the octavo Latin texts.

42 The appearance of the idea of eternal law in the Apology renders doubtful Haikola’s attempt to use it as the point of a wedge to drive between Melanchthon and Luther. See Haikola, “Vergleich,” 89-90 and Usus Legis, 101.

43 See Ap IV 22-24 (BKS, 164-165; Tappert, 110; see Kolb and Wengert, 124).

44 Ap IV 256 (Tappert, 144; see Kolb and Wengert, 159). “... lex non possit
warning people not to try to be justified by their good works. On the contrary, he said, only when faith receives reconciliation to God for Christ’s sake can the law be kept at all. For then the Holy Spirit is received and “spiritual impulses” in line with God’s law are produced in the heart.

The Apology included the observation that only the heart set at peace can start to love God, for no one can love an angry God. This kind of statement is as close as the Apology came to psychologizing the origin of good works. In such expressions the Apology was saying more about why the non-Christian cannot do good works than giving reasons why the Christian does them. Melanchthon’s doctrine of the affections, although criticized for its “psychologizing,” basically underscored the origin of good works in Spirit-wrought affections. It did not attempt to specify any mechanism by

\[\text{fieri, nisi fide in Christum renati simus; sicut ait Christus: Sine me nihil potestis facere}^{(BKS, 210).} \text{ See CA XX 36-39 (BKS, 81; Tappert, 46; see Kolb and Wengert, 56-57); Ap IV 184 (BKS, 196; Tappert, 132: see Kolb and Wengert, 149), 269 (BKS, 214; Tappert, 147; there is no direct parallel to this in the octavo text); 372 (BKS, 230; Tappert, 164; in the octavo text, see CR 27, 523, which is translated in Kolb and Wengert, 171).}

\[^{45}\text{See Ap XII 76, 86-87 (BKS, 267, 269; Tappert, 193, 194-195; see Kolb and Wengert, 200, 201-202).}

\[^{46}\text{Ap IV 70 (BKS, 174; Tappert, 116; see Kolb and Wengert, 131-132), 182 (BKS, 196; Tappert, 132); XII 82 (BKS, 268; Tappert, 194; see Kolb and Wengert, 201).}

\[^{47}\text{E.g., “spirituales motus,” Ap IV 125 (BKS, 185). See Ap IV 349: “novos affectus” (BKS, 227). Such statements need to be considered in evaluating the claim that Melanchthon found the motivation for good works in the law itself, i.e., that he tried to motivate Christians to do good works simply because they must be done (see the claim in Bring, Verhältnis, 58-59 and Richter, 377, 378).}

\[^{48}\text{Ap IV 36 (BKS, 167; Tappert, 112; see Kolb and Wengert, 126), 128 (BKS, 185; Tappert, 125; see Kolb and Wengert, 140-141).}
which the Spirit created these affections, but rather affirmed that good works are produced in the lives of Christians through God's miraculous power.\(^{49}\)

In short, the Apology said, "good works must necessarily be done since our incipient keeping of the law must follow faith; but we still give Christ his honor."\(^{50}\) In fact, the keeping of the law should increase in the Christian life.\(^{51}\) Pious consciences should believe "that \textit{quod} they have a reconciled Father because of Christ, not because of our righteousness, and that \textit{et quod} Christ still helps us to keep the law."\(^{52}\) The Apology did not content itself merely to say that after the creation of faith there would result the kinds of thoughts, words, or deeds which generally move in the

\(^{49}\) Grane, "Luther and the Augsburg Confession," said that when Melanchthon described the Holy Spirit as the producer of new affections in the Christian he was in danger of reducing the Spirit to the role of moral educator. Actually, however, Melanchthon was drawing attention to the Spirit's work as a miraculous gift when he mentioned the Spirit's creation of new affections.

\(^{50}\) Ap IV 214 (Tappert, 136). "Nos igitur etsi sentimus ac docemus, bona opera necessario facienda esse (debet enim sequi fidem inchoata legis impletio), tamen Christo suum honorem reddimus" (BKS, 201). Whether \textit{debet} denotes natural causality or command in this case, the point about the keeping of the law following faith remains clear. Paragraphs 213-217 were not included in the octavo text.

\(^{51}\) Ap IV 124 (BKS, 185; Tappert, 124; see Kolb and Wengert, 140), 136 (BKS, 187; Tappert, 126; see Kolb and Wengert, 142); XX 15 (BKS, 316; Tappert, 229; see Kolb and Wengert, 237). The fact that this emphasis appears in the Apology, which was attaining status as a church confession already during Luther's lifetime, makes problematic the efforts of scholars to set Luther against a "law-centered" Melanchthon. See the contentions of Bring, \textit{Verhältnis}, 159, 160; Wengert, \textit{Law and Gospel}, 189.

\(^{52}\) Ap IV 299 (translation altered from that in Tappert, 153). "... quod propter Christum habeant placatum patrem, non propter nostras iustitias, et quod Christus adiuvet tamen, ut facere etiam legem possimus" (BKS, 219). Paragraphs 285-303 were omitted from the octavo text.
direction of love for God and the neighbor as mapped out by the law. It spoke specifically of keeping the *law*.53

Not only did the Apology indicate that believers in Christ keep the law; it also said that the law was to be taught to Christians, namely, to those who have faith in Christ: "... we call upon devout minds to consider the promises, and we teach them about the free forgiveness of sins and the reconciliation that comes through faith in Christ. Later we *add the teaching of the law.*"54 The octavo text extended this sentence further: "not that we merit the forgiveness of sins by the law or because we are considered as righteous on account of the law and not on account of Christ, but because God requires good works. For it is right prudently to distinguish properly the law and the promises."55 The requirement of good works and their definition was a matter of law, not gospel or promise. These two teachings had to be clearly distinguished. Good works were acceptable to God because those who did them had

53See the above references, plus the quarto text which spoke of the "keeping of the law that follows faith" (Ap IV 366; Tappert, 163). "... impletio legis, quae sequitur fidem" (BKS, 229). With the work of Althaus and Joest in mind, it should be observed that here and elsewhere the Apology used the nomenclature that what is kept after faith in Christ is the *law*, not "command."

54Ap IV 188 (Tappert, 133, emphasis added). "Proinde nos revocamus pias mentes ad considerandas promissiones, et de gratuita remissione peccatorum et reconciliatione, quae fit per fidem in Christum, docemus. Postea addimus et doctrinam legis" (BKS, 197).

55 "... non quod lege mereamur remissionem peccatorum, aut propter legem iusti reputemur, non propter Christum, sed quia Deus requirit bona opera. Oportet enim prudenter orthotomein legem et promissiones" (CR 27, 460, note 97; see Kolb and Wengert, 150). Despite the preferred positions of Althaus (*Divine Command*, 29) and Bring, ("Gesetz und Evangelium," 96), in the Apology the gospel did not include demands.
received the righteousness of Christ in faith, not because they satisfied the law with their works.

This was not the only instance in which the Apology said that Christians are taught good works from the law after they hear the Gospel. The article on the mass noted that pastors console consciences with the message of forgiveness in Christ, and they add “the teaching of the good works which God commands.”

That the law should be taught to Christians after the Gospel stands out as a most significant statement in view of the Apology’s repeated assertion that the law always accuses (see below). For in asserting that the law was to be taught to Christians the Apology was hardly going back on the basic rhetorical strategy that informed article IV on justification from its beginning. Melanchthon had set up the status controversiae by sketching alternative answers to the question “How is a person justified?” He outlined the two chief doctrines of Scripture, designated as the law and the promise, and pointed out that “Of these two doctrines our opponents select the law and by it they seek forgiveness of sins and justification.” Melanchthon’s argument was that justification was not by the law, but rather took place through the promise and was

\[\text{\textsuperscript{56}Ap XXIV 48 (Tappert, 258; see Kolb and Wengert, 267). \textit{Additur et doctrina bonorum operum, quae Deus praecipit} (BKS, 363). As an object of the teaching, the German translation inserts: \textit{the ten commandments and.} \textit{Auch so lehren sie die zehen Gebot und von rechtschaffen guten Werken, welche Gott geboten hat . . . } (BKS, 363). This insertion did not occur in the octavo version of the Apology. Compare Ap XII 174: \textit{qui sint boni fructus, docent mandata} (BKS, 290).\]

\[\text{\textsuperscript{57}Ap IV 7 (Tappert, 108; see Kolb and Wengert, 121). \textit{Ex his adversarii sumunt legem . . . et per legem quarerunt remissionem peccatorum et iustificationem} (BKS, 160).}\]
received by faith.\textsuperscript{58} Any teaching of the law that might be added after the Gospel, then, was certainly not for the sake of justification. The need for justification before God was answered in Christ. Insofar as that need was addressed, the Christian could receive further instruction in the law for the sake of guidance, doing so without threat or curse.\textsuperscript{59}

Two subsidiary themes in the Apology should not be omitted from this discussion, for they also show the law as a factor in the Christian life. One is that the failure to love can offend the Holy Spirit and cause a Christian to lose the Spirit and thus to fall from faith.\textsuperscript{60} The octavo text said simply, “when love is lost, the Holy Spirit is lost.”\textsuperscript{61} For faith “does not remain in those who obey their lusts, nor does it exist together with mortal sin.”\textsuperscript{62} The law plays its role in teaching a believer what the fruits of penitence are. Still, the Apology maintained that these fruits were “not to buy off eternal punishment.”\textsuperscript{63} The quarto text said that as the apostle Paul wrote of the

\begin{itemize}
\item \textsuperscript{59}It is therefore difficult to see how Ebeling could suggest that Melanchthon came to view the law as an agency of salvation. See Ebeling, “\textit{Triplex Usus Legis},” 62-64.
\item \textsuperscript{60}See Ap IV 219-220 (BKS, 201-202; Tappert, 137; see Kolb and Wengert, 153); XII 174 (BKS, 290; Tappert, 210; see Kolb and Wengert, 217-218); XX 13 (BKS, 316; Tappert, 228; see Kolb and Wengert, 237).
\item \textsuperscript{61}“... amissa dilectione, amitti spiritum sanctum” (CR 27, 485, note 33; see Kolb and Wengert, 154).
\item \textsuperscript{62}Ap IV 144 (Tappert, 127; see Kolb and Wengert, 142-143). “... [fides] non manet in his, qui obtemperant cupiditatibus, non existit cum mortali peccato” (BKS, 188).
\item \textsuperscript{63}Ap XII 174 (Tappert, 210; see Kolb and Wengert, 217-218). “non propter compensationem poenae aeternae”(BKS, 290).
\end{itemize}
necessity of love in 1 Cor. 13:2, he was not treating the mode of justification. Rather, he was addressing himself to those who were already justified.  

The other subsidiary theme was that the works performed by Christians according to God's law merit rewards. The Apology said that "though justification and eternal life belong to faith, still good works merit other rewards, both bodily and spiritual [corporalia et spiritualia], in various degrees." This theme indicated yet again that the law had a place in the life of the Christian. "The keeping of the law that follows faith deals with the law, in which a reward is offered and owed, not gratis but for our works. Those who merit this are justified before they keep the law."  

Failure to keep the law  

The Apology fostered no illusions either about the law's demands or the ability of sinners to fulfill them. The perfect law of the holy God requires not only works but

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64 Ap IV 220 (BKS, 201-202; Tappert, 137).

65 Noting the presence of this theme in the Apology, Karl Thieme indicated that it was the first highly important work in which Melanchthon called attention to the prospect of meritizing "other rewards" through good works (Karl Thieme, Der Geist der lutherischen Ethik in Melanchthons Apologie [1531-1931] [Giessen: Alfred Töpelmann, 1931], 8).

66 Ap IV 366 (Tappert, 163). "... etsi iustificatio et vita aeterna ad fidem pertinent, tamen bona opera mereantur alia praemia corporalia et spiritualia et gradus praemiorum ... Sed impletio legis, quae sequitur fidem, versatur circa legem, in qua non gratis, sed pro nostris operibus offeritur et debetur merces. Sed qui hanc merentur, prius iustificati sunt, quam legem faciunt" (BKS, 229). In the octavo text this material is somewhat rearranged and is found in CR 27, 523 (see Kolb and Wengert, 171).

See Ap IV 194 (BKS, 198; Tappert, 133). Paragraphs 189-200 were omitted from the octavo text.
also perfection, said the Apology, but sinful human beings do not keep the law.\textsuperscript{67} The quarto text said that “we are not justified by the law because human nature cannot keep the law of God nor love God.”\textsuperscript{68} Moreover, “It is the height of wickedness to believe that they [our opponents] satisfy the Ten Commandments in such a way that there are merits left over, when these commandments accuse all the saints” of failing to be and do what they should.\textsuperscript{69}

It is noteworthy that keeping the law constituted righteousness according to the Apology. Discussing the role of love in salvation, Melanchthon raised the rhetorical question: “Since we also grant that love is the work of the Holy Spirit and since it is righteousness because it is the keeping of the law, why do we deny that it justifies?”\textsuperscript{70} While he denied that love justifies the sinner, Melanchthon did not shrink from saying in

\textsuperscript{67} Ap IV 44, 42 (BKS, 168; Tappert, 113; see Kolb and Wengert, 127); Ap IV 140 (BKS, 187-188; Tappert, 126; see Kolb and Wengert, 142).

See also Ap IV 164, in which the quarto text said simply, “we never satisfy the law” (Tappert, 129). “. . . cum numquam legi satisfaciamus” (BKS, 193). The octavo text moved this material somewhat later in the article. It said: “For the law always accuses since we never satisfy the law.” “Lex enim semper accusat, cum legi numquam satisfaciamus” (CR 27, 458, note 86; see Kolb and Wengert, 148). A similar case is presented by Ap IV 308, where the octavo text rearranged material from the quarto but retained the statement: “Nequi enim legi satisfacimus” (compare BKS, 220 with CR 27, 519; see Kolb and Wengert, 166).

\textsuperscript{68} Ap IV 297 (Tappert, 152). “... non iustificemur ex lege, quia legem Dei humana natura non potest facere, non potest Deum diligere” (BKS, 218). See Ap IV 166-67 (BKS, 194; Tappert, 130).

\textsuperscript{69} Ap XXVII 25 (Tappert, 273; see Kolb and Wengert, 281). “Extrema enim impietas est sentire, quod Decalogo ita satisfaciant, ut supersint merita, cum haec praecepta omnes sanctos accusent” (BKS, 385).

\textsuperscript{70} Ap IV 147 (Tappert, 127; see Kolb and Wengert, 143). “Cum et nos fateamur dilectionem esse opus spiritus sancti, cumque sit iustitia, quia est impletio legis, cur non doceamus, quod iustificet” (BKS, 189).
principle that the keeping of the law is righteousness. A few paragraphs later, he
returned to this subject and declared that the opponents “are right when they say that
love is the keeping of the law.”\footnote{1} The quarto text added that “obedience to the law
certainly is righteousness.”\footnote{2} The octavo said, “obedience to the law would be
righteousness if we kept the law.”\footnote{3} The German translation put it this way: “therefore
it would be true that love justifies us if we would keep the law.”\footnote{4} The quarto text
went on to say that “When this keeping of the law and obedience to the law is perfect,
it is indeed righteousness,” nonetheless the fact remains that “in us it is weak and
impure. Therefore it does not please God for its own sake, and it is not acceptable for
its own sake.”\footnote{5} The octavo text said,

\footnote{1}{In the section of Apology IV “Love and the Keeping of the Law,” Melanchthon
first explained the Lutheran understanding that faith brings forth love (paragraphs 122-158).
In paragraph 159 he turned to answering the objection of his opponents to which he had
alluded in paragraphs 122 and 147, namely, why the love produced by faith does not
justify. See Arand, “Melanchthon’s Rhetorical Argument,” 298.}

\footnote{2}{Ap IV 159 (Tappert, 129). “Recte cogitant adversarii dilectionem esse legis
impletionem et obedientia erga legem certe est iustitia . . . .” (BKS, 192).}

\footnote{3}{“obedientia erga legem esse justicia, si legem faceremus” (CR 27, 453, n. 79; see
Kolb and Wengert, 145).}

\footnote{4}{. . . darum ware es wohl wahr, dass die Liebe uns gerecht macht, wenn wir das
Gesetz hielten” (BKS, 192).}

\footnote{5}{Ap IV 160 (Tappert, 129). “Deinde illa legis impletiue seu obedientia erga
legem est quidem iustitia, cum est integra, sed in nobis est exigua et immunda. Ideo non
placet propter se ipsam, non est accepta propter se ipsam” (BKS, 129). Compare Ap IV
31: “. . . if we must be born again through the Holy Spirit, then the righteousness of
reason does not justify us before God, it does not keep the law” (Tappert, 111, emphasis
added; see Kolb and Wengert, 125). “Quodsi opus est renasci per spiritum sanctum,
justitia rationis non justificat nos coram Deo, non facit legem” (BKS, 166). The
implication is that what keeps the law justifies people before God. Similarly, Luther’s

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However, up to this point we have shown that the promises have been given precisely because we are not able to keep the law. Therefore Paul denies that we are justified by the law. The opponents err because in this entire controversy they consider nothing but the law. For human reason is unable to reach any other conclusion than that righteousness must be sought from the law, because obedience to the law is righteousness. But the gospel calls us back from the law to the promises and it teaches that we are not regarded as righteous on account of obedience to the law. For we do not satisfy the law...

With these words the octavo text was recalling the thesis stated at the beginning of article IV: that the opponents sought forgiveness and justification by the law rather than by the promise of Christ.

In short, the Apology held that Christians fail to keep the law just as unbelievers do. It said that justification is not only the beginning but that it also continues throughout the Christian life. Thus, Christ does not cease to be the mediator between God and sinful man. Only on account of Christ do Christians “have a gracious God in

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Large Catechism said, “If we could by our own strength keep the Ten Commandments as they ought to be kept, we would need neither the Creed nor the Lord’s Prayer” (LC II 3 [Tappert, 411; see Kolb and Wengert, 431]). “Denn so wir künnten aus eigenen Krâften die zehen Gepot halten, wie sie zu halten sind, dürften wir nichts weiter, wider Glauben noch Vaterunser” (BKS, 646).


See Ap IV 5-16 (Tappert, 108-109; Kolb and Wengert, 121-122).

Ap IV 161-162 (BKS, 192; Tappert, 129).
spite of our unworthiness.” For their good works do not please God. Christians cannot secure peace of conscience in their works “because they cannot find a work pure enough.” Believers are far from the perfection that the law demands. The Apology therefore offered a caution about Paul’s saying, “we uphold the law” (Rom. 3:31). It warned that these words “should not be taken to mean only that those who have been regenerated by faith receive the Holy Spirit and that their impulses [motus] agree with God's law. Even more important, it must be added that we should realize how far we are from the perfection of the law.”

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80 Ap IV 172 (Tappert, 131; BKS, 195). The octavo text said: “nec opera ipsa per se digne esse” (CR 27, 457, note 86; see Kolb and Wengert, 146).

81 Ap IV 204 (translation altered from that in Tappert, 135; see Kolb and Wengert, 151). “... nullum opus satis munatum inveniunt” (BKS, 199). Somewhat later, the quarto text added that the works of Christians are “a long way from the perfection of the law” (Ap IV 293; Tappert, 152). “Haec opera etsi adhuc a perfectione legis procul absint ...” (BKS, 218). They “take place in a flesh that is partly unregenerate and hinders what the Holy Spirit motivates, fouling it with its impurity” (Ap IV 189; Tappert, 133). “... quae quamquam fiunt in carne nondum prorsus renovata, quae retardat motus spiritus sancti et aspergit aliquid de sua immunditie” (BKS, 197).

82 Ap IV 179 (BKS, 196; Tappert, 131). The octavo text says that the death and satisfaction of Christ help us realize “that we have a gracious God on account of his satisfaction, not on account of our fulfilling the law.” “... mors et satisfactio Christi nobis donata, ut statuamus nos porpter illam satisfactionem habere propicium Deum, non propter nostram impletionem legis” (CR 27, 456, n. 86; see Kolb and Wengert, 146).

83 Ap IV 175 (Tappert, 131; see Kolb and Wengert, 146). “... non solum hoc intelligi oportet, quod fide reni concipiant spiritum sanctum, et habeant motus consentientes legi Dei, sed multo maxime refert et hoc addere, quod sentire nos oportet, quod procul a perfectione legis absimus” (BKS, 195).
The Apology at length returned to quote the only Bible passage directly cited in article VI of the Augsburg Confession, Luke 17:10: “When you have done all these things, say, ‘We are unprofitable servants’.” The Confession had offered this passage in support of its assertion that Christians should not “rely on such works to merit justification before God, for forgiveness of sins and justification are apprehended by faith.”[^84] The Apology countered the opponents’ argument from analogy that one is also unworthy despite having believed everything, and it concluded its discussion of this passage by dismissing their further claim that works are worthless to God but worth something to people. It said, “‘unworthy servants’ means ‘insufficient servants,’ since no one fears, loves, or trusts God as he ought.”[^85] Instead of taking Luke 17:10 as stating a general principle about works, good or bad, the Apology described it as one more indication that even Christians fail to keep the law as they should.

In the Apology Melanchthon made the same point about sin and failure to keep the law, also on the part of Christians, by way of conditional sentences. For example, he wrote: “If the forgiveness of sins depended upon our merits and if reconciliation were by the law, it would be useless.”[^86] The implication is that, happily, human merits

[^84]: CA VI 2 (Tappert, 32; see Kolb and Wengert, 41). “. . . non ut confidamus per ea opera justificationem coram Deo mereri. Nam remissio peccatorum et iustificatio fide apprehenditur . . . .” (BKS, 60).

[^85]: Ap IV 342 (Tappert, 160; see Kolb and Wengert, 169). “Nam servi inutiles significant insufficientes, quia nemo tantum timet, tantum diliget Deum, tantum credit Deo, quantum oportuit” (BKS, 226).

[^86]: Ap IV 42 (Tappert, 113; see Kolb and Wengert, 127). “Quodsi ex nostris meritis penderet remissio peccatorum et reconcilatio esset ex lege, esset inutilis” (BKS, 168).
are not the factor on which forgiveness of sins depends, for they are inadequate to
deserve such forgiveness. It is also good that Christ, not the law that sinners fail to
keep, is the great Reconciler. In a mixed condition, Melanchthon also wrote: “If the
forgiveness of sins is conditional \( \text{pendet} \) upon our works, it will be \( \text{erit} \) completely
unsure and the promise will be \( \text{Erit} \) abolished.” In reality, of course, the works are
not up to the task and the promise is therefore vital.

A most fascinating statement is: “For if the forgiveness of sins and
reconciliation do not come freely for Christ's sake, but for the sake of our love, nobody
will have the forgiveness of sins unless he keeps the whole law . . .” Yet a person
who keeps the whole law has no sin to forgive. So, the Apology was saying, the only
one who can get forgiveness of sins through love would be someone who does not
need it in the first place! Here was an indication of the absurdity of thinking that
human love and keeping of the law would succeed in this sinful world.

But these conditional statements constituted no theoretical exercise.
Melanchthon asked, “If a conscience believes that it ought to be pleasing to God
because of its own work and not because of Christ, how will it have peace without

\[87\] Ap IV 187 (translation altered from that of Tappert, 133). “Si pendet ex
conditione operum nostrorum remissio peccatorum, prorsus erit incerta. Erit igitur abolita
promissio (BKS, 197). The octavo text added: “Numquam enim facimus opera
sufficientia” (CR 27, 460, note 96; see Kolb and Wengert, 150).

\[88\] Ap IV 157 (Tappert, 128; see Kolb and Wengert, 145). “Quodsi remissio
peccatorum et reconciliatio non contingit gratis propter Christum, sed propter nostram
dilectionem, nemo habiturus est remissionem peccatorum, nisi ubi totam legem fecerit”
(BKS, 191).
faith?" He wanted his opponents to grant "that the fruits [of faith] . . . in themselves are not worthy of grace and eternal life." Quoting Ambrose, Melanchthon had already noted that "by the commandment of the law all are accused and by the works of the law none is justified, that is, by the law sin is recognized but its guilt is not relieved." 

The octavo text raised and answered a similar question: "If we must believe that Christ only merited a first grace, as they call it, after which we are accepted by our fulfillment of the law and merit eternal life, when will consciences find peace? . . . For they will always doubt whether the law has been sufficiently satisfied — indeed, they will understand that [it] has not been satisfied. Accordingly, they will never be sure that they have a gracious God, or that they are heard [by God]." "Si senciendum est quod Christus tantum primam gratiam, ut vocant, meruerit, postea nos simus accepti nostra impletione legis, et mereamur vitam aeternam, quando erunt conscientiae pacatae? . . . Semper enim dubitatun, Utrum legi satis factum sit, imo intelligent non esse satisfactum. Ideo numquam statuent se habere Deum propicium, se exaudiri" (CR 27, 519-520; see Kolb and Wengert, 166).

In a comparable section of the octavo text, Melanchthon raised the historical example of the ancient martyr bishop St. Laurence: "On the gridiron, did Laurence feel that he satisfied the law of God by this work, [or] that he was without sin, [or] that he did not need Christ the mediator or God’s mercy? Quite the contrary, he thought no differently than the prophet who says, ‘Do not enter into judgment with your servant, for no one living is righteous before you’ [Ps. 143:2].” “An Laurentius in craticula sentiebat se hoc opere legi Dei satisfacere, se sine peccato esse, se non indigere mediatore Christo, et misericordia Dei. Ille vero non dissensit a Propheta, qui ait. Non intres in judicium cum servo tuo, quia non iustificabitur coram te omnis vivens (CR 27, 523; see Kolb and Wengert, 172).

" . . . quod fructus . . . non sint per sese digni gratia et vita aeterna" (BKS, 230).

In a comparable section of the octavo text, Melanchthon raised the historical example of the ancient martyr bishop St. Laurence: "On the gridiron, did Laurence feel that he satisfied the law of God by this work, [or] that he was without sin, [or] that he did not need Christ the mediator or God’s mercy? Quite the contrary, he thought no differently than the prophet who says, ‘Do not enter into judgment with your servant, for no one living is righteous before you’ [Ps. 143:2].” “An Laurentius in craticula sentiebat se hoc opere legi Dei satisfacere, se sine peccato esse, se non indigere mediatore Christo, et misericordia Dei. Ille vero non dissensit a Propheta, qui ait. Non intres in judicium cum servo tuo, quia non iustificabitur coram te omnis vivens (CR 27, 523; see Kolb and Wengert, 172).

" . . . quia ex praescripto legis omnes conveniuntur et ex operibus legis nemo iustificatur; id est, quia per legem peccatum cognoscitur, sed culpa non relaxatur" (BKS, 181).
The Law's Accusation

Again and again the Apology declared that the law always accuses, *lex semper accusat*. Occasionally these expressions can seem absolute, especially if they are considered in isolation. For instance, Melanchthon commented on Paul's dictum that "The law brings wrath" (Rom. 4:15), adding that Paul did not say people merit forgiveness of sins by the law. "For the law always accuses and terrifies consciences. It does not justify, because a conscience terrified by the law flees before God's judgment." That the law accuses comes through very clearly in this statement, but no reason is given for the accusation. Similarly, the Apology added, "Then, too, how can the human heart love God while it knows that in his terrible wrath he is overwhelming us with temporal and eternal calamities? The law always accuses us, it always shows that God is wrathful." It would be thinkable to conclude, simply from declarations like this, that the law accuses because it is in the nature of the case for the law to do so. In such a case, it would be impossible to find a positive function of the law.

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92 Ap IV 38 (Tappert, 112; see Kolb and Wengert, 126). "Lex enim semper accusat conscientias et perterrefacit. Non igitur iustificat, quia conscientia perterrefacta lege fugit iudicium Dei" (BKS, 167).


94 This kind of thinking was characteristic of Elert. Fagerberg noted that "To the degree that the Law not only does the work of condemnation but is also identified with the condemnation, there seems to be no room left for a positive function. As accuser, it is instead something which must be overcome" (Fagerberg, 80).
At a few other points there is but a hint about the reason for the law's accusation. One of these was treated at the end of the last section above. Its references to sin and guilt (“by the law sin is recognized but its guilt is not relieved”) are the only clues provided in the immediate context to account for the law's accusation. Even more subdued is the reason for the law's accusation given in these words: “Thus in the preaching of penitence it is not enough to preach the law, the Word that convicts of sin. For the law works wrath; it only accuses, it only terrifies consciences. Consciences cannot find peace unless they hear the voice of God, clearly promising the forgiveness of sins. Therefore it is necessary to add the Gospel promise, that for Christ’s sake sins are forgiven and that by faith in Christ we obtain the forgiveness of sins.” Here the mention of “sins” whispers the reason why the law accuses.

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95 Ap IV 103 (Tappert, 121 see Kolb and Wengert, 137). “... per legem peccatum cognoscitur, sed culpa non relaxatur” (BKS, 181).

96 Ap IV 257 (Tappert, 144). “Sic in praedicatione poenitentiae non sufficit praedicatio legis seu verbum arguens peccata, quia lex iram operatur, tantum accusat, tantum terret conscientias, quia conscientiae nunquam acquiescunt, nisi audiant vocem Dei, in qua clare promittitum remissio peccatorum. Ideo necesse est addi evangelium, quod propter Christum peccata remittantur et quod fide in Christum consequamur remissionem peccatorum” (BKS, 210-211). See Ap IV 260 (BKS, 211; Tappert, 145), 285 (BKS, 217; Tappert, 150), neither of which has a parallel in the octavo text.

The octavo text is similar: “For it is most certain that in the preaching of repentance, the proclamation of the law, which only terrorizes and condemns consciences, is not enough. It is also necessary to add the gospel, namely, that sins are freely remitted on account of Christ and that we receive the forgiveness of sins by faith.” “Certissimum est autem in praedicatione poenitentiae, non sufficere praedicationem legis, quae tantum terret et condemnat conscientias, Sed necesse est accedere Evangelium quod peccata gratis remittantur propter Christum, et quod fide consequamur remissionem peccatorum” (CR 27, 516; see Kolb and Wengert, 160).
But what is whispered in some places is stated with all due emphasis elsewhere. References to human sin and failure to keep the law are often found in immediate contexts together with the phrase “the law always accuses” in the Apology, e.g., “For the law will always accuse us because we never satisfy the law of God.” Sinners desperate for peace of conscience “pile up works and ultimately despair because they cannot find works pure enough. The law always accuses them and brings forth wrath.” Such a conscience “feels God’s wrath against sin, unknown to men who walk in carnal security. It sees the foulness of sin and is genuinely sorry that it has sinned; at the same time it flees God’s horrible wrath . . . For the law only accuses and terrifies the conscience.” The law “shows God’s wrath against sin.”

97Ap XII 88 (Tappert, 195, emphasis added; see Kolb and Wengert, 202). “Semper enim accusabit nos lex, quia nunquam legi Dei satisfacimus” (BKS, 270).

98Ap IV 204 (Tappert, 135, emphasis added; see Kolb and Wengert, 151). “. . . cumulantes tandem desperant, quia nullum opus satis mundum inveniunt” (BKS, 199). See Ap XXVII 25 (BKS, 385; Tappert, 273; see Kolb and Wengert, 281).

99Ap XII 32-34 (Tappert, 186, emphasis added; see Kolb and Wengert, 192). “In his terroribus sentit conscientia iram Dei adversus peccatum, quae est ignota securis hominibus secundum carnem ambulantibus. Videt peccati turpitudinem et serio dolet se peccasse; etiam fugit interim horribilem iram Dei . . . Lex enim tantum accusat et terret conscientias” (BKS, 257).

Later in this paragraph, the Apology asked rhetorically, “Yet how will men love God amid such real terrors when they feel the terrible and indescribable [horribilem et inexplicabilem] wrath of God?” “At quomodo diligent Deum homines in veris terroribus, cum sentiant horribilem et inexplicabilem humana voce iram Dei”? (BKS, 258). Elert took this to be a declaration that the wrath of God cannot be understood in terms of human concepts of justice (Elert, Structure, 40). But while Elert thought the Apology was saying that the inexplicable thing about God’s wrath was the reason for it, it seems that at this point the Apology was really noting how the wrath is terrible beyond description. The German translation confirms this interpretation of the Latin original. It spoke of being in high and great fear and unspeakable struggle (“Kampf”), of feeling with ever-greater intensity God’s dreadful severity and wrath (“Ernst und Zorn”) of which no one on earth can speak (“denn kein Mensch auf Erden nachsagen oder reden kann,” BKS 258).
another place, the Apology said that “the law always accuses us, even in good works,” and it gave the reason in the next sentence: “The \textit{flesh} always \textit{lusts against the Spirit} (Gal. 5:17).”\textsuperscript{101} God’s wrath and the accusation brought by His law have sin and sinners as their target, including the sin and the “old Adam” of the Christian in this world.

Occasionally the quarto text accounted for the law’s accusation in a more detailed way. For example, it acknowledged a “promise of the law,” namely, that the law offers good things to those who keep it. So the Lord said in Exodus 20:6:

“Showing steadfast love to thousands of those who love me and keep my commandments.” “But,” the quarto continued, “without Christ \textit{this law is not kept}. It always accuses the conscience, which \textit{does not satisfy the law} and therefore flees in

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Similarly, Melanchthon wrote in his \textit{Loci} of 1543, “the wrath of God against sin is real and beyond measure.” “... veram et incomprehensibilem esse iram Dei adversus peccatum” (Preus, 59; CR 21, 689; St.A. 2/1, 284).
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\textsuperscript{100}Ap IV 79 (Tappert, 118, emphasis added; see Kolb and Wengert, 133). “... ostendit iram Dei adversus peccatum” (BKS, 176). See Ap IV 34 (BKS, 166; Tappert, 111-112; see Kolb and Wengert, 125-126).

\textsuperscript{101}Ap IV 319 (Tappert, 156, emphasis added). “... lex semper accusat nos etiam in bonis operibus. Semper enim caro concupiscit adversus Spiritum” (BKS, 221). The octavo text made this point about the law’s accusation less in terms of the Spirit versus the flesh and more in terms of the inability of Christians to fulfill the law after an “initial grace,” as the opponents put it: “If we must believe that Christ only merited a ‘first grace,’ as they call it, and that afterwards we are accepted by our fulfillment of the law and merit eternal life, when will consciences find peace? When will they determine that they have a gracious God? For the law always accuses us, as Paul says [Rom. 4:15], ‘the law brings wrath.’ “Si senciendum est quod Christus tantum primam gratiam, ut vocant, meruerit, postea nos simus accepti nostra impletione legis, et mereamur vitam aeternam, quando erunt conscientiae pacatae? quando statuent, quod habeant Deum propicium? Lex enim semper accusat nos, ut Paulus ait, Lex iram operatur” (CR 27, 519-520; see Kolb and Wengert, 166).
terror before the judgment and punishment of the law, ‘for the law brings wrath’ (Rom. 4:15).”\textsuperscript{102} While the dimensions of its accusation are vast, profound, and unpredictable by human standards, it was clear in the Apology why the law accuses. The law accuses those who do not keep it.

Above, this \textit{reductio ad absurdum} was noted: “For if the forgiveness of sins and reconciliation do not come freely for Christ’s sake, but for the sake of our love, nobody will have the forgiveness of sins unless he keeps the whole law.” That is, no one will be forgiven unless he has nothing to forgive. But the next few words of this paragraph should also be carefully noted, in context: “because the law does not justify so long as it can accuse us.”\textsuperscript{103} Someone who keeps the whole law, if that were possible, would not be accused.

Citing the proclamation of Scripture and the church, the Apology maintained that “the law cannot be satisfied.” It added: “The incipient keeping of the law does not please God for its own sake, but for the sake of faith in Christ. \textit{Otherwise}, the law always accuses us.”\textsuperscript{104} The incipient keeping of the law is indeed imperfect and

\textsuperscript{102}Ap IV 270 (Tappert, 147, emphasis added). “Sed haec lex non fit sine Christo. Semper enim accusat conscientiam, quae legi non satisfacit, quare territa fugit iudicium et poenam legis. Lex enim operatur iram” (BKS, 214). See Ap IV 160-161 (BKS, 192; Tappert, 129). These paragraphs in the quarto version have no corresponding text in the octavo.

\textsuperscript{103}Ap IV 157 (Tappert, 128-129; see Kolb and Wengert, 145). “Quodsi remissio peccatorum et reconciliatio non contingit gratis propter Christum, sed propter nostram dilectionem, nemo habiturus est remissionem peccatorum, nisi ubi totam legem fecerit quia lex non iustificat, donec nos accusare potest” (BKS, 191). The German translation added at this point that no one can boast of having satisfied the law (BKS, 191).

\textsuperscript{104}Ap IV 166-167 (translation altered from that in Tappert, 130, with emphasis
damnable when judged by the perfect and holy law. Its imperfection was shown by a set of questions that followed: "Who loves or fears God enough?", etc.\footnote{Ap IV 167 (Tappert, 130). "Quis enim satis diligit, aut satis timet Deum?" (BKS, 194). The questions appear in the octavo as well (CR 27, 458, note 86; see Kolb and Wengert, 148).}

Nonetheless, the Christian’s keeping of the law — incipient though it is and remains in this life — pleases God for the sake of Christ.

**The work of Christ**

The Apology did not explicitly describe Christ’s atonement in terms of His keeping God’s law and suffering its condemnation, as the Formula of Concord did. The most common ways of expressing the atonement in the Augsburg Confession and the Apology consisted in indications that Christ made satisfaction, that Christ was the propitiator or the propitiation for sin, or that Christ was the mediator between God and sinners.\footnote{See Ken Schurb, “Does the Lutheran Confessions’ Emphasis on Subjective Justification Mitigate their Teaching of Objective Justification?” (M.Div. thesis, Concordia Theological Seminary, Ft. Wayne, Indiana, 1982), 1-14 for a discussion of the teaching on added). “. . . legi non satisfieri. Non igitur placet illa inchoata legis impletiio propter se ipsam, sed propter fidem in Christum. Alioqui lex semper accusat nos” (BKS, 194). The corresponding octavo text said: “. . . if we had to believe that after our renewal we must become acceptable not by faith on account of Christ but on account of our keeping of the law, our conscience would never find rest. Instead, it would be driven to despair. For the law always accuses since we never satisfy the law.” “Si sentiendum esset, quod post renovationem oporteat nos acceptos fieri, non fide propter Christum, sed propter nostram impletionem legis, nunquam acquiesceret conscientia, sed ad desperationem adigeretur. Lex enim semper accusat, cum legi nunquam satisfaciamus” (CR 27, 458, note 86; see Kolb and Wengert, 148).} The relationship between the law and the atonement remained, for the most part, implicit in these expressions.
But there were also discussions of Christ’s merits such as the one in which Melanchthon criticized the way the world looks upon its own merits, that is, under the delusion that all works are “a propitiation by which God is appeased and a price because of which we are accounted righteous.” When such works fail to pacify the conscience, the Apology continued, people “choose other works, make up new devotions, new vows, and new monastic orders beyond God’s commandment in the hope of finding some great work that they can set against the wrath and judgment of God.” Finally, this section concluded, “To credit our works with being a propitiation and to claim that they merit the forgiveness of sins and grace and that we are accounted righteous before God because of them rather than because of Christ by faith — what is this but to rob Christ of his honor as mediator and propitiator?” The implication was that Christ’s works propitiate God, that they merit forgiveness of sins and grace, and that Christians are accounted righteous because of them. Christ’s keeping of the law together with his suffering and death formed the basis for the sinner’s justification.

the atonement in the Lutheran Confessions, including references and frequency counts of the various motifs used to explicate the atonement in the confessional writings.

107 Ap IV 212-213 (Tappert, 136). “Sic de omnibus operibus iudicat mundus, quod sint propitiatio, qua placatur Deus, quod sint pretia, propter quae reputamur iusti . . . [homines] eliguntur subinde alia, fiunt novi cultus, nova vota, novi monachatus praeter mandatum Dei, ut aliquod magnum opus quaeratur, quod possit opponi irae et iudicio Dei . . . At haec tribuere operibus nostris, quod sint propitiatio, quod mereantur remissionem peccatorum et gratiam, quod propter ea iusti coram Deo reputemur, non fide propter Christum propitiatorem, quid hoc aliud est, quam Christo detrahere honorem mediatoris et propitiatoris?” (BKS, 201).

108 In the octavo version, Melanchthon streamlined the argument of paragraphs 211-217, shortening it considerably and connecting it back to a basic theme of article IV: that people naturally gravitate to works since they do not understand the righteousness of faith. But he left

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In a later section Melanchthon was still more direct. Here he defined the verb “to justify” in Romans 5:1 forensically.$^{109}$ It meant “to absolve a guilty man and pronounce him righteous,” and to do so on account of someone else’s righteousness, namely, Christ’s, which is communicated to us through faith.” Thus, “in this passage our righteousness is the imputation of someone else’s righteousness.”$^{110}$

The discussion of Christ as propitiator in Ap XXI is identical in the quarto and the octavo texts. Melanchthon wrote that a propitiator’s merits must be authorized to make satisfaction for others and to be bestowed on them by divine imputation, so that through them we may be accounted righteous as though the merits were our own. If one pays a debt for one’s friend, the debtor is freed by the merit of another as though it were his own. Thus the merits of Christ are bestowed on us so that when we believe in him we are accounted righteous by our trust in Christ’s merits as though we had merits of our own.$^{111}$

unchanged a shorter version of what he had gone on to say in paragraphs 211-213 of the quarto. That summary, in paragraph 204, indicated that when people present their works to God as a price and propitiation, “it obscures the glory of Christ,” for it gives such works “an honor that belongs only to Christ” (CR 27, 482; see Kolb and Wengert, 151).

$^{109}$In later works, Melanchthon explained “forensic” justification via a classical illustration. Even as Scipio was declared in foro to be a free man, so also the sinner is declared righteous by God in foro divino (St.A. 5, 39). See McGrath, 2:24.


In the corresponding octavo text, Melanchthon noted that God does not count one righteous after the precise fashion of a court or of philosophy. He insisted that although justification before people was based on one’s own works, justification in God’s sight was on account of Christ. Righteousness resided in Christ and was imputed to the Christian (CR 27, 519; see Kolb and Wengert, 165). See Fagerberg, 153.

For Melanchthon forensic justification was not a bare verdict, for God was not a mere human judge. When God spoke his powerful, creative verdict of “not guilty,” the sinner was not guilty, covered by the imputed righteousness of Christ. See Robert D. Preus, “Melanchthon the Theologian,” Concordia Theological Monthly 31 (August, 1960):474.

$^{111}$Ap XXI 19 (Tappert, 231; see Kolb and Wengert, 240). “merita . . . proposita
In this section the work of Christ was not explicitly described as the fulfilling of the law, but the idea was implicit. It is noteworthy that those to whom Christ's merits are reckoned are accounted as righteous before God as if those works were of their own performance.

The Apology used the term "forensic" in connection with justification in only one place in both the quarto and octavo texts. It said, "'To be justified' here does not mean that a wicked man is made righteous but that he is pronounced righteous in a forensic way, just as in the passage (Rom. 2:13), 'the doers of the law will be justified.'" Nonetheless, forensic justification -- that is, justification as a pronouncement by God based on His reckoning the righteousness of Christ to the sinner -- was taught in sections like those just cited, even though they did not employ the word "forensic."

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sunt, ut quae pro aliis satisfacerent, quae aliis donentur imputatione divina, ut per ea tamquam propriis meritis iusti reputentur. Ut si quis amicus pro amico solvit aes alienum, debitor alieno merito tamquam proprio liberatur. Ita Christi merita nobis donantur, ut iusti reputemur fiducia meritorum Christi, cum in eum credimus, tamquam propria merita haberemus" (BKS, 320).

"Et iustificari signifiet hic non ex impio iustum effici, sed usu forensi iustum pronuntiari. Sicut hic: Factores legis iustificabuntur" (BKS, 209).

"Lowell Green criticizes Wengert in Law and Gospel for not adequately appreciating the fact that the Apology taught forensic justification (Green, "Review Article," 65ff.). Elsewhere, Green refers to two highly suggestive letters in which Melanchthon commented in retrospect upon his handling of justification in the Apology. In one of these, written in 1536, Melanchthon recalled that during and after the 1530 Diet of Augsburg justification sola fide was becoming completely misunderstood as meaning that "we are righteous by newness or by gifts infused" ("Novitate illa seu infusis donis iusti sumus"). Then, Melanchthon wrote, "it became necessary for me in the Apology to
transfer the matter to free imputation and to speak more distinctly, so to say” (“necesse fuit mihi, in Apologia transferre rem ad imputationem gratu- tim et quaedam distinctius dicere,” MBW 1802, Melanchthon to Luther, Jonas, Bugenhagen, and Cruciger, Nov. 1, 1536; WA Br 7, 580). See Green, How Melanchthon Helped Luther Discover the Gospel, 253.

Wengert cites this letter too, including Melanchthon’s point that he had spoken of gracious imputation in the Apology (Law and Gospel, 208-209). But, remarkably, it makes no impact on Wengert’s claim that the forensic depiction of justification as introduced in the 1532 Romans Commentary made for a change in this doctrine that “considerably” narrowed justification as compared, for instance, to what it had meant in the Apology (Wengert, Law and Gospel, 179-180).

Wengert rests his case mainly on a letter that Melanchthon had written to John Brenz on May 12, 1531, shortly after he completed the “quarto” text of the Apology. This is the other letter cited by Green. (See Green, How Melanchthon Helped Luther Discover the Gospel, 223-225.) Melanchthon counselled Brenz in this letter to shed the Augustinian notion of justification by the renewing of the Holy Spirit. Instead, he advised Brenz to look to Christ and the promise, not to renewal and the law. Such renewal does not suffice. We are righteous by faith alone, Melanchthon declared, for faith apprehends Christ. Then Melanchthon added, “I tried to explain this in the Apology, but due to the distortions of the adversaries I was not permitted to speak there as I now speak to you, although I am saying the same thing about the matter itself.” “Ego conatus sum eam in Apologia explicare, sed ibi propter adversariorum calumnias non sic loqui licet, ut nunc tecum loquor, etsi re ipsa idem dico” (Melanchthon to Brenz, May 12, 1531; MBW 1151; CR 2, 502). Wengert claims that this lack of clarity, recognized by Melanchthon himself, had to do with whether or not justification should be defined in forensic terms. He cites as inconsistent with the assertion of forensic justification in Ap IV 252 (“‘To be justified’ here does not mean that a wicked man is made righteous but that he is pronounced righteous in a forensic way”; “Et iustificari significat hic non ex impio iustum effici, sed usu forensi iustum pronuntiari”; see previous footnote) the statement in Ap IV 78 that justification had to be understood as “to be made righteous from unrighteous, or to be regenerated” (“ex iniusto iustum effici seu regenerari,” BKS, 175). But when Melanchthon produced the octavo version of the Apology later in 1531, he left Ap IV 78 intact (see CR 27, 440; see Kolb and Wengert, 133). Whatever dissatisfactions the praeceptor may have had in mind when he wrote to Brenz, at length he made no change in the words that Wengert adduced to exemplify a problem with the Apology’s clarity in its definition of justification.

On the same day that Melanchthon wrote to Brenz, he also wrote Camerarius that he still wanted to give attention to the methodikon of the Apology’s article on justification (MBW 1152; CR 2, 501). The praeceptor was referring to good rhetorical argumentation, which included but was not limited to the elimination of loose or misleading expressions. Charles Arand reports on Melanchthon’s restructuring of Article IV in the octavo version (Arand, “Texts,” 471ff.). In the process, Arand calls attention to a few places in the octavo where Melanchthon changed references to the Holy Spirit that had appeared in the quarto. These changes made it still more clear that justification is not based on the renewal produced by the Spirit (Arand, “Texts,” 476-477). If anything, these changes reinforced the Apology’s teaching of forensic justification. Arand has made a more successful effort than Wengert at tracing the roots of the discontent about which Melanchthon wrote to
In giving expression to the atonement, the Apology also had recourse to the biblical language of Christ as Victor. But even in some of these expositions a forensic element emerged, as Christ was described as conquering sin, guilt, or the law. Drawing on 1 Cor. 15:56-57 ("the sting of death is sin, and the power of sin is the law, but thanks be to God who gives us the victory through our Lord Jesus Christ"), Melanchthon wrote: "sin terrifies consciences; this happens through the law, which shows God’s wrath against sin. But we conquer through Christ. How? By faith, when we comfort ourselves by firm trust in the mercy promised because of Christ.”

Likewise, in the article on penitence, Melanchthon said: “Adam was rebuked and terrified after his sin; this was contrition. Then God promised grace and said there would be a seed that would destroy the kingdom of the devil, death, and sin! this was the offer of the forgiveness of sins.” In the octavo text, Melanchthon added that “far

Brenz. The problem was not the meaning of justification in the Apology, but instead how best to prosecute the argument for justification in the Apology.

Late nineteenth- and early twentieth-century debate over the Apology’s doctrine of justification is recounted in Engelland, 541-568, and summarized in Green, How Melanchthon Helped Luther, 219-223. The position that generally prevailed in this Auseinandersetzung turned out to be that of scholars such as Carl Stange and Edmund Schlink who held that forensic justification was the teaching of the Apology, but that “God’s justifying verdict is never ‘merely’ a verdict; this verdict posits a reality. Since God’s verdict is true, the justified man is truly righteous” (Schlink, 94; see also Arand, “Melanchthon’s Rhetorical Argument,” 294-295).

114 Ap IV 79 (Tappert, 118; see Kolb and Wengert, 133). “peccatum perterrefacit conscientias; id fit per legem, quae ostendit iram Dei adversus peccatum, sed vincimus per Christum. Quomodo? Fide, cum erigimus nos fiducia promissae misericordiae propter Christum” (BKS, 176).

115 Ap XII 55 (Tappert, 189; see Kolb and Wengert, 195-196). “Adam obiurgatur post peccatum et perterrefit; haec fuit contritio. Postea promittit Deus gratiam, dicit
above our purity, indeed far above the law ought to be placed Christ’s death and satisfaction, given to us that we might hold that we have a gracious God on account of his satisfaction, not on account of our fulfilling of the law.”

Not surprisingly in view of the polemical situation of the time, neither the Augsburg Confession nor the Apology said a great deal about the “Christ in us” theme. The attention is devoted to “Christ for us.” The Holy Spirit, not Christ Himself, is usually identified in the Augsburg Confession and the Apology as the initiator of new spiritual impulses and of Christian living in the world.

God-pleasing Good Works in Christ

Inside the sphere of faith in Christ, the Apology said, there is no accusation or condemnation for people, even though their works fail to meet the law’s standard.

futurum semen, quo destruetur regnum diaboli, mors et peccatum; ibi offert remissionem peccati” (BKS, 262).

116“Longe enim supra nostram mundiciem, imo longe supra ipsam legem collocari debent mors et satisfactio Christi nobis donata, ut statuamus nos propter illam satisfactionem habere propicium Deum, non propter nostram impletionem legis” (CR 27, 456, note 86). These words came after Ap IV 179 of the quarto (see Kolb and Wengert, 146).

117To this extent, Schäfer had a point. See Schäfer, 158-159.

118An exceptional text, Ap IV 299, said that Christ “helps us to keep the law” (Tappert, 153). “Christus adiuvet tamen, ut facere etiam legem possimus” (BKS, 219). There is no parallel section in the octavo.

That the Augsburg Confession and the Apology spotlight the Holy Spirit, not Christ, as the initiator of new spiritual impulses is not in itself surprising. As mentioned in the previous chapter, in the the 1521 Loci Melanchthon did not have much to say about “Christ in us.” Since, as noted previously, the Augsburg Confession and the Apology were attaining status as church confessions already during Luther’s lifetime, however, it can be instructive in the face of the “new” Finnish interpretation of Luther to note that the reformer embraced these texts even though claims about the transformative power of “Christ in us” were absent from them.
"We teach, furthermore, not only how the law can be kept, but also that God is pleased when we keep it -- not because we live up to it but because we are in Christ."\(^{119}\)

In an important section, the Apology quoted Augustine: "All the commandments of God are kept when what is not kept is forgiven."\(^{120}\) Therefore "even in good works he [Augustine] requires our faith that for Christ's sake we please God and that the works in themselves do not have the value to please God."\(^{121}\) Thus, the Apology could go on to cite Jerone's paradoxical statement, "We are righteous ... when we confess that we are sinners."\(^{122}\) Later Melanchthon added his own similar remark: "this confession that our works are worthless is the very voice of faith."\(^{123}\) In all these expressions there is some sort of an acknowledgment of sin, that is, a

\(^{119}\) Ap IV 140 (Tappert, 126; see Kolb and Wengert, 142). "Deinde non hoc tantum docemus, quomodo fieri lex possit, sed etiam quomodo Deo placet, si quid fit, videlicet non quia legi satisfaciamus sed quia sumus in Christo . . . ." (BKS, 187).

\(^{120}\) Ap IV 172 (Tappert, 130; see Kolb and Wengert, 148). "Omnia mandata Dei implentur, quando, quidquid non fit, ignoscitur" (BKS, 130).

In an off-the-cuff remark, Luther once called this one of two noteworthy assertions in all of Augustine's works (WA Tr, 1, 140; AE 54, 49). He had reflected it in the Heidelberg Disputation of 1518: "The law says, 'Do this,' and it is never done. Grace says, 'believe in this,' and everything is already done." "Lex dicit, 'fac hoc,' und numquam fit: gratia dicit 'Crede in hunc,' et iam facta sunt omnia" (Thesis 26; AE 31, 41; WA 1, 354).

\(^{121}\) Ap IV 172 (Tappert, 130). "Requirit igitur fides, etiam in bonis operibus, ut credamus nos placere Deo propter Christum, nec opera ipsa per se digna esse, quae placeant" (BKS, 195).

\(^{122}\) Ap IV 173 (Tappert, 131). "Tunc ergo iusti sumus, quando nos peccatores fatemur." Paragraphs 172 and 173 of the quarto were moved to a place further on in the octavo text. See CR 27, 458, note 86, translated in Kolb and Wengert, 148-149.

\(^{123}\) Ap IV 337 (Tappert, 159; see Kolb and Wengert, 168). "imo haec confessio, quod opera nostra sint indigna est ipsa vox fidei" (BKS, 225).
statement of the law. Yet because of Christ the Christian is safe from the accusation and condemnation of this law. Even his flawed and sinful good works are pleasing to God in Christ.

The Apology’s second general principle for the preaching of the law and for interpreting Bible passages on law and works, simply stated, was: “Without faith it is impossible to please God” (Hebrews 11:6). As Melanchthon put it, “If civil works are done without Christ they do not please God.” So in addition to its previously-noted first principle (that the law is not truly kept without faith in Christ), the Apology went on to say: “nor can good works please God without the mediator Christ and faith . . . .” Positively stated, in one who has Christ by faith these good works do please God, despite themselves. In justification God approves the total person.

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124 Ap IV 184 (Tappert, 132; see Kolb and Wengert, 149). “. . . si qua fiunt civilia opera sine Christo, non placent Deo” (BKS, 196).

125 An assertion typically supported by John 15:5: “apart from me you can do nothing.”

126 Ap IV 372 (Tappert, 164). “. . . nec sine mediatore Christo et fide placent bona opera” (BKS, 230). The octavo says, “good works are not pleasing to God if not in the justified, that is, in those who hold themselves to be accepted by God on account of Christ.” “. . . quia non placent Deo bona opera, nisi in justificatis, hoc est, in his, qui sentiunt se acceptos esse Deo propter Christum” (CR 27, 523; see Kolb and Wengert, 171). See Ap IV 256 (BKS, 210; Tappert, 144; the corresponding octavo text is in CR 27, 516 and is translated in Kolb and Wengert, 159-160.

127 See Ap IV 222 (BKS, 202; Tappert, 137-138). This paragraph of the quarto text has no direct parallel in the octavo. However, the point it made was reiterated by a later Lutheran confessional writing, the Schmalkald Articles: “The whole man, in respect both of his person and of his works, shall be accounted and shall be righteous and holy through the pure grace and mercy which have been poured out upon us so abundantly in Christ” (SA III xiii, 2; Tappert, 315; see Kolb and Wengert, 325). “. . . der Mensch soll ganz,
Thus the Augsburg Confession could play a bit with the term "Christian perfection," turning the monastic idea on its head:

Furthermore, the commands of God and true service of God are obscured when men hear that only monks are in a state of perfection. For this is Christian perfection: honestly to fear God and at the same time to have great faith and to trust that for Christ's sake we have a gracious God; to ask of God, and assuredly to expect from him, help in all things which are to be borne in connection with our callings; meanwhile to be diligent in the performance of good works for others and to attend to our calling.\(^{128}\)

This state could hardly be called "Christian perfection" if the works of Christians were not accounted as righteous on account of Christ or if God were still condemning them on account of their sins revealed by the law.

In short, while "the law condemns all" as sinners, "by undergoing the punishment of sin and becoming a sacrifice for us, the sinless Christ endured the right of the law to accuse and condemn those who believe in him, because he himself is their propitiation, for whose sake they are now accounted righteous." The quarto text added, "But when they are accounted righteous, the law cannot accuse or condemn them, even though they have not really satisfied the law."\(^{129}\) Melanchthon might well

\(^{128}\)CA XXVII 49 (Tappert, 78-79; see Kolb and Wengert, 88-89). "Praeterea obscurantur praecepta Dei et verus cultus Dei, cum audiant homines solos monachos esse in statu perfectionis. Nam perfectio christiana est serio timere Deum et rursus concipere magnam fidem et confidere propter Christum, quod habeamus Deum placatum, petere a Deo et certo espectare auxilium in omnibus rebus gerendis iuxta vocationem, interim foris diligenter facere bona opera et servire vocationi" (BKS, 117).

\(^{129}\)Ap IV 179 (Translation altered from that in Tappert, 131; see Kolb and Wengert, 146). "... lex damnat omnes homines, sed Christus, quia sine peccato subit poenam peccati et victima pro nobis factus est, sustulit illud ius legis, ne accuset, ne damnet hos qui
have removed the second sentence from the octavo text because it made for too jarring a conflict with his repeated assertion that the law always accuses.\(^{130}\) But the previous sentence, which Melanchthon allowed to stand in the octavo, said essentially the same thing.\(^{131}\)

Thus, the Apology said that the constantly-accusing law is powerless to accuse believers. It shows the imperfections of their works — for they remain sinners in a sin-filled world — but on account of Christ it cannot condemn them.\(^{132}\) Basically, the credunt in ipsum, quia ipse est propitiatio pro eis, propter quam nunc iusti reputantur. Cum autem iusti reputentur, lex non potest eos accusare aut damnare, etiamsi re ipsa legi non satisfecerint” (BKS, 195-196).

\(^{130}\)This suggestion is made by Arand, 484, note 55.

\(^{131}\)In any case, Elert’s interpretation of the phrase “lex semper accusat” in the Apology is shown by the Apology itself to be tendentious and confusing. See Elert, Law and Gospel, 11, 41; “Third Use,” 45.

\(^{132}\)Compare Luther’s words in the Schmalkald Articles: “. . . by faith (as St. Peter says) we get a new and clean heart and God will and does account us altogether righteous and holy for the sake of Christ, our mediator. Although the sin in our flesh has not been completely removed or eradicated, he will not count or consider it” (SA III xiii 1, Tappert, 315; see Kolb and Wengert, 325). “. . . wir ‘durch den Glauben’ (wie S. Petrus sagt) ein ander neu, rein Herz kriegen und Gott umb Christi willen, unsers Mittlers, uns fur ganz gerecht und heilig halten will und halt. Obwohl die Sunde im Fleisch noch nicht gar weg oder tot ist, so will er sie doch nicht rechnen noch wissen” (BKS, 460). It should be noted that here Luther, like the Apology, was teaching forensic justification.

Luther made similar assertions on other occasions in the 1530s. In his Commentary on Ps. 51:2 (1531 or 1532), he wrote: “. . . with Christians sin is twofold: the sin that is forgiven and the sin that remains, which must still be destroyed and washed away. Sin is forgiven; it has been pulverized by trust in mercy so that it no longer condemns or accuses. Nevertheless because of this flesh it still sprouts and struggles within our flesh to bring forth fruits like the old ones, to make us smug, thankless, and ignorant of God, as we used to be.” Luther added, “Sin does not condemn us any more, but it still remains to vex us” (translation altered from that in AE 12, 328, 329). “. . . apud Christianos duplex est peccatum: Peccatum remissum et peccatum reliquum, quod extirpandum et abluendum est. Peccatum remissum est, quod fiducia misericordiae contritum est, ne damnet, ne accuset, et tamen propter hanc carnem adhuc pullulat et ‘militat in carne nostra,’ ut efficiat similes
Apology said that ineffective accusation amounts to no accusation. The ineffectiveness of the accusation results from the work of Christ, who took away the law’s right to accuse. Likewise, “when God judges and accuses [arguit] us” in His law, “faith in Christ frees us in the midst of these fears because we know that for Christ’s sake we are forgiven.”133 As the Apology said that human nature cannot bear God’s wrath except that it be sustained by the Word of God, it implied that those who are sustained by the Word can bear it, since they are wrapped in the righteousness of Christ.134

Means of grace give salvation

Being sustained by the Word was not a mere matter of recalling a saving work done by God in the past, but also receiving a present saving gift. The Augsburg Confession said, “For to remember Christ is to remember his benefits and realize that

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fructus prioribus, ut simus securi, ingrati, ignorantes Dei, sicut prius fuimus . . . Nam peccatum non quidem amplius damnat, sed tamen remanet, vexat . . .” (WA 402, 352, 354).

From Luther’s large commentary on Galatians (published in 1535): “And so the godly are not under the Law, namely, by the Spirit; for the Law is unable to accuse them and to carry out its sentence of death against them, even though they are conscious of their sin and confess that they are sinners. Through Christ, ‘who was born under the Law to redeem those who were under the Law’ ([Gal.] 4:4-5), the Law has been deprived of its legal hold on them. In the godly, therefore, the Law does not dare accuse as sin that which truly is a sin against the Law” (AE 27, 77). “Itaque pii non sunt sub lege, scilicet Spiritu, lex enim non potest accusare et ferre sententiam mortis contra eos, etiamsi ipsi peccatum sentiant et fateantur se peccatores esse, quia ius ademptum est legi per Christum, ‘qui factus est sub legem, ut eos, qui sub lege erant, redimeret.’ Ideo hoc, quod vere peccatum est contra legem, lex pro peccato non audet accusare in pilis” (WA 402, 97).

133Ap IV 239 (Tappert, 141; see Kolb and Wengert, 156-157). “…cum Deus iudicat et arguit nos . . . fides in Christum liberat in his pavoribus, quia scimus propter Christum nobis ignosci” (BKS, 206).

134See Ap XII 32-34 (BKS, 257-258; Tappert, 186; see Kolb and Wengert, 192).
they are truly offered to us."\textsuperscript{135} It added that through the office of preaching the gospel and administering the sacraments are imparted "eternal things and gifts, namely, eternal righteousness, the Holy Spirit, and eternal life."\textsuperscript{136} The Apology found it possible to say that "justification takes place through the Word."\textsuperscript{137} In short, through the sacraments as well as through the Gospel, "the forgiveness of sins is actually being offered." Thus, "the promise . . . [is] a present reality."\textsuperscript{138}

In the Augsburg Confession and the Apology, Melanchthon's forensic doctrine of justification did not rule out the dynamic power of the Gospel. The completed work of Christ was to be \textit{received} in the present, not merely studied and learned: "As we have often said, faith is not merely knowledge but rather a desire to accept and grasp what is offered in the promise of Christ."\textsuperscript{139}

\begin{itemize}
\item \textsuperscript{135}CA XXIV 31 (Tappert, 59; see Kolb and Wengert, 71). "Nam id est meminisse Christi, beneficiæ meminisse ac sentire, quid vere exhibeantur nobis" (BKS, 94).
\item \textsuperscript{136}CA XXVIII 8-9 (Tappert, 82; see Kolb and Wengert, 92-93). "... ewige Ding und Guter, als nämlich ewige Gerechtigkeit, der heiligen Geist und das ewig Leben" (BKS, 122).
\item \textsuperscript{137}Ap IV 67 (Tappert, 116; see Kolb and Wengert, 131). "Ideo iustificatio fit per verbum" (BKS, 173).
\item \textsuperscript{138}Ap XIII 21 (Tappert, 214; see Kolb and Wengert, 222). "Et loquimur hic de fide speciali, quae praesenti promissioni credit, non tantum quae in genere credit Deum esse, sed quae credit offerri remissionem peccatorum" (BKS, 295).
\item \textsuperscript{139}Ap IV 227 (Tappert, 139). "Nam, ut sæpe dictum est, fides non tantum notitia est, sed multo magnis velle accipere seu apprehendere ea, quae in promissione de Christo offeruntur" (BKS, 203). The corresponding section in the octavo text said, in part, "That virtue justifies which receives the reconciliation that has been given on account of Christ. That virtue is faith." "Sed ulla virtus iustificat, quae accipit reconciliationem donatam propter Christum. Haec virtus fides est . . ." (CR 27, 486, note 42; see Kolb and Wengert, 154).
\end{itemize}
Summary

If the 1521 *Loci* had said that the law defines sin, the Augsburg Confession and the Apology said that it defines good works. Good works are a matter of God’s law, for he commands them. This teaching appeared early in the Augsburg Confession, in article VI, together with the point that works are “fruit” spontaneously produced by faith. Thus, the confession offered both a reason why anyone should do good works (namely, God’s will) and a motive power for Christians to do good works (namely, that the works flow from saving faith in Christ which renews the heart and produces godly affections). The rest of the Augsburg Confession and the Apology joined in teaching both a divinely-commanded obligation to do good works and a natural causality that brings them about in the lives of the faithful. These confessional writings did not try to define or describe good works apart from the context of God’s law. Unlike the 1521 *Loci*, the Augsburg Confession and the Apology did not say that the good works commanded by God would not be incumbent on believers — that the moral law would not apply to them — except for the Holy Spirit’s work in their hearts.

God’s law, called “eternal” by the Apology, has a number of roles. It is an agent of civil discipline, a role only lightly treated in the Augsburg Confession and the Apology. It is also an accuser, which was the role to which the most attention was given in these documents as also in the 1521 *Loci*. Further, the law is kept after a

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As in the 1521 *Loci*, so also in the Augsburg Confession and the Apology: Melanchthon did not reduce the gospel to simply imparting information about forgiveness. Contrast Haikola, “Vergleich,” 103; Wengert, *Law and Gospel*, 190; also Caemmerer, 328.

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person receives faith. The Augsburg Confession and the Apology said that it is to be
taught to Christians after the gospel for their guidance in doing good works, a
procedure which had been exemplified in the 1521 Loci.

The Apology especially approached its discussion of justification from a law-
and-gospel perspective. It argued that no one keeps the law, including Christians.
Although perfect obedience to the law would be righteousness, no one renders such
obedience. In a manner similar to the 1521 Loci, the Augsburg Confession and the
Apology concluded that the law accuses both Christians and their sin-filled works
because neither meet its holy standard, adding that God sent Christ to be the
propitiation for sin and the mediator between God and sinners. The Augsburg
Confession and the Apology went on at greater length to note that Christ’s merits are
bestowed upon sinners by divine imputation so that these sinners are accounted
righteous as if the merits were their own. Together with the 1521 Loci, they said that
faith in Christ entails freedom for the individual from accusation and condemnation by
the law, and that such salvation is actually brought into the lives of people by the
Gospel and -- here the Augsburg Confession and the Apology were more pointed than
the 1521 Loci -- the sacraments.

Like the 1521 Loci, the Apology taught a perspective from which the believer
(the Christian living in this world as simul iustus et peccator) could be confronted with
the law and look upon its requirements without being threatened. In fact, all the

140 This point is akin to the assertion in the 1521 Loci that the law was given so that
people would live (St.A. 2/1, 77; Pauck, 80).
elements of the Formula of Concord’s later teaching on the law, including the function that the Formula termed the third use, were already contained in the Augsburg Confession and the Apology.  

While the function of the law could be distinguished from its content, the Augsburg Confession and the Apology did not separate the law’s function from its content. The law accused people, but not simply because it was law. Rather, the law accused people as it pointed to their sin and thus showed them to be sinners. Neither the Augsburg Confession nor the Apology construed the gospel as the removal of the law. They described the gospel or the promise as the removal of sin and guilt and the resulting curse which was shouldered by the Lamb of God.

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Schlink noted that “The Confessions prior to the Formula of Concord do not contain a precise distinction of the three usus of the law. Actually there was no primary dogmatic interest in distinguishing them. Only what must be preached as law, and that it is to be preached to every man is decisive. The three usus will find their application as a matter of course in the event of the correct preaching of the law” (Schlink, p. 121, note 8, italics original). While it is true that none of the Lutheran Confessions before the Formula of Concord enumerated and defined three uses of the law, nonetheless Ebeling was understating the case when he said that “in the Augsburg Apology Melanchthon touches on the idea of a tertius usus legis” (Ebeling, “Doctrine,” 69).

Luther spoke similarly in his 1528 lectures on Isaiah. The reformer had noted that for Christians who believe the law is fulfilled by Christ and who have the Holy Spirit, “the law is no longer outrageous in its dictates but an agreeable companion. The Law itself indeed is not changed, but we are. Obviously, this is Christian liberty, when the Law is voluntarily fulfilled, so that it cannot accuse, demand, and render guilty. Where the conscience is not guilty, where there is not sin because it is forgiven, there is no power of death but peace of conscience, the certainty of eternal life” (AE 16, 99). “... lex non est amplius exacto improbus, sed iucundus socius. Ipsi quidem non mutatur, sed nos, scilicet haec est Christiana libertas, quando lex impletur ulro, ut non possit accusare, exigere, Reos facere. Ubi conscientia non est rea, ubi nulnum est peccatum, quia remissum, ibi nulla vis mortis, sed pax conscienciae, certitude vitae eternae” (WA 31, 69).

Wengert opines that in Melanchthon’s particular idea of forensic justification, the law
did not come to an end but simply lost its accusing voice (Wengert, Law and Gospel, 196). As shown in the above quote, for Luther as well as the Augsburg Confession and the Apology — and before the 1532 publication of Melanchthon's Romans Commentary — the law did not end although it no longer accused those who were in Christ Jesus.

143It is noteworthy that in his disputes with Agricola, Luther continued to associate himself with the Apology. See WA 50, 470; AE 47, 109. Compare Fagerberg, 83.
CHAPTER FIVE

THE 1535 LOCI

Until Timothy Wengert’s recent work on the successive editions of Melanchthon’s Colossians, modern scholars had generally identified the second or 1535 edition of the Loci as the place where Melanchthon first introduced his formulation of the law’s three uses.\(^1\) Notwithstanding Wengert’s contribution, it should still be noted that during the sixteenth century far more readers would have come into contact with Melanchthon’s teaching about the three uses of the law via the 1535 Loci and its subsequent editions than those who saw it in his 1534 Colossians.

The modifications from the 1521 to the 1535 editions of the Loci were the most significant changes in the work’s history. The praeceptor expanded his argumentation in the various topics. He also added chapters treating the nature of God, the person of Christ, and the creation of the world. This alteration of the book’s outline filled it out as a theological text, but backed away somewhat from the
more focused, existential, even "pastoral" approach of 1521. Finally, in the 1535 Loci other formulations appeared that became the causes of significant controversy within Lutheranism both during and after Melanchthon's lifetime, such as the "three causes" of conversion, the last of which was the consenting and non-resisting will (the prime issue in the debate over "synergism") and the thought that good works are necessary for salvation (the nub of the "Majoristic" controversy).

However objectionable some of these changes may have been to Melanchthon's contemporaries, he regarded them as entirely appropriate, if not long overdue. Already in a 1530 memorandum to aspiring students of theology he recommended his Commentary on Colossians, by then in its second edition of 1528, over the 1521 Loci as a treatment of the main doctrinal topics (praecipuos locos). He had come to think of the older work as somewhat rough and undeveloped in spots. But a few years after the 1535 Loci first appeared, Melanchthon was still quite satisfied with it. In his last will and testament of November, 1539, he wrote, "I affirm that I truly embrace the Apostles' and Nicene Creeds, and concerning the entire Christian doctrine, that I think as I have written in the Loci Communes and in

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1For a summary of twentieth-century critiques of Melanchthon's teaching on the third use of the law, in addition to reports on the time and place of its first appearance in his writings, see chapter 1 above.

2Kolb, "Ordering," 323-325, 328. A point made by Kieffer concerning the last edition of Melanchthon's Loci is also appropos of the 1535 edition: that instead of being Loci communes, the newer form of the work was Loci praecipui theologici (Kieffer, 57).

3CR 2, 457. See Kusukawa, 67.
the last edition of the *Commentary on Romans* . . . 

In Melanchthon’s mind, the 1535 edition of the *Loci* had become definitive.

### Law

In the chapter *De Lege Divina*, the 1535 *Loci* took up the use of the law after sections on the classification of the laws, the Ten Commandments, and natural law. In his introduction to the chapter, Melanchthon called the law a divinely-revealed doctrine that commands how one should be, what one should do, and what one should omit or refrain from doing. It requires perfect obedience toward God, not merely external or civil works, and it condemns those who do not meet its standard of perfection. Melanchthon went so far as to allow that philosophy requires a

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4c. *affirmo me vere amplecti symbola, Apostolicum et Nicaenum, et de tota doctrina Christiana sentire, ut scripsi in locis communibus, et Romanis postremae editionis . . .* (CR 3, 826 [§1873], italics original).

5CR 21, 388. See Melanchthon’s 1533 *Loci* lectures: “Law is the doctrine that commands how we are to be and what it is fitting to do and to omit, requiring perfect obedience toward God and damning those who do not perform that perfect obedience.” “Lex est doctrina praecipiens quales nos esse, quae facere, quae omittere oportet, et requiens perfectam obedientiam erga deum, ac damnans eos qui non praestant hanc perfectam obedientiam” (CR 21, 294-295).

Melanchthon’s basic perspective on human affections remained unchanged from earlier years, that people with corrupt affections cannot keep the law. He wrote in the 1535 *Loci*: “since the nature of man is oppressed by the crime of origin, it is full of doubt, blindness, error; it neither truly fears God, nor truly confides [in him, but] is finally full of corrupt affections . . . The human will is unable to produce spiritual affections without the Holy Spirit.” “. . . *natura hominis oppressa morbo originis, plena est dubitationis, caliginis, errorum, neque vere timet Deum, nec vere confidit, deriique plena est vitiosorum affectuum . . . Voluntas humana non potest sine Spiritu sancto efficere spirituales affectus . . .”(CR 21, 374-375).
measure of love that goes beneath the surface level but he insisted that God’s law demands still more, namely, firm and true knowledge, fear, and trust in God.\(^6\)

Citing Romans 3:23 ("all have sinned and fall short of the glory of God"), he pointed out that all are guilty and no one satisfies the law. He added that a sinner who does not know this judgment of the law will not be able to understand Christ’s benefits.\(^7\)

Thus, in this overall pronouncement on the law which preceded the detailed treatment in which he enumerated the law’s three uses, Melanchthon showed that he still regarded the second or accusatory use as chief.\(^8\) The law’s accusation of the sinner set up the need for which God provided the answer in Christ. Continuing awareness of the law’s accusation drove sinners to the gospel.\(^9\)

\(^{6}\) CR 21, 388-389. This discussion parallels that of the 1533 *Loci* lectures (CR 21, 295).

\(^{7}\) CR 21, 390.

\(^{8}\) Despite their criticisms of Melanchthon, Elert (*Law and Gospel*, 7-11) and Haikola (*Usus Legis*, 7) recognized the prominence that the *praecceptor* accorded to the second use even as he was enumerating three uses of the law.

\(^{9}\) Pointing out the law’s accusation against sin was important spiritually as well as rhetorically. As in the 1521 *Loci* and in the Augsburg Confession and Apology, Melanchthon proclaimed in 1535 that the gospel was the effective antidote for sin and alienation from God. That is, not only did it describe forgiveness of sins and salvation; it also delivered these blessings.

For example, in resisting the concept of double predestination, Melanchthon wrote: "Now only one certain particle must be added, namely: as it is necessary to know that the gospel is a free promise, it is thus necessary to know that the gospel is a *universal promise*, that is, that reconciliation is *offered and promised to all men." “Nunc tantum una quaedam particula addenda est, videlicet: sicut necesse est scire Evangelium esse gratuitam promissionem, ita necesse est scire Evangelium promissionem universalem esse, hoc est, offeri et promitti omnibus hominibus reconciliacionem” (CR 21, 419, emphasis added in the
The Classification of the Laws

In the 1535 *Locii* Melanchthon observed a threefold division: natural law, divine law, and human law. Divine law was given expression by Moses, but Melanchthon pointed out that it is also found in the "books of the gospel" and in other places in the New Testament such as Romans 12. The Mosaic law contained moral, judicial, and ceremonial laws.

Melanchthon said that the moral law, which contained the "precepts of virtue" (*praecipita virtutum*) and of which the Decalogue formed a summary, pertained to all people. Its general applicability did not derive from the fact that it was given by Moses, he added, for Christians are free from the law of Moses. Rather, the applicability of the moral law was "on account of natural law; moreover, because the gospel also preaches a spiritual righteousness and obedience translation). Melanchthon taught that reconciliation is offered in the gospel itself to all, for all came under the law's condemnation.

The *praecipitor* wrote similarly when he took up the sacraments. God's word is an instrument through which the Holy Spirit is effective, he wrote, citing Romans 1:16 ("the gospel is the power of God for salvation to everyone who believes") and Romans 10:17 ("faith comes by hearing"). Thus, he added, the Holy Spirit is also effective through the sacraments, which are both received in faith and move people to faith (CR 21, 468). Melanchthon cited passages on baptism such as Titus 3:5 ("he saved us through the washing of regeneration"), adding: "Thus, God is effective through baptism." "Quare Deus est efficax per baptismum" (CR 21, 469).

God's saving action through the gospel and sacraments was the correlative of his work through the law which accused the sinner and cut off every hope of saving oneself.

Haikola asserted that as Melanchthon taught the third use of the law based on a forensic doctrine of justification and a view of the atonement in which Christ satisfies the law, he was leaving sinners to conclude that sinners merely receive an *intellectual awareness* of the reconciliation wrought by Christ (Haikola, "Vergleich," 103; a similar claim is made by Wengert, *Law and Gospel*, 190). Consistent with his position in the 1521 *Loci* and in the Augsburg Confession and the Apology, Melanchthon was doing no such thing in the 1535 *Locii*.

10CR 21, 390. Melanchthon reiterated this statement in a later summary (CR 21, 392).
toward God.” Unlike the 1521 *Loci*, then, in 1535 Melanchthon based the applicability of the moral law to Christians as well as all other people largely on its accordance with natural law. He expounded the various commandments of the Decalogue in relation to natural law.\(^{12}\)

Conversely, Melanchthon held that the judicial and ceremonial laws were not generally applicable unless there were natural elements in them, such as the Old Testament teaching on forbidden degrees of marriage.\(^{13}\) Discussing the third commandment, he quoted Colossians 2:16 (“therefore let no one pass judgment on you in questions of food and drink or with regard to a festival or a new moon or a sabbath”) to show that the sabbath day itself is abrogated, but he drew attention to what is of abiding moral import in the commandment: ceremonies given by God to preserve the ministry of His word. “This moral and natural command certainly pertains to all people,” he said.\(^{14}\) In these instances, coincidence with natural law was the *praeeptor*’s decisive factor in establishing the ongoing validity of particular biblical injunctions.\(^{15}\)

\(^{11}\) *Moralia vero pertinent ad omnes gentes, non propter Mosen, sed propter legem naturae; item, quia etiam Evangelium praedicit spiritualem iustitiam, et obedientiam erga Deum* (CR 21, 392).

\(^{12}\) CR 21, 400-405.

\(^{13}\) CR 21, 391.

\(^{14}\) *Hoc morale et naturale mandatum certe ad omnes homines pertinet* (CR 21, 394).

\(^{15}\) Wengert points out that in Melanchthon’s 1528 edition of the *Scholia on Colossians*
The Decalogue

Of all the commandments in the Decalogue, Melanchthon dwelt the most on the first, which enjoined perfect obedience toward God through perfect fear, trust, and love. God did not expect this response to come blindly, as it were. He had provided a testimony of his love for his people in the Old Testament by calling himself their God and bringing them out of Egypt (Exodus 20:2), while in the New Testament he sent Christ. God commands perfect worship, and the law always accuses and condemns those who do not and cannot give it to him. Again, the prominence of the law’s second use in Melanchthon’s exposition is worth noting.

No one satisfies this rigorous demand, not even the saints, the praecceptor went on, but “Christ is the summing up of the law.”

After we have been terrified by recognition of our sins, we are aroused again by faith in Christ (because then we recognize the mercy promised by God in Christ) [and] we start to acknowledge God, fear him, and confide in him. Here we begin to carry out the works of the first commandment. And although we are far away from perfection, nonetheless on account of Christ we are pronounced righteous . . . Thus, the first commandment becomes imputative. Wherefore,

he emphasized, to a greater degree than in the 1527 edition, “the way the Decalog reflected natural law, which was no more taken away by the gospel than was the sense of sight or hearing” (Wengert, Law and Gospel, 197).

As noted earlier, on this point Melanchthon was agreeing with a position that Luther had taken in the 1520s. The reformer had written: “We will regard Moses as a teacher, but we will not regard him as our lawgiver – unless he agrees with both the New Testament and the natural law” (AE 35, 165). “Mosen wollen wir halten für einen lerer, aber für unsern gesetzgeber wollen wir yhn nicht halten, Es sey denn das er gleiche stymme mit dem neuen Testament und dem natürlichen gesetze” (WA 16, 373-374). See Luther’s lectures on Deuteronomy of 1523 (WA 14, 622; AE 9, 81).

CR 21, 392-393. Here and elsewhere in the 1535 Loci, Melanchthon continued to hold that the law oppressed and accused because sinners did not meet its standard (contrast the preferred position of Elert, Structure, 17-49; Law and Gospel, 11, 41; “Third Use,” 45.).
compliance with the first commandment cannot be done or even begun without the gospel concerning Christ, for faith without Christ amounts to nothing when the law itself always accuses and condemns.\footnote{[17]}
Here Melanchthon characterized Christ as “summing up” the law in two ways. First, only as a result of faith in him do Christians even begin to have the attitudes called for by the first commandment. Second, their failures to keep this commandment are covered by the imputed righteousness of Christ. Without him, faith or any other human quality would wilt under the law’s holy accusation. This section prepares for the later treatment of the law’s third use, for it shows that keeping the law has its beginning in faith that comforts the believer with the imputed righteousness of Christ in the face of accusation by the law.

the next paragraph.). Apart from placing a greater emphasis on the presence of Christ, Luther said basically the same thing as Melanchthon, including the point that good works are done in faith.

Melanchthon’s “imputative” understanding of justification turns out to be both more realistic and more Luther-like than the Finnish school is wont to concede. This fact should caution scholars against setting aside Melanchthon and Melanchthon-influenced positions such as those of the Formula of Concord in an effort to find a realistic and “Lutheran” approach to justification. See Marquait, 199-205.

18 Later in the 1535 Loci, Melanchthon mentioned faith and justification (or forgiveness of sins) in a single statement encouraging good works: “For it is not enough to teach external works, but faith itself which attributes glory to Christ is the principal service of God. Therefore invocation ought to be done in this faith, that God wants to forgive and hear us.” “Non enim satis est docere externa civilia opera, sed ipsa fides, quae tribuit gloriam Christo, praecipuus Dei cultus est. Praeterea Invocatio in hac fide fieri debet, quod Deus velit nobis ignoscere et nos exaudire” (CR 21, 429).

Marquait characterizes a similar statement by Luther, who sang faith’s praises “in deliberate opposition to the scholastic notion of faith as a dead, cerebral specter, which needs something else, namely love, to make it come alive and amount to something before God. Then, of course, he has to conclude that even this precious, glorious faith is only weak and embattled in us, hence needing the gift of the total imputation of Christ’s merit . . . But this does not mean that the inherent renewal of faith and all its fruits is in principle prior, and imputation secondary” (Marquait, 203-204).
The theme of the law and its promises emerged as an important one in the 1535 *Loci*. Melanchthon summarized it by saying that “The law teaches that God is good and merciful, but to those who are without sin.” After expounding on each of the commandments, Melanchthon noted that Scripture adds to the Decalogue threats and promises, as is fitting for laws. Like Paul in Galatians 3, he cited Leviticus 18:5 (“the one who shall have done these things shall live in them”) and Deuteronomy 27:26 (“Cursed is the one who shall not have persisted in all things which were written in the law”). Melanchthon added Luke 10:28 (“Do this and you will live”). He observed that all the law’s promises are conditional. Sinners can benefit from them only through the gospel, for “when we are pronounced righteous freely for Christ’s sake we are reputed to keep the law, namely imputatively.”

In a section on the promises of the law, Melanchthon said that through the gospel Christians know they are pronounced righteous and reconciled, “just as if we had satisfied the law.” Here Melanchthon was making explicit what had been implicit

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19“Lex docet Deum bonum et misericordem esse; sed his qui sunt sine peccato” (CR 21, 414). Almost the same wording is found in the 1533 *Loci* lectures (CR 21, 303). Elsewhere in the 1535 *Loci*, analyzing the premise “Good works are obedience to the law,” Melanchthon wrote: “They [the works] would be righteous and they would justify, if we were to obey the law perfectly.” “Essent autem iustitia et justificarent, si perfecte obediremus legi” (CR 21, 443). Melanchthon was echoing what he had written in Apology IV 159-160, as noted in the previous chapter.

20“... cum pronuntiamur iusti gratis propter Christum, reputamur legem implere, videlicet imputative” (CR 21, 398).

21“Cum autem nemo legi satisfaciat, essent iritiae promissione legales, nisi ex Evangelio iam sciremus, reconciliatos pronuntiari iustos, perinde ac si legi satisfecissent” (CR 21, 435).
in earlier writings where he had suggested that Christian righteousness was the righteousness of Christ who kept God’s law, imputed to the believer. On this basis he went a step further and described the righteousness of a Christian in terms of keeping the law, albeit by imputation.  

Wengert finds that Melanchthon had already been writing in this vein in the previous year’s edition of his *Scholia on Colossians*. There Melanchthon said that only on account of Christ do people receive the benefit of “being reputed as righteous, as if you had satisfied the law” (Wengert, *Law and Gospel*, 183; in note 23 Wengert gave the Latin, “ut reputemini pro iustis, ac si satisfaceretis legi.”)  

In the 1533 *Loci* lectures, Melanchthon had quoted Romans 10:4 and added his own remark, also in this vein: “Christ is the end of the law for righteousness to everyone who believes.” That is, that which the law requires, namely that we be pronounced righteous, that we receive through Christ when we have confidence in him, as the following thought clearly shows: ‘He believes with the heart to righteousness,’ etc.” “Finis legis Christus est ad iustitiam omni credenti. Id est. Hoc quod lex requirit, videlicet ut iusti pronunciemur id consequimus per Christum cum ipsi confidimus, ut sequens sententia clare testatur. Corde creditur ad iustitiam etc.” (CR 21, 311). Also in reference to Romans 10:4, Melanchthon added: “‘Christ is the content of the law for righteousness to everyone who believes.’ That is, the one who believes in Christ has fulfilled the law, etc.” “. . . ‘Christus est summa legis ad iustitiam omni credenti. Id est qui credit in Christum impievit legem etc.’” (CR 21, 322). Commenting directly on this biblical passage in his 1532 *Romans Commentary*, Melanchthon had written: “Christ is the end, that is, the summing up or fulfillment of the law to the believer. That is, he who has Christ or who believes in Christ is just. That which the law demands, he has imputatively. That is, he is reputed just even if he does not satisfy the law in fact.” “Christus est finis, i.e. consummatio seu impletio legis credenti; i.e. is, qui habet Christum seu qui credit Christo, est iustus et hoc, quod lex postulat, habet imputative, h.e. reputatur iustus, etsi re ipsa non satisfecit legi” (St.A. 5, 266).  

Melanchthon had not been alone in saying that the gospel bestowed upon sinners none other than the righteousness demanded by the law. In his “Sermon on the Distinction between Law and Gospel” (1532), Luther said: “The law demands perfect righteousness from everyone. The Gospel gives as a gift, by grace, the righteousness demanded by the Law to those who do not have it (i.e., to all people).” “Das Gesetz, das volkomene Gerechtigkeit von jederman foddere, das Euangelium, das die vom Gesetz erfodderte Gerechtigkeit denen, So die nicht haben (das ist: allen Menschen) aus Gnaden schencke” (WA 36, 36).  

In general, while Luther and Melanchthon each had his own characteristic way of describing justification, their mature teachings on this subject were in essential agreement. This accord is perhaps exemplified best in a discussion between the two of them during the year after the 1535 *Loci* appeared. Melanchthon asked Luther, “Which of the two do you think is right: Is a man just by . . . renewal [faith, including its gifts and virtues], as in Augustine, or [is it]
Natural law

Natural law was covered more extensively in the 1535 *Loci* than in 1521. Melanchthon defined natural law as knowledge of the divine law placed in human nature. It was a part of the "natural light" (*lumen naturale*) given by God. Vestiges of natural law remain after the fall, albeit obscured by original sin. Conscience, for example, testifies to a God who blesses the just while he punishes the unjust.\(^{23}\)

Melanchthon said that unlike the law of Moses, which contained laws and promises that concerned only Israel -- a certain people at a certain time -- the law of nature is common to all nations and all ages "and therefore it was written in nature."\(^{24}\) This law of nature is essentially identical with the Decalogue or moral law, and it teaches people concerning obedience. Melanchthon added later that it truly by free imputation of something which is outside of us and by faith . . . ?" After a bit of exchange back and forth, Luther answered Melanchthon's question by stating his position: "I think that a man becomes, is, and remains just, or the person is just, simply by mercy alone. This is truly perfected righteousness which stands against wrath, death, sin, etc., and swallows up all things. And it simply restores the man holy and innocent, considering that there is really no sin in him, because God's free reckoning wants there to be no sin." "[Melanchthon:] Utrum sentitis Hominem iustum esse . . . nouitate, ut Augustinus, an vero imputatione gratuita, quae est extra nos, et fide . . . [Luther:] Hominem sentio fieri, esse et manere iustum seu iustam personam simpliciter sola misericordia. Haec est enim iusticia perfecta, quae opponitur irae, morti, peccato etc. et absorbet omnia. Et reddit hominem simpliciter sanctum et innocentem, ac si reuera nullum esset in eo peccatum, quia reputatio gratuita Dei nullum vult ibi esse peccatum . . . ." (WA Br 12, 191). See Green, *How Melanchthon Helped Luther*, 254-259.

\(^{23}\) CR 21, 398-400.

\(^{24}\) \ldots ideoque in natura scripta est" (CR 21, 453).
would be foolish to think that the law was totally wiped out of existence, as if people could omit, for instance, ceremonies that had been written in their minds.  

**Use of the law**

The section on the use of the law began with a reminder that the law requires perfect obedience. Since people who have sin inhering in their nature cannot render such obedience, they cannot be pronounced righteous before God on account of the law. "Paul therefore takes justification away from the law . . . Now I wanted briefly to give this warning concerning the uses of the divine law," Melanchthon wrote, "lest justification be ascribed to the law." Having thus set the stage, and again having spotlighted the second use of the law and the impossibility of sinners being justified by fulfilling the law, Melanchthon preceded in turn to describe three functions (*officia*) of the law "in this corrupt nature."  

The first function is civil, that the law coerces all people (*omnes homines*) with discipline. Melanchthon quoted 1 Timothy 1:9 ("the law was laid down for the unjust"), and added that God wants to coerce the impious not to commit external transgressions. In order to effect such discipline, God has arranged magistrates, law, teaching, punishments, and human calamities in the world. Melanchthon added that another saying of Paul was *appropos* of this list, that the law is a *paedagogus in*

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25 CR 21, 461.

Christum (Galatians 3:24). For Paul so to designate it was great praise for external discipline. Good training and discipline encourage (invitant) people to hear and learn the gospel. However, Melanchthon added, such training and discipline do not merit the forgiveness of sins. Later he wrote that by the law of nature and discipline unbelievers are repeatedly coerced so they can be brought to a knowledge of Christ.

The second function of the law, which Melanchthon called both “proper” and “principal,” was “to show sins, to accuse, terrify, and condemn consciences.” Paul often spoke of this function in passages such as Romans 3:20 (“through the law is the knowledge of sin”), Romans 4:15 (“the law works wrath”), and 1 Corinthians 15:56 (“the sting of death is sin, the strength of sin is the law”). The law always accuses us, Melanchthon wrote, and not only for our actions. It also shows and condemns such affections as natural weakness, ignorance of God and contempt for him. As in the 1521 Loci, although Melanchthon had a tendency to

\[\text{CR 21, 406.}\]

\[\text{CR 21, 456.}\]

\[\text{Secundum officium ac proprium legis divinae et praecipuum est, ostendere peccata, accusare, perterrefacere et damnare conscientias" (CR 21, 406). In the 1533 Loci lectures Melanchthon had said that the “principal and spiritual use of the law is to know the law, that is, to recognize sin and our weakness which the law reveals.” “Dixi supra usum praecipuum et spiritualem legis esse nosse legem, hoc est, agnosce peccatum et imbecillitatem nostram quam lex arguit” (CR 21, 283).}\]

\[\text{CR 21, 406.}\]
discuss the law in terms that made it seem like a reality to the side of God, he did not lose track of the personal nature of sin as exposed by the law.\(^{31}\)

The law would not have had this effect (here Melanchthon wrote: \textit{usum}) among those who hear it in false security, as Paul said he did prior to his conversion (Romans 7:9). On the other hand, Melanchthon continued, people can be terrified over their sin like David when rebuked by the prophet Nathan (2 Samuel 12:13). In David's case, the law had this effect (\textit{usum}).\(^{32}\) No doubt having cast a glance over his shoulder at Agricola, Melanchthon added that the aspect of penitence called contrition consists in just the sorts of terrors which come about not to destroy sinners, but so that they might ultimately know Christ's mercy and benefits. To underscore this point, he quoted Romans 11:32 ("God concluded all under sin, so that he might have mercy on all"). Melanchthon understood the law's second function in relation to justification and repentance.\(^{33}\)

\(^{31}\)While Elert was critical of Melanchthon, writing, "Even though one looks in vain in the writings of Melanchthon for the directness of this knowledge [of the highly personal nature of sin] which Luther had," he nevertheless conceded that "Melanchthon never overlooked the opposition to God that is implicit in sin" (Elert, \textit{Structure}, 32).

\(^{32}\)CR 21, 406. In his discussion of the use of the law, Melanchthon employed the term "\textit{usus}" in two ways: 1.) In the two cases just mentioned, the word meant "effect." Otherwise, 2.) the "\textit{usus}" of the law meant basically its functions, as at the end of the section where Melanchthon wrote, "Haec satis sit hic admonuisse de legis usu seu officiis" (CR 21, 406). Ebeling correctly understood Melanchthon's usage of the word (Ebeling, "\textit{Tertius Usus Legis}," 74-75). It is beyond the scope of this study to assess his claims about Luther's usage.

\(^{33}\)Notably, at the end of the section Melanchthon wrote that he would add more about the second use in discussing justification (CR 21, 406). See Osslund, 182-184.
In his briefest paragraph on a function of the law (the previous paragraph about the second function had been the longest), Melanchthon described the third:

The third function of the law in those who are righteous by faith is that it also teaches them concerning good works, which works please God. It also prescribes certain works in which they might exercise obedience toward God. For although we are free from the law as far as justification is concerned, nonetheless the law remains as far as obedience is concerned. For it is necessary that those who are justified obey the law. Indeed, somehow they begin to do the law in part. And that inchoate obedience pleases [God] because the persons are pleasing on account of Christ.

Melanchthon added that he would treat the third use again in the chapters on good works and on the abrogation of the law.34

As Wengert notes, Melanchthon had introduced the third use of the law (although without using the terms “officium” or “usus”) in the Scholia on Colossians of 1534. There he wrote, “The third reason for retaining the Decalog is that obedience is required. For although, as I have said, our weakness if forgiven us (because we do not satisfy the law and in the meantime are pronounced righteous on account of Christ), nonetheless obedience is required, as Christ says, [Matt. 19:17], ‘If you want to walk in life, keep the commandments.’ Likewise [Matt. 5:20], ‘Unless your righteousness exceeds that of the Pharisees . . . ‘ Christ also commands love [John 13:34], which is the summary of the Decalog” (Wengert, Law and Gospel, 199; the Latin is in note 101: “Tertia caussa est retinendi decalogi, ut requiratur obedientia. Etsi enim ut dixi condonatur nobis imbecillitas nostra, quod legi non satisfacimus & interim iusti pronunciamur propter Christum, tamen obedientia requiritur, sicut Christus ait. Si uis in uitam ingredi, serua mandata. Item nisi abundauerit iusticia uestra supra iusticiam Pharisaerorum &c. Praecipit & Christus dilectionem, quae est quasi summa quaedam decalogi.”).
A comparison between this paragraph from the 1535 *Loci* and the later articulation of the third use of the law in the Formula of Concord yields the following results:

- In the 1535 *Loci* Melanchthon specified that the third use of the law applies to Christians, “those who are righteous by faith.” He depicted the third use as entirely instructional in nature. That is, in discussing the third use Melanchthon did not mention coercion or condemnation, as he did in treating the first two uses. For Melanchthon the law did not change, but the sinner’s relationship to it did. The Formula argued similarly, that those who have received reconciliation with God in Christ can look at the law but not see it as a threat.

- The content of the law’s instruction in the third use was to teach “which works please God.” Here Melanchthon was anticipating the Formula’s insistence that believers should not try to serve God in self-chosen ways. He had said the same thing himself elsewhere, although he did not belabor the point here.

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35 In the 1534 Scholia on Colossians, Melanchthon had written that “. . . God gave the law for these three reasons: to coerce the flesh and to terrify or humble. The third reason pertains to the righteous, that they may practice obedience” (Wengert, *Law and Gospel*, 195-196; the Latin is in note 87 on p. 196: “. . . Deus dederit legem propter has tres caussas: ad cohercendam carmem, & ad terendum seu humiliandum. Tertia ad iustos pertinet, ut exerceant obedientiam.”). Recalling the work of Ebeling, Wengert claimed that in this 1534 articulation Melanchthon suggested that God was the one who used the law in the first and second uses, while the third was for people to “use.” Notably, in the description of the third use in the 1535 *Loci*, quoted above, Melanchthon used the verbs “teach” and “prescribe.” In the 1535 *Loci*, Melanchthon did not say that people take the law into their own hands and use it. Contrary to Wengert, he did not say so in 1534, either.

36 In his 1533 *Loci* lectures, Melanchthon had not explicitly taught three uses of the law,
• Article VI of the Formula emphasized that Christians needed to be taught the law because they still have the sinful flesh hanging on to them. In the paragraph on the third use in the 1535 Loci Melanchthon did not make this assertion in so many words, but he had expressed a similar thought when he introduced the entire section on the use of the law by writing of the law’s functions “in this corrupt nature” (in hac corrupta natura).\(^{37}\) When he turned to the third use itself, Melanchthon did not fail to note that in this world Christians make only an imperfect start at obeying the law.\(^{38}\)

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\(^{37}\)According to Elert (Christian Ethos, 299) and Bring ("Gesetz und Evangelium," 85), Melanchthon’s position was that the Christian needed the instruction of the law insofar as he was a new man in Christ. This analysis is not borne out by the 1535 Loci.

\(^{38}\)CR 21, 406. It should be noted that Melanchthon was not completely consistent in asserting that “no works should be undertaken without God’s command, just as Paul also prescribes, ‘All Scripture is inspired by God,’ etc. Therefore it can easily be judged which works are necessary. They can most aptly be brought together in the Decalogue, etc.” “nulla opera suscipienda sunt sine mandato dei, quemadmodum et Paulus praecipit Omnis scriptura inspirata etc. Facile igitur iudicari potest quae opera necessaria sint. Possunt autem aptissime in decalogum collocari etc.” (CR 21, 311).

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Unlike the Formula (and unlike Melanchthon’s own Apology), the 1535 *Loci* did not explicitly refer to the law as eternal or immutable. However, in language somewhat reminiscent of the Augsburg Confession (*necesse est*), Melanchthon strongly asserted that the justified must obey the law.\(^39\) He added that Christians are not free from the law with respect to obedience.\(^40\) Luther had said much the same thing at about the same time.\(^41\)

\(^39\)Engelland reported that for Melanchthon the law remained and demanded fulfillment after justification because it was God’s eternal will (Engelland, 426).

\(^40\)In his 1532 *Romans Commentary*, Melanchthon had written: “We are free from the Decalogue insofar as it pertains to justification; but insofar as it pertains to obedience, the moral law remains, especially because it was written in human minds.” “Liberi sumus a decalogo, quod attinet ad iustificationem; sed quod ad oboedientiam attinet, manet lex moralis, praesertim cum sit scripta in mentibus humanis” (*ST.A*. 5, 211). See Wengert, *Law and Gospel*, 190.

\(^41\)In 1532 Luther said: “True it is that the Law or the Ten Commandments have not been annulled so that we are exempt from them and not allowed to have them. For Christ set us free from the curse, not from the obedience of the law. No, that is not what God wants. He wants us to keep the Commandments with total commitment and diligence; but not to put our trust in it when we have done so or despair if we have not. See to it, then, that you distinguish the two words rightly, not giving more to the Law than its due, otherwise you lose the Gospel” (translation from “The Distinction between the Law and the Gospel: A Sermon by Martin Luther, January 1, 1532,” trans. Willard L. Burce, *Concordia Journal* 18 [April, 1992]:160). “Wahr ist, das Gesetz oder zehen Gebot sind nicht so aufgehoben, das wir nu aller ding frey davon werden, Und sie nicht haben dürffen (Denn Christus hat uns vom Fluch, nicht vom Gehorsam des Gesetzes grefriet), Nein, das wil er nicht, Sondern das wir sie mit gantzem ernst und vleis halten sollen. Aber, wo wirs gethan haben, nicht drauff trawen, Noch, wo es nicht gethan, verzweiveln sollen. Darumb sihe zu, Das du beide Wort recht underscheidest, Dem Gesetz nicht mehr gebest, denn jm gebüret, Sonst verleurest du das Euangelium . . . . “ (WA 36, 37).

Luther made a similar statement in a 1537 sermon he preached in John Bugenhagen’s absence: “The Ten Commandments, which deal with holy life and conduct toward God and man, cease too, in the sense that they cannot damn us believers in Christ. He became subject to the Law in order to redeem us who were under the Law (Gal. 4:5); yes, He became a curse for us to save us from the curse of the Law (Gal. 3:13). However, the Ten Commandments are still in force and do concern us Christians so far as obedience to them is concerned. For the righteousness demanded by the Law is fulfilled in the believers through the grace and the
Three points can be made here by way of overall assessment. First,
Melanchthon’s teaching on the third use in 1535 was quite close to the position that
the Formula of Concord eventually set forth. Second, some of the twentieth-century
studies of Melanchthon and the third use have missed the mark badly. For example,
Elert claimed too much when he wrote that for Melanchthon a response of obedience
was “exclusively attainable” in the third use, and Bring likewise overreached when
he asserted that the third use amounted to a means for justification in Melanchthon’s
thinking. Finally, the articulation of a third use of the law followed from the
insistence, by Luther as well as Melanchthon, that Christ had freed Christians from
the curse of the law, but not from obedience to the law. The Apology had said,
“Later we add the teaching of the law.” The section on the third use in the 1535 Loci
heiligen wandel und leben gegen Gott und menschen reden) hören also auff, das sie uns nicht
können verdamen, die wir an Christum gleuben, der sich unter das Gesetz gethan hat, auff das
er uns, so unter dem Gesetz waren, erlösete, ja, der ein fluch für uns worden ist, das er uns vom
fluch des Gesetzes errettete. Es bleiben aber die Zehen Gebot und gehen uns Christem alle an,
so viel den gehorsam belanget, denn die Gerechtigkeit, vom Gesetz erfordert, wird in den
Gleubigen erfüllt durch gnade und hülffe des heiligen Geistes, den sie empfangen” (WA 46,
569).
Herrlinger noticed that beginning in 1530 or so, Melanchthon recognized an ongoing
significance of the law in the life of the reborn (Herrlinger, 216-217). As the paragraphs
immediately above show, the same thing could be said about Luther. Nor was this thought new
for the reformer. As early as his book On Monastic Vows (1521), he had said that works
commanded in the Decalogue were necessary. “Nor can the freedom of the gospel dispense
with the commandments of God” (AE 44, 298), he added. “Neque enim libertas Evangelica est
posse omittere mandata dei” (WA 8, 606). See the recent work by Bernhard Lohse, Martin
Luther’s Theology: Its Historical and Systematic Development, trans. and ed. Roy A.
Harrisville (Minneapolis: Fortress Press, 1999), 183, 275.

42Elert, Christian Ethos, 301; Bring, “Gesetz und Evangelium,” 62. See similar
in effect made for an occasion to add a teaching of the law that presupposed faithful reception of the gospel.\(^{43}\)

Of course, when Melanchthon published his 1535 *Loci* no one could know that in early 1537 John Agricola, almost immediately upon moving to Wittenberg from Eisleben, would begin agitating against not only Melanchthon but also Luther. The root of his discontent did not lie specifically in the third use. Rather, he questioned whether the Decalogue or the law had a place in the Christian life at all. As foreshadowed in his comment at breakfast at the Torgau castle almost a decade earlier, Agricola held that the law was not to be preached to Christians as law, and

\(^{43}\) Ap IV 188 (Tappert, 133; see Kolb and Wengert, 150). “Postea addimus et doctrinam legis” (BKS, 197).

Wengert reports that in 1532 and especially 1534 Melanchthon wrote of how Christ had freed Christians from the curse of the law, not obedience to it. He recognizes the import of this idea for Melanchthon in conceptualizing the third use of the law (Wengert, *Law and Gospel*, 190, 196). But Wengert does not acknowledge that Luther also was saying as much in 1532 (compare above, note 41), nor does he take fully into account the fact that Melanchthon included this idea in the Augsburg Confession and the Apology in 1530 and 1531. As noted in the previous chapter, Wengert had difficulty in recognizing that these confessional documents taught a.) the obligation to do good works as imposed by God’s command and b.) forensic justification. Thus, Wengert underestimates the continuity from the Augsburg Confession and Apology to the 1535 *Loci*.

Wengert’s failure to come to grips with this continuity is somewhat surprising since, albeit briefly, he himself notes that in the 1528 edition of the *Colossians*, Melanchthon wrote that the gospel takes away the law’s *acussatio*, but the *notitia* of it remains (Wengert, *Law and Gospel*, 165). That is, already in 1528 Melanchthon was basically saying that Christians were released from the law’s curse, but not from obedience! Wengert allows in his concluding chapter that “Comments made in earlier editions of the *Scholia [on Colossians]* supported his later position: works were called necessary, an antinomian view was rejected, and the law was depicted as requiring obedience” (Wengert, *Law and Gospel*, 200). But even with these words Wengert does not acknowledge that either of the first two editions of the Colossians said the law’s accusation was taken away. In short, while focusing attention upon the time when the third use of the law made its debut in Melanchthon’s writings, the mid-1530s, Wengert does not give adequate attention to the pedigree of this position.

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that the place for the law was the courthouse instead of the church. Luther, recently returned from a meeting at Schmalkald, took stock of Agricola’s assertions and held up as his preferred alternative the position of Melanchthon, who “teaches clearly and eloquently about the use of the law. I am inferior to him, although I have also treated this topic clearly in my Galatians.” When Luther spoke these words, Melanchthon’s most recent and most elaborate discussion of the use of the law had been his treatment in the 1535 Loci.

The present chapter cannot end with the 1535 edition’s specific discussion of the third use, however. Additional work remains to be done, for both rhetorically and theologically Melanchthon insisted on seeing the whole picture. He put the Loci together as an integrated presentation of doctrine. At the end of the paragraph on the third use, it might be recalled, the praeceptor had added that he would return to the third use in the chapters on good works and on the abrogation of the law.

**Good Works**

For Melanchthon, good works were nothing other than doing what the law said. After his chapter on good works in the 1535 Loci, he looked back over several

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chapters and wrote, "I have spoken of justification, of faith, of the fulfilling of the law or of good works most simply and without sophistry." Thus, his discussion of good works bears on his views concerning the law.

Necessity of Good Works

Wengert observes that the greatest change from Melanchthon’s 1528 Scholia on Colossians to the 1534 edition was on the topic of good works. This change consisted in the increased emphasis placed upon the necessity of good works in 1534. Likewise, Melanchthon stressed the necessity of good works the next year, both in the chapter on good works and elsewhere in the 1535 Loci.

Melanchthon began this section with the point that “Our obedience (that is, the righteousness of a good conscience or of works), which God has prescribed, necessarily ought to follow [necessario sequi debet] reconciliation.” His language resembled that of the Augsburg Confession. In elaborating on this statement, Melanchthon first adduced two Bible passages to show the necessity of good works, Romans 8:12 (“we are debtors not to live according to the flesh”) and Matthew 19:17 (“if you will enter into life, keep the commandments”), saying that “Christ in

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46 “Dixi de justificatione, de fide, de legis impletione seu de bonis operibus simplicissime et sine Sophistica” (CR 21, 437, emphasis added in translation above).

47 Wengert, Law and Gospel, 185.

48 “Obedientia nostra, hoc est, iustitia bonae conscientiae seu operum, quae Deus nobis praecipit, necessario sequi debet reconciliationem” (CR 21, 429).
the Gospel has prescribed repentance." He immediately added, "And we are justified so that we might live a new and spiritual life, which is a certain obedience toward God," then he quoted Jeremiah 31:33 ("I will put my law in their hearts") and Ephesians 2:10 ("We are his workmanship, established for good works").

Save the reference to repentance which he connected to Matthew 19:17, Melanchthon was unfolding the same basic two-pronged teaching on good works he had set forth in Augsburg Confession: that good works are required by God and that they are the outgrowth of faith. Still paralleling CA VI, he continued, "Thus,

49. "Christus enim in Evangelio praecipit de Poenitentia" (CR 21, 429).

50. "Et iustificamur ideo, ut nova et spiritualia vita vivamus, quae est quaedam obedientia erga Deum" (CR 21, 429). This section resembled the beginning of Melanchthon's chapter on good works in the 1533 Loci lectures, which said: "When we are justified by faith, as was said, it is necessary that obedience to the law ought to follow. So Christ says, 'If you want to enter life, etc.' [Matthew 19:17]. The gospel also preaches penitence. Therefore it requires obedience to the law. We are justified so that we might live a new and spiritual life. Moreover, that new and spiritual life is what one might call obedience toward God. According to [Jer. 31:33]: 'I will give my law in their hearts.' Cum fide ut dictum est iustificamur necessario sequi debet obedientia erga legem. Sicut Christus inquit. Si vis in vitam ingredi, etc. Item Evangelium praedicat poenitentiam, requirit igitur obedientiam erga legem. Et iustificamur ut nova et spiritualia vita degamus. Illa autem vita nova et spiritualis est quaedam obedientia erga deum. Iuxta illud Dabo legem meam in cordibus eorum" (CR 21, 308).

51. In the Apology Melanchthon had cited two of the Bible passages in the series of four here. Matthew 19:17 was a Bible passage used by his opponents which, Melanchthon stipulated, taught that Christians should keep the law more and more (Ap IV 123-124). But he added in the quarto text that this passage should be interpreted in light of the fact that no one is able to keep the commandments apart from Christ (Ap IV 270). Melanchthon cited Jeremiah 31:33 to show that spiritual impulses produced were in the heart by the Holy Spirit (Ap IV 123-125).

Later in the 1535 Loci Melanchthon once again drew attention to Matthew 19:17, in response to his opponents. He conceded that this passage taught that "Obedience to the law is necessary." As in the Apology, he continued that "to the law must be added the gospel concerning Christ. First it is fitting that we become the sons of God on account of Christ through mercy. Thereafter our obedience ought to follow." "Obedientia erga legem est necessaria, sed legi addendum est Evangelium de Christo. Prius oportet nos per misericordiam
eternal life is not given on account of the dignity of good works, but freely on account of Christ.” 52

Toward the end of the chapter Melanchthon offered a summary on the necessity of good works. First, he said, it is fitting (oportet) for faith to grow and thrive in ceaseless works. Second, good works are commanded by God. As before, Melanchthon mentioned penitence in connection with this command, saying, “For it is a command of God that we show this obedience, because Christ clearly instructed: ‘Repent’ [Agite poenitentiam].” 53 The praeceptor said he did not shrink from employing a term such as “command” (praeceptum) since Christ himself used it in John 15:12 (“this is my commandment, that you love one another as I have loved you”) and Paul said in Romans 8:12 that we are “debtors.” Once again, except for the reference to repentance, these two points were essentially the same as those made in CA VI.

The simple mention of repentance in connection with the command to do good works in itself need not have indicated any change in Melanchthon’s thinking. But it went hand in hand with an unquestionably new element that Melanchthon

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52 "Itaque non datur vita aeterno propter dignitatem honorum operum, sed gratis propter Christum” (CR 21, 429).

53 "Est enim mandatum Dei, ut praestemus hanc obedientiam, quia Christus clare praecepit: Agite poenititiam” (CR 21, 432).
introduced into his discussions of the necessity of good works both at the beginning and at the end of the chapter in the 1535 *Loci*. Early on, he wrote that “good works are necessary to eternal life because they ought necessarily to follow reconciliation. Thus Paul says [1 Corinthians 9:16]: ‘Woe to me if I will not have preached the gospel.’ Also [1 Corinthians 6:9], ‘Those who do such things will not possess the kingdom of God’.” Melanchthon was concluding that repentance in the form of good works kept a believer in faith. In his summary later in the chapter he quoted Galatians 5:21 to the effect that adulterers, fornicators, murderers, etc. would not inherit the kingdom of God. He said that faith cannot exist side by side with a bad conscience which lacks confidence in God’s favorable disposition. Those who did not repent (*qui non agunt poenitentiam*), but instead indulged their corrupt desires, would not retain faith. For it is in the nature of faith to seek forgiveness, not to delight in sin. “The Holy Spirit does not remain in those who comply with evil affections,” Melanchthon declared. All these reasons for the necessity of good works combine, he said, in sharpening the attentiveness of Christians to the things they should be doing *so that they might retain the favor of God* (*ut beneficium Dei retineamus*). For biblical support, he cited the admonition to make one’s calling and election sure (2 Peter 1:10).  

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54c Et tamen bona opera ita necessaria sunt ad vitam aeternam, quia sequi reconciliationem necessario debent. Ideo Paulus ait [1 Cor. 9:16]: Vae mihi, si non docuero Evangelium. Item [ibid. 6:9]: Qui talia agunt, regnum Dei non possidebunt” (CR 21, 429; emphasis added in translation above).

55c Nec manet Spiritus sanctus in his, qui obtemperant vitiosis affectibus . . . Hae
This new third point on the necessity of good works went beyond the Augsburg Confession and the Apology. As noted already, it added to the two points of CA VI, that good works are required by God and that they are the outgrowth of faith. Not so apparent on the surface, however, was the way in which Melanchthon had further developed his thinking on the role of good works in the retention of salvation. In the confessional documents of 1530 and 1531 he had maintained that failure to love could cause a Christian to lose the Holy Spirit and faith. When pressed by his opponents concerning 2 Peter 1:10, the most he said at the time was that by doing good works believers persevered in their call and did not lose its gifts. But by 1535 he was contending that Christians keep God's blessings by their works.

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The above assessment, that Melanchthon's new third point (good works as necessary for salvation) went beyond the Augsburg Confession and the Apology, is seconded by Jeffrey K. Mann, "Melanchthon's Response to Antinomianism: How the 'Antinomian Question' Shaped the Development of His Theology," Concordia Journal 26 (October, 2000):321. Mann also points out that during the last few years of his life Melanchthon grew cautious about utilizing the "necessary for salvation" formulation to the extent that he even advised others such as George Major against using it because it was prone to misunderstanding (Mann, 322; see Bente, 114-115). Still, the praecceptor never rejected the phrase, but only suppressed it (Mann, 322; see Bente, 115 as supported by Maxcey, 294).

In 1557 Melanchthon noted that the proposition "good works are necessary for salvation" had its first occasion against the antinomians, whom he characterized as holding that people could have faith and thus be righteous while remaining in sins against conscience (CR 9,
Good Works as pleasing to God

Acknowledging that it is not enough to teach only that obedience is necessary, however, Melanchthon added another treatment of the way in which the obedience of Christians pleases God even though they do not satisfy the law. He said such an explanation forms a safeguard against people becoming self-confident and giving their works the glory that they should give to Christ. Once more, he was applying the second use of the law without using that term.

Through a series of Bible passages and rhetorical questions Melanchthon pointed out that sin remains in the Christian life even though it is forgiven. He criticized those who thought that the saints could satisfy the law and live without sin. Even worse, he said, they imagined that external works which God has not

405). He added that the words *ad salutem* were not to be taken in the sense of merit, for such an idea would darken the teaching on God’s grace (CR 9, 407). The Formula of Concord, however, maintained that precisely this idea was necessarily entailed by the words *ad salutem.* It rejected the propositions “good works are necessary for the believers’ salvation” and “it is impossible to be saved without good works.” It contended not only that these expressions were potentially misleading, but also that “such propositions are directly contrary to the doctrine of exclusive terms in the articles of justification and salvation (that is, they are diametrically opposed to St. Paul’s words which exclude our works and merit completely from the article of justification and salvation and ascribe everything solely to the grace of God and the merit of Christ . . . .” (FC SD IV 22; Tappert, 554-555; see Kolb and Wengert, 578). “Derhalben werden billich die Propositiones werworfen, dass den Glaubigen gute Werk zur Seligkeit vonnöten sein, also dass es unmöglich sei, ohne gute Werk selig werden; dann sie sind stracks wider die Lehre de particulis exclusivis in articulo iustificationis et salvationis, das ist, sie streiten wider die Wort, mit welchen S. Paulus unser Werk und Verdienst aus dem Artikel der Rechtfertigung und Seligmachung gänzlich ausgeschlossen und alles allein der Gnad Gottes und dem Vordienst Christi zugeschrieben hat . . . .” (BKS, 945).

Interestingly, the “new Finnish” school of Luther research reaches a point similar to the position that good works are necessary for salvation. As indicated above, Simo Peura writes: “a Christian is protected by Christ’s grace insofar as gift (i.e., renewal) is realized in his life. In this sense we could say that the Christian’s renewal is the necessary condition for grace and for staying under Christ’s protection” (Peura, “Christ as Favor and Gift,” 57).
commanded are more perfect than the works of the Decalogue. Thereby he
returned to a theme from the Augsburg Confession and elsewhere: that good works
are what God commands, not what people invent.

Having discussed these preliminaries, Melanchthon gave the reason why the
imperfect good works of Christians please God. As before, it was that the
Christians themselves please God because of Christ, “on account of whom the
Father is well-disposed to us.” In this section, Melanchthon told Christians not to
fear since God in Christ forgave their sins and failings. He also steered them away
from self-chosen works. These ideas, as mentioned earlier, are elements of the
teaching of the law’s third use.

Dignity and Rewards of Good Works

Besides his summary on the necessity of good works, Melanchthon had two
other thoughts to express toward the end of the chapter. The first of these was on
the dignity of good works. God reminds Christians that their works, even though
carried out in infirmity, are all the same pleasing to him. He does this by giving

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58 CR 21, 429-430. This discussion parallels points made in the 1533 *Loci* lectures (CR 21, 309-310).

59 *... propter quem Pater nobis propitius est*” (CR 21, 430-431). In the 1533 *Loci* lectures Melanchthon had said that a work pleases God if it has his command and if the person who does the work considers himself pleasing to God in Christ. Melanchthon added that the work pleases God not because it actually satisfies the law but because it is offered to God through Christ the High Priest (CR 21, 316).

60 Taken together, these points suggest that as he articulated an explicit third use teaching Melanchthon was not allowing the gospel to mitigate the law’s demands. Contrast Haikola, *Usus Legis*, 82-83.

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good works honorific titles such as "sacrifices" of the spiritual priesthood (1 Peter 2:5) and "light" which people see and glorify God (Matthew 5:16). Melanchthon himself called good works "sacraments," signs of God's good will, because the Holy Spirit has adorned the church with various good works that show God's glory, such as the forgiveness Christians offer to others. He added, "Since these benefits are gifts of the Holy Spirit, it would be ungrateful and impious souls who would not recognize the Author." Earlier, Melanchthon had emphasized that good works are pleasing to God only because those who do them are in Christ. Instead of dwelling on that point here, however, he emphasized the witness-value of the works themselves.

61 "Praeterea cum benefacta sint dona Spiritus sancti, esset ingrati atque impii animi, non agnosce autorem" (CR 21, 433).

62 In the chapter on sin (CR 21, 386), Melanchthon put into the mouth of an imaginary inquirer the question why God wants Christians to do good works even though they are filled with sin and hence are evil. There he went on to say that when faith is added to discipline it pleases God, even if the obedience is in fact imperfect, because the person is pleasing to God by faith. Melanchthon continued by saying that the good works of Christians have rewards in this and the next life, which was also the last point he took up at the end of the chapter on good works.

63 Helmut Thielicke was one of the twentieth-century theologians who defended the third use of the law. Nonetheless, he maintained that Melanchthon did a disservice to the evangelical cause by ascribing to works some value independent of the person doing them (Thielicke, Theological Ethics, 19, 61). Chapter one of the present study noted a similar assertion by Bring, who insisted that for Melanchthon the new life has value before God although it is rendered unworthy by certain imperfections (Bring, Verhältnis, 61-62, 187).

The above is the only place in any of the editions of the Loci where the present writer has found that the point made by Thielicke and Bring is warranted. It is but half a point at best, however, in light of Melanchthon's insistence everywhere else in the 1535 Loci that good works please God only because the righteousness of Christ covers those who do them.

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Finally, Melanchthon reiterated a point from the Apology, that good works merit corporal and spiritual rewards. As significant as these rewards might be in this life, here the church is also subjected to the cross. Hence, Melanchthon explained, the chief rewards will be in the life to come. Jesus said, “your reward is great in heaven” (Matthew 5:12), and Paul wrote that “piety holds promises for the present life and the future” (1 Timothy 4:8). In Melanchthon’s opinion, Augustine was correct to say that love merits an increase in love.64

For the sake of Christian certainty, Melanchthon repeated that he was referring in this chapter to the good works of those who are righteous by faith, people who already have forgiveness, reconciliation, and acceptance for eternal life. This fact that God only approves the works of believers helps to explain the occasional occurrence in Scripture of a phrase from the law like “He will render to each one according to his works.”65 A bit later Melanchthon put it differently, using the example of a son in a family who inherits because he is a son — that is, due to a reason outside of his works — yet he is rewarded for the performance of his

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64 A few years later, in the 1540 edition of his Romans commentary, Melanchthon again quoted Augustine to this effect, then added: “he is not speaking about imputation but about gifts.” “… non enim loquitur de imputatione, sed de donis” (Kramer, 46; CR 15, 533).

65 CR 21, 433-434. Earlier Melanchthon had treated “civil righteousness”: “Righteousness of the flesh has its own praise, and men should be taught that God requires and rewards it.” “Quare iustitia carnis habet etiam suam laudem, et docendi sunt homines, quod Deus eam requirat ac praemiis ornet” (CR 21, 387). This was consistent with his brief treatment of the “righteousness of reason” in the Apology, where he said, “God even honors it with material rewards. Nevertheless, it ought not be praised at the expense of Christ.” “… ac Deus etiam ornat eam corporalibus praemiis: tamen non debet cum contumelia Christi laudari” (Ap IV 24; BKS, 164; Tappert, 110; see Kolb and Wengert, 124).
duty as well. So it is with Christians, who receive their heavenly inheritance for a reason beside their works, but are rewarded for the works too.

**Christian Freedom**

Melanchthon promised to return to the third use of the law when he treated the abrogation of the law. The 1535 *Loci* contains no chapter with that precise heading, but the chapter on Christian freedom was the one to which he referred. In it the *praeceptor* identified four “degrees” of Christian freedom.

The first was that “not on account of the law, but freely on account of Christ the forgiveness of sins and imputation of righteousness are given.” Melanchthon said that this principal (*praecipuus*) degree pertains not to external or civil life but to the conscience as it stands before the judgment of God, adding that it was this degree about which Christ was speaking when he said, “If the Son sets you free, you will be free indeed” (John 8:36).

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66 CR 21, 443.

67a ... non propter legem, sed gratis propter Christum donantur remissio peccatorum et imputatio iustitiae” (CR 21, 458).

68 CR 21, 458. Later Melanchthon returned to the point that “Abrogation of the law should principally be understood concerning the abrogation of that right, which the law used to have, namely that it accused and condemned all people.” “Abrogatio legis principaliter intelligi debet de abrogatione iuris illius, quod Lex habebat, videlicet quod omnes homines accusabat et condemnabat” (CR 21, 461).
The second degree was the giving of the Holy Spirit (*donatio Spiritus sancti*), by whom believers are vivified, ruled, and defended from the devil.\(^6^9\) This second degree cohered with the first, Melanchthon said, and the two should not be separated. The first degree should be considered when the conscience is frightened, while the second admonishes Christians in other dangers to arouse themselves and ask to be ruled and defended by the Holy Spirit.\(^7^0\) In these two degrees we speak concerning freedom or the abrogation of the law, Melanchthon declared.\(^7^1\)

Such abrogation does not pertain to those who do not repent — that is, to those who are under the law and its accusation and condemnation — but only to those who apprehend the blessings of Christ by faith. Melanchthon reiterated his position that "to be free from the law is not freedom from obedience to the moral law, but freedom from the law's curse. That is, although we do not satisfy the law,

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\(^6^9\)CR 21, 458. Melanchthon was altering his outline of the degrees of Christian freedom from his 1534 *Scholia on Colossians*. There the first, third, and fourth degrees were the same as one can find in the 1535 *Loci*. But in 1534 he had taken the second degree as an opportunity to present the three uses of the law, or, as he said at the time, three reasons for retaining the Decalogue as a summary of natural law. The overall rubric into which that discussion of the Decalogue fit — the second degree of Christian freedom in the 1534 *Colossians* — was that the obedience of Christians pleases God because their persons are pleasing in Christ by faith (Wengert, *Law and Gospel*, 198-199). By this place in the 1535 *Loci*, as indicated above, Melanchthon had covered this ground repeatedly. He had also discussed the use of the law in his chapter on the law. Elements of his 1534 exposition of the third use remained, however, as Melanchthon revised his treatment of the second degree of Christian freedom in terms of the Holy Spirit as a gift from God to his people.

\(^7^0\)Passages that Melanchthon listed on the second degree of Christian freedom include: "where the Spirit of the Lord is, there is liberty" (2 Corinthians 3:17) and Jesus' words, "I will not leave you as orphans" (John 14:18).

\(^7^1\)CR 21, 458.
nonetheless now on account of another — namely on account of Christ — we have the forgiveness of sins and the imputation of righteousness, just as if we were to satisfy the law.” A few lines later he added: “nonetheless, the moral law remains as far as obedience is concerned.” In these words the praeceptor was echoing almost to the letter a portion of his specific discussion of the law’s third use earlier in the 1535 Loci.

Melanchthon went on, “because the gospel certainly submits us to obedience toward God.” This last clause differed from his specific discussion of the third use earlier in the 1535 Loci. There he had maintained the necessity of obedience to the law by the justified, but he did not say it was the gospel that submitted them to such obedience.

Melanchthon took as a good expression of the second degree of Christian freedom Augustine’s saying that the righteous are free from the law because, having

72 “Esse liberum a lege, non esse liberum ab obedientia legis moralis, sed a maledicione legis; hoc est: Etsi legi non satisfacimus, tamen iam propter alius, videlicet propter Christum, habemus remissiorem peccatorum et imputationem iustitiae, perinde ac si legi satisfaceremus . . . Sed tamen manet lex moralis, quod ad obedientiam attinet . . .” (CR 21, 459).

73 In the section on the third use, Melanchthon had written: “. . . tamen, quod ad obedientiam attinet, manet Lex . . .” (CR 21, 406).

74 “. . . quia certe Evangelium subiicit nos obedientiæ erga Deum” (CR 21, 459).

75 The statement that the gospel requires obedience was a foundation on which Wengert could rest his conclusion that for Melanchthon in the mid-1530s “law and gospel merge into one command: obedience to God.” But contrary to Wengert, it was this statement about the gospel — not Melanchthon’s assertion that the law continues after justification — that effected such a “merger” (Wengert, Law and Gospel, 205).
been accepted by the Holy Spirit, they do the things the law prescribes. This statement resembles Melanchthon's own position from the 1521 *Loci*. But in 1535 he said he thought it good to speak of obedience "according to the law" (*nomikoos*) because the law remains as far as obedience is concerned.\(^6\)

Yet Melanchthon did not want to see Christians coerced into obedience by the law, as is shown by his comments on 1 Timothy 1:8-9 ("the law is good if someone uses it legitimately, knowing that the law is not laid down for the just but for the unjust"). First he offered a few paraphrases of the passage: "all the functions of the law pertain to the unjust"; "the law accuses and condemns the unjust"; "by the law the unjust must be coerced." On the other hand, he wrote, "the just are free from the law, that is, they are neither accused nor condemned by the law; for they are just (that is, accepted) on account of another."\(^7\) Melanchthon made an observation of what happened in the church, especially among the monks who had a strong sense of their own "just" character. He said consciences became loaded with new chains, and there turned out to be no end to the law's irritation. For these people were not being taught that they were justified by faith. Instead, the lodestar for them was a dictum of Gregory, "It is of a good mind to fear fault where

\(^6\)CR 21, 459.

\(^7\)Omnia legis officia pertinent ad iniustos. Lex accusat et condemnat iniustos. Item: *Lege sunt cohercendi iniusti. Sed iusti sunt liberi a lege, hoc est, non accusantur neque condemnantur lege; sunt enim propter alium iusti, id est, accepti* (CR 21, 460).
there is no fault." According to Melanchthon, Paul wanted to stop this kind of torture of consciences by writing that the law is not laid down for the just. Even as the *praeeceptor* took a strong position in favor of Christians obeying the law, and although in his earlier treatment of the first use he had mentioned that the law coerces all people, he did not think it good to force believers into obedience for the sake of obedience itself. Despite his variegated approach to the encouragement of good works in the 1535 *Loci*, he did not forget that Christians insofar as they are reborn in Christ are not to be coerced by the law.\(^79\)

**Summary**

In the 1535 *Loci*, as in 1521, Melanchthon insisted that sinners cannot be justified by the law and its works because they can never meet its standard. Newer aspects of his chapter on the law in 1535 were: 1.) his contention that the moral law is incumbent upon Christians because it reflects natural law and because the

\(^{78}\) *Allegabatur auctoritas Gregorii: Bonae mentis est timere culpam, ubi non est culpa* (CR 21, 460).

\(^{79}\) This section of Melanchthon’s discussion of Christian freedom in the 1535 *Loci* should be borne in mind over against the assertion of Bring that Melanchthon grounded the Christian’s love essentially in duty (*Verhältnis*, 61-63, 159) and thus motivated good works from the law (*Verhältnis*, 58-59). See also Wengert, *Law and Gospel*, 205; Richter, 377 and 378.

The final two degrees of Christian freedom in the 1535 *Loci* contribute almost nothing to a study of the third use. The third degree was that the gospel frees believers from the so-called ceremonial and judicial laws of Moses (CR 21, 460). The fourth consisted in freedom from ecclesiastical ceremonies instituted by bishops or other men (CR 21, 462-463).
gospel preaches righteousness and obedience to God; 2.) his heightened emphasis on the conditional promises made by the law and a concomitant expression of the gospel as pronouncing sinners righteous as if they had satisfied the law; and 3.) his explicit identification of three uses or functions of the law.

The articulation of a third, instructional use of the law for sinners in a sinful world followed from the premise that Christ had freed Christians from the curse of the law, but not from obedience to the law. This premise was stated most forcefully when Melanchthon spoke in terms of “forensic” justification (notably, starting with his Romans Commentary of 1532), but he had said the same thing in different words in the Augsburg Confession and the Apology. The description of the third use of the law in the 1535 Loci stood in strong continuity with these earlier Lutheran confessional documents as well as the later Formula of Concord.

In the 1535 Loci Melanchthon emphasized the importance and necessity of good works, which he described as nothing other than the fulfilling of the law. A portion of his discussion paralleled the familiar two-point treatment of good works from CA VI, that God both commands them and that he brings them forth in the lives of those who are saved by faith in Christ. Unlike CA VI, however, Melanchthon repeatedly worked the idea of repentance into this discussion, adding that good works are necessary to eternal life. On the other hand, Melanchthon was simply reiterating a point from his earlier confessional writings when he insisted that
good works done by Christians please God because the Christians themselves are pleasing to God in Christ, not because the works have intrinsic worth (although in 1535 he did note that the works had value as a witness). As in the Apology, he also mentioned rewards for the good works that are done by those who have already received reconciliation and sonship in Christ.

Melanchthon discussed abrogation of the law under the heading of Christian freedom. The most important of the degrees of Christian freedom were the first two he listed, that 1.) forgiveness is given and righteousness is imputed on account of Christ and that 2.) God gives believers the Holy Spirit to vivify them, rule them, and defend them from the devil. These two points resembled the two aspects of Christian freedom that Melanchthon had identified in the 1521 Loci. In 1521 Melanchthon said the Spirit could do no other than to bring about a desire to do the things once demanded by the law. In 1535 he held that the law remains for the Christian as far as obedience is concerned. Still, Melanchthon did not want Christians to obey the law due to force or fear, even though in the 1535 Loci he assembled an array of reasons for them to obey it.

Richard Caemmerer claimed that it was characteristic of Melanchthon, beginning in the 1530s, to limit the link between justification and the new life to a mental operation. Caemmerer said it amounted to this, that “The man whose conscience has been relieved from the threat of punishment through faith in the

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80 Dixi . . . de legis impletione seu de bonis operibus . . .” (CR 21, 437).

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forgiveness of sins wrought by Christ now tells himself that he must not sin again, since this will make conscience feel bad again.” Thus, Caemmerer added, the gospel became more a “deterrent” against bad works than a “dynamic” for good ones. The present study of the 1535 Loci has not found Melanchthon reducing the cause of good works to a pure mental operation. However, Melanchthon was multiplying so many reasons to do good works that the “natural causality” between faith and good works, while certainly not absent, receded in prominence.

A similar point can be made about the third use doctrine. While the third use of the law was more pointedly formulated in the 1535 Loci than in any of Melanchthon’s previous works, there was a high degree of continuity between the explicitly-stated doctrine of the third use in the 1535 Loci and Melanchthon’s earlier hints at such a teaching in the 1521 Loci or in the Augsburg Confession and Apology. In the 1535 Loci, the most important questions relevant to the third use were raised not by Melanchthon’s description of the third use proper, but by his simultaneous introduction of claims such as the role of penitence in the necessity to do good works and especially the necessity of good works for salvation.

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Caemmerer, 332.

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CHAPTER SIX

THE 1543 LOCI

The final Loci was the 1543 edition. In that year the book was published in the form with which Melanchthon finally contented himself. It had again grown substantially under its author’s hand since the previous edition. The 1543 version turned out to be twice as long as that of 1535. It went through twenty-five printings, with small deviations between them, over the next 16 years. Melanchthon saw the work through the press for the last time in 1559, the year before he died.

The 1543 Loci can be described as more carefully-worded and in some ways more overtly evangelical than its predecessor of 1535. The praecceptor was laboring to put his best foot forward in the last edition of his classic. Yet he proved unyielding in his determination to preserve points that he had introduced to the work in 1535. So it was with the claim of 1535 edition that good works are necessary for eternal life. Already in printings of the 1535 Loci done in the year 1538, Melanchthon was substituting the wording that “new spiritual obedience” (nova
spiritualis obedientia) is necessary for eternal life. Notably, Luther’s lectures on Genesis 22:17-18 (from late 1539 or early 1540) criticized the insistence that good works are necessary for salvation. Although the reformer did not specifically mention Melanchthon in these lectures, it is hardly surprising to find the praeeceptor writing in the 1543 Loci that good works are necessary to retain faith. Melanchthon was altering the wording, not the thought.

The outline of the Loci underwent almost no change from 1535 to 1543, especially in the topics of particular interest to this investigation. Given the commonality in general approach that marks the 1535 and 1543 Loci, the present chapter will be primarily concerned with substantive differences between the two editions in these major topics: the law, good works, and Christian freedom.

Law

As in his introduction to the corresponding chapter in 1535, Melanchthon noted that the law is a God-given teaching that tells people how to be and what to do and omit. He also said that the law punishes those who do not obey it perfectly.

\[\text{CR 21, 429.}\]

\[\text{WA 43, 254; AE 4, 164.}\]
However, he used words to describe the law that he had not used in 1535, calling it “an eternal and immovable rule of the divine mind and a judgment against sin.”

Classification of the laws

Melanchthon held to his former threefold classification: divine law, natural law, and human law. He further divided the divine law into the familiar categories of moral law, ceremonial law, and judicial law, explaining that when God established the nation of Israel he explicitly set forth the same knowledge of the moral law that he had instilled in the human mind at creation. Since he was putting a complete civil structure into place in Israel, God also promulgated ceremonial and judicial laws at the same time. But ever since Christ had been brought into the world through that political structure and it subsequently ceased to exist, Melanchthon said there was no remaining reason to observe those ceremonial or judicial laws which God had not commanded any other nation to follow. This discussion of the divisions of divine law resembled that of the previous Loci, but with a slight shift in emphasis. Instead of offering his readers a reason why the judicial and ceremonial laws were not binding, the praeceptor said that no reason remained why they should be binding.

Moral law was different. As the “eternal judgment and rule of God” (aeterna Dei sententia et regula), its precepts were not subject to change with the

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3Preus, 57, italics added. “Lex Dei est regula aeterna et immota mentis divinae et judicium adversus peccatum” (CR 21, 686; St.A. 2/1, 278).

4CR 21, 687; St.A. 2/1, 280-281; Preus, 57-58.
passage of time. "God always from eternity willed this purpose, that His creatures should love and fear God and that the rational creature be pure." Moral law was summarized in the Decalogue, but these commands had been proclaimed among God's people even before Moses lived. They were "eternal rules of the mind of God" (aeternae regulae mentis divinae). In Old Testament times the judgment of God's moral law came upon nations besides Israel, such as the Canaanites. Natural law agreed with this moral law, Melanchthon said.

The Decalogue

Melanchthon added a new prefatory part to this section, before his specific comments on the various commandments. Regardless of sinful pride, he stressed that human strivings do not satisfy the law and that in the law God shows the terrible condition into which human nature has fallen. The praeceptor urged that "we might seriously consider it [the law] to be the voice of God which contains far greater
things than we can comprehend." Melanchthon was placing a stronger emphasis than before upon the law as none other than God's own message.

In his prefatory remarks Melanchthon went on to make four points about the moral law. First, he observed that it shows the dignity and purity in which the human race was created. Second, he pointed out that this law tells of mankind's present wretched state: at odds with the law, filled with contempt for God, and deserving of death and disaster because of sin. Melanchthon further noted that "we do not understand our wretchedness, nor do we really hear the Law except when in true terrors and penalties we recognize the wrath of God against sin." Again, the praeceptor coupled God with the law. Third, Melanchthon said that the law tacitly anticipates the future restoration of humanity. God's will is for his law to be fulfilled even after the fall, an outcome that will occur only in a restored human race. Finally, Melanchthon noted, the law as a messenger of God's wrath allows people nowhere to turn but to the Christ who sacrificially bore that wrath, shouldered the law's burden, and pleased God. The first three of these four points

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8Translation altered from that in Preus, 58, emphasis added. "... serio cogitemus esse vocem Dei longe maiora contintentem, quam ut totam complecti possimus" (CR 21, 688; St.A. 2/1, 282-283).

9Translation altered from that in Preus, 58. "Nec tamen intelligimus iam miseriam nostram nec Legem vere audimus, nisi cum in veris terroribus aut poenis agnoscimus iram Dei adversus peccatum" (CR 21, 689; St.A. 2/1, 283).

10Elert was being fair to the praeceptor in pointing out that "Melanchthon never overlooked the opposition to God that is implicit in sin" (Elert, Structure, 32).

11CR 21, 690; St.A. 2/1, 284; Preus, 58-59.
applied a “past, present, and future” grid of analysis to the Decalogue, while the last returned to the present as the time of salvation from the law and its curse.

In his exposition of the first commandment, Melanchthon emphasized at greater length two points he had made in the 1535 Loci and in the Apology: that sinners can only begin to fear and trust God after they have heard the gospel, and that even believers never truly keep the law. He quoted Romans 10:4 as saying that Christ is the completion of the law (*consummatio Legis*).\(^{12}\)

As in 1535, Melanchthon closed his discussion of the Decalogue with a consideration of the law’s threats and promises. All promises of the law are conditional, he reaffirmed, since they all require that one do nothing against the law. For sinners, “these promises would be vain unless we learn from the gospel how we are to be accounted righteous and how our incipient obedience to the law is pleasing to God. The promises attached to the law are accounted to the righteous by faith for the sake of Christ,” Melanchthon continued, “because God had accepted his obedience. Therefore He gives both temporal and spiritual rewards . . . .”\(^{13}\) Melanchthon did not use the word “imputation,” but he was expressing the same thought, that Christ’s righteousness was counted to the Christian.

\(^{12}\)CR 21, 692-693; St.A. 2/1, 288-289; Preus, 60.

\(^{13}\)Preus, 69. “. . . hae promissiones fierent irritae, nisi ex Evangelio disceremus, quomodo reputemur iusti et quomodo placeat inchoata obedientia iuxta Legem. Fiunt igitur iustis fide propter Christum et Legis promissiones ratae, quia Deus recipit obedientiam. Ideo et praemia tribuit corporalia et spiritualia . . . .” (CR 21, 711; St.A. 2/1, 313).
Natural law

Melanchthon expanded on his earlier definition of natural law as knowledge of the divine law grafted into human nature. He said that the natural law's teaching of obedience to God came under the second of two categories of knowledge implanted in human beings. The first was knowledge of numbers and logical order, while the second was knowledge of principles that relate to actions. Melanchthon said that these latter principles "ought to be as clear and firm for us as the knowledge of numbers, nevertheless because of our original fall, a certain darkness has come over us and the heart has conflicting desires," which cause disagreement even over basic moral maxims.\(^\text{14}\) Therefore he urged that "The divine light in the minds of men must not be extinguished; rather, the mind must be stirred up and strengthened in order that it may recognize the first principles of action, embrace them, and determine that the immutable decrees of God are in fact just as sure and certain as the visible principles."\(^\text{15}\)

But Melanchthon was realistic, in light of his theology of human sin, about what would happen when the divine light of natural law was confirmed in the mind.

\(^{14}\)Preus, 70. "Ac debebant quidem haec practica principia tam illustria nobis esse et firma, quam sunt notitiae numerorum, tamen quia propter labem originis accessit quaedam caligo et cor habet contrarios impetus . . . ." (CR 21, 711-712; St.A. 2/1, 314).

\(^{15}\)Translation altered from that in Preus, 70. "Lumen divinum in mentibus non extinguendum est, sed potius excitandum, et conhirondus animus, ut agnoscat principia practica, eaque ampletatur et statuat revera tam certa et firma esse, quam sunt speculabilia, imo pariter esse decreta immutabilia Dei" (CR 21, 712; St.A. 2/1, 315).
To be sure, he wrote, there was value in making the agreement between natural law and the laws of the Decalogue evident to people. Thereby they could understand that it was God, no less, who stands behind the laws of nature that are naturally known to them. But, he continued, this knowledge concerning God’s demand of obedience would bring the further knowledge that the Lord accuses the human race in its disobedience. “For God willed that the voice of His judgment against sin be known,” Melanchthon said.\(^\text{16}\)

“Afterwards,” he added, “it was also for the benefit of the saints that there be a well-defined testimony from God as to which works He requires and approves, lest in the weakness of man reason wander away, as has happened in the case of many law-givers who have made some iniquitous laws.”\(^\text{17}\) Thus, at the very end of his section on natural law Melanchthon was sketching the second and third uses of the law without employing these terms. He would take up these subjects at greater length in the next section. But already here the praelector indicated that the “second use” applied to the whole human race, while the “third” was for the benefit of the saints. It is also noteworthy that he said the “well-defined testimony”

\(^\text{16}\)As noted in the previous chapter, Elert (Law and Gospel, 7-11) and Haikola (Usus Legis, 7) recognized the prominence given by the praelector to the second use even as he was enumerating three uses of the law.

\(^\text{17}\)Translation altered from that in Preus, 72. “Voluit enim Deus extare vocem iudicii sui adversus peccatum. Postremo sanctis etiam prodest extare certum testimonium Dei, quae opera requirat et probet, ne in hac infirmitate hominum ratio aberret, sicut in multis Legumlatoribus aberravit, quorum aliquae sunt vitiocae Leges” (CR 21, 716; St.A. 2/1, 321). Melanchthon did not identify the errant law-givers of whom he was thinking.
was necessary for the saints on account of the weakness of their flesh. Believers needed to have the law presented to them insofar as the desires of their old Adam made the natural law unclear in day-to-day living.  

Use of the Law

As in 1535, Melanchthon began this section with a reminder that justification does not come about by the law. Sin remains in human nature, so people cannot meet the law’s demands. The praecceptor added that the gospel proclaims forgiveness of sins and reconciliation with God on account of Christ as mediator. So if the law does not justify, Melanchthon asked, what purpose does it serve? Thereupon he launched into his discussion of the three functions or threefold use (triplicem usum) of the law.

In 1543 Melanchthon called the law’s first use “pedagogical or political” (paedagogicus seu politicus). He said that God wants all, even the unregenerate, to be coerced by the law’s discipline not to commit outward sin. As in 1535, he

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18 As in the case of the 1535 Loci, the 1543 edition gives no support to the view of Elert (Christian Ethos, 299) and Bring ("Gesetz und Evangelium," 85) that Melanchthon said the Christian needed the instruction of the law insofar as he was a new man in Christ.

19 In light of this introduction to the discussion of the use of the law, it is clear that also with respect to the 1543 Loci, Elert claimed too much when he wrote that for Melanchthon a response of obedience was “exclusively attainable” in the third use (Elert, Christian Ethos, 301), and Bring likewise overreached when he asserted that the third use amounted to a means for justification in Melanchthon’s thinking (Bring, “Gesetz und Evangelium,” 62). See also Ebeling, “Triplex Usus Legis,” 62-64.

20a Hic sciendum est tria esse Legis officia seu triplicem usum” (CR 21, 716; St.A. 2/1, 321). See Preus, 72.

21 Preus, 72. “Vult enim Deus coercerí disciplina omnes homines, etiam non renatos, ne
quoted 1 Timothy 1:9 ("the law was laid down for the unjust"). He added that
magistrates and governments were established by God to support discipline and that
over and above this step God employed the universal calamities that come to the
human race as a sort of prison for the disobedient.22

The praecceptor was intent on the teaching of discipline for four reasons,
which he listed:

1. God, to whom obedience is owed, commanded it.

2. Penalties can be avoided by which the magistrate or God punishes horrible
   offenses (*atrocia delicta*).

3. Public peace can be preserved. "God demands discipline so that we do not
   practice violence against the person or property of others."23

4. Discipline is a *paedagogia in Christum*.

The last of these reasons for the teaching of discipline stands out as the most
important for present purposes. A bit of elaboration becomes necessary for the sake
of understanding it well.

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22CR 21, 716-717; *St.A.* 2/1, 322; Preus, 72-73.

23Preus, 73. "Deus flagitat disciplinam, ne grassemur in aliorum corpora et fortunas"
(CR 21, 717; *St.A.* 2/1, 322).
Excursus: The fourth point on discipline, *paedagogia in Christum*

Although in his 1535 discussion of the law's first use Melanchthon had called the law a *paedagogus in Christum*, he only discussed this designation briefly at that time. In the 1543 *Loci* he expanded his comments, along two basic lines of thought.

The first of these two lines had not appeared in the treatment of the first use of the law in the *Loci* published in 1535. This line of thought indicated that discipline as a *paedagogia in Christum* raised the stakes higher, as it were, than the other reasons for teaching discipline that had been listed by Melanchthon. For with *this* reason the aspect of eternity came most clearly into view:

For those who do not cease corrupting themselves by sins against their own conscience, Christ is of no effect, as it clearly says in 1 Cor. 6:9-10, 'Fornicators, idolaters, adulterous people . . . shall not inherit the kingdom of God.' Along the same line is the statement in 1 John 3:8, 'Everyone who commits sin is of the devil.' Thus it is necessary to curb our lusts so that we do not fight against the Holy Spirit when he moves our hearts.

We shall return to this first line of thought below.

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24 As will be indicated below, however, antecedents of this line of thought had appeared in several of Melanchthon’s previous works, for example, in his 1540 revision of the *Romans Commentary* (in his treatment of the first use of the law) and in revisions to the 1535 *Loci* that the *praecceptor* made for printings in 1541 (in the chapter on sin).

25 Preus, 73. “... in illis, qui non desinunt se polluere sceleribus contra conscientiam, non est efficax Christus, sicut clare dicitur 1 Cor. 6: 'Fornicatores, idolatrae, adulteri, etc. regnum Dei non possidebunt.' Et in eandem sententiam inquit Ioannes: 'Omnis, qui peccat, ex Diabolo est.' Necesse est igitur frenare cupiditates, ne repugnemus Spiritui sancto moventi corda” (CR 21, 717; St.A. 2/1, 323).
The second line along which Melanchthon expanded the discussion of discipline as a *paedagogia in Christum* in 1543 harkened back to a point from the 1535 *Loci*. Melanchthon had indicated, as part of his 1535 treatment of the law’s first use, that good training and discipline encourage (*invitant*) people to hear and learn the gospel. In 1543 he expanded somewhat and wrote: “It also comes to this, that it is a part of discipline to hear and learn the gospel through which the Holy Spirit is effective in us.” Melanchthon’s 1540 revision of his *Romans Commentary*, coming as it did about halfway between the 1535 and 1543 editions of the *Loci*, shows that with his 1543 expansion the *praecceptor* was referring to the apparatus of ceremonies in the society and civil life of his day that brought people into contact with the gospel. Under the rubric of

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26 CR 21, 406.

27 Preus, 73. “Accedit et hoc, quod disciplinae pars est, audire et discere Evangelium, per quod Spiritus sanctus est efficax” (CR 21, 717; St.A. 2/1, 323).

28 Writing of training as a *paedagogia in Christum* in the revised *Romans* of 1540, Melanchthon had included, among other things, the following: “this training is not only a guardian of peace -- it does not only coerce -- it also teaches. This is what training really is. The law has ceremonies, rites, and exercises, like any pious head of a family. In order that this custom may teach the unlearned and weak, we sing, we read, and we meditate on some passage of Scripture at certain times for the purpose of training, that is, that the Word may be inculcated, that, having become accustomed to it, we may understand the Word of God. The Holy Spirit works through the Word” (Kramer, 141). “Paedagogia non solum pacis custos est, non solum coercet, sed etiam docet. Id proprium est paedagogiae, ideo lex habuit ceremonias, et habet ritus et exercitia, quilibet pius paterfamilias. Ut illa ipsa assuefactio doceat rudes et infirmos, canimus, legimus, meditamur aliqua loca scripturae, certis temporibus paedagogiae causa, id est, ut verbum inculcetur, ut assuefacti intelligamus verbum Dei. Est autem Spiritus sanctus efficax per verbum” (CR 15, 632).

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discipline and the first use of the law, in other words, opportunities existed for people to hear the message of salvation in Christ.²⁹

An awareness of Melanchthon’s works such as his 1540 Romans proves important in this instance. For his one-sentence statement in the 1543 Loci was so brief (“It also comes to this, that it is a part of discipline to hear and learn the gospel through which the Holy Spirit is effective in us”) that someone reading only it — that is, not taking into account its background — might misunderstand it to have been saying that the discipline of hearing and learning the gospel forms an individual’s preparation for grace, his contribution toward his relationship with God.³⁰ That is, a reader might mistakenly think that this sentence forms an instance of Melanchthon teaching synergism.

Melanchthon was not moving in a synergistic direction with the second line of thought along which he expanded his point that discipline is a paedagogia in Christum. But it is necessary to examine more closely the first line of thought, the one that appeared at this point in the Loci for the first time in 1543:

²⁹Bauer recognized that in 1543 Melanchthon was saying that law provides the discipline under which the gospel is heard. He claimed that he had detected a difference between the 1543 Loci and that of 1521, and he went on to draw the conclusion that in 1521 Melanchthon thought of natural law as lex carnalis altogether blind to lex spiritualis (Bauer, 73). However, Bauer was simply engaging in a surface comparison between two formulations. He did not engage the fact that by 1543 possibilities had opened up for people to hear the evangelical message, for example in grammar schools. Melanchthon could only have dreamt about such possibilities as he was writing in 1521.

³⁰Haikola fell into this trap. See Usus Legis, 24-25.
the idea that “it is necessary to curb our lusts so that we do not fight against the Holy Spirit when he moves our hearts.”

Also in the case of this statement it is revealing to check Melanchthon’s previous deployments of the four points on discipline. In his 1530 prolegomena to Cicero’s De Officia he had written that those who persisted in wickedness could not be true Christians. When he revised his Romans Commentary in 1540, he added that people should not fight against God’s word by persisting in wickedness. In 1541 he made an addition to the chapter on sin in the 1535 Loci, noting that those who act against conscience would not remain members of Christ. In all of these places the praeceptor had been saying the same thing, that evil works destroy faith.

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31 “... those who persevere in wickedness against conscience are not converted to God. They are neither members of Christ nor are they the dwelling of God, but they do things deserving of eternal punishment and [are] the dwelling of devils [Here Melanchthon quoted 1 Corinthians 6:9-10 and 1 John 3:8, as he would in the 1543 Loci, and also 1 Timothy 1:18-19]. Moreover, [in this way] they know that the Son of God is not efficacious in those who persevere in wickedness against conscience.” “... hi qui perseverant in sceleribus contra conscientiam, non sunt conversi ad Deum, nec sunt vita membra Christi, nec domicilia Dei, sed fiunt rei aeternae poenae et domicilia diabolorum... Item, ut sciant Filium Dei non efficacem esse in his qui perseverant in sceleribus contra conscientiam” (CR 16, 538-539).

32 “... it is necessary for people not to fight against the Word of God, and not to continue in manifest crimes. For the Word of God is not efficacious in a person who remains in them” (Kramer, 141). “… necesse est homines non repugnare verbo Dei, non commorari in manifestis flagitiis. Nam in commorante non est efficax verbum Dei” (CR 15, 632).

33 In the addition, Melanchthon discussed ways in which people might get away from Christ rather than being lead toward him. Those who relax God’s restraints and are delighted by fowndness are not members of Christ, he said, and those who pollute themselves by acting contrary to conscience do not remain members of Christ (“non manent membra Christi,” CR 21, 386, note 76; see Maxcey, 134-136). Situated in a section on actual sin, Melanchthon’s addition warned against the impact of evil works on Christians.
But in the 1543 *Locí* Melanchthon was taking another step with his discussion of discipline as a *paedagogia in Christum*. Here he went so far as to say that “it is necessary to curb our lusts so that we do not fight against the Holy Spirit when he moves our hearts.” With this additional step he was moving toward making the claim that good works, such as curbing lusts, helped to retain faith. Precisely that claim came later in the 1543 *Locí*, in the chapter on good works: “But *because* the saints fight against their evil desires and believe that for the sake of the Son of God their weaknesses are forgiven, *therefore* they do remain in grace and keep their faith and the Holy Spirit.”

In sum, the fourth point on discipline that Melanchthon listed under the first use in the 1543 *Locí* was that discipline is a *paedagogia in Christum*. Here his

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34Preus, 73. “Necesse est igitur frenare cupiditates, ne repugnemus Spiritui sancto moventi corda” (CR 21, 717; St.A. 2/1, 323).

35Preus, 106, emphasis added. “Quia vero sancti vitiosis affectibus repugnant et credunt sibi propter Filium Dei condonari infirmitatem, ideo manent in gratia et retinent fidem et Spiritum sanctum” (CR 21, 781; St.A. 2/2, 413). This claim resembles what Melanchthon had written in the section on good works in the 1535 *Locí*: that through doing good works Christians might retain the favor of God (“ut beneficium Dei retineamus,” CR 21, 432). See chapter five above.

36Melanchthon had occasion to recite the four points on discipline one more time in the 1543 *Locí*, at the end of the chapter “The Spirit and the Letter.” There he said that the fourth point was “the most important of all, namely, that ‘the Law is a schoolmaster unto Christ.’ And it is the duty of a schoolmaster not only to urge but also to teach . . . its great worth is that by this discipline it says we are called to Christ, not because the discipline deserves or merits the remission of sins, but because Christ is not efficacious in those who despise His discipline, who persevere in the violation of discipline against conscience” (Translation altered from that in Preus, 184). “Quarta est gravissima, quod videlicet Lex est paedagogus in Christum. Est autem paedagogi officium non solum coercere, sed etiam docere . . . sed illa magna laus est, quod hac disciplina ait vocari nos ad Christum, non quod mereatur disciplina remissionem.
discussion of the law was verging toward the idea, explicitly expressed later in the book, that good works helped to retain faith and salvation. Even so, it might be noted that Melanchthon classified “curbing our lusts” as a function of the law’s first use.\(^{37}\) Although he was opening the door to a sort of synergistic position with these words, the first use — not the third — remained the coercive one in his view.\(^{38}\)

The second and main use of the law was to accuse, terrify, and condemn all men. “For the law is a perpetual judgment which condemns sin in the entire human race,” Melanchthon declared.\(^{39}\) In a section without equivalent in the 1535 edition, he pointed out that the knowledge of God’s law had been grafted into the human mind, and that it had also been revealed “in different ways by voice and examples as, for instance in Paradise, where God accused disobedience, and added the

\[\text{peccatorum, sed quod Christus non sit efficax in contemptoribus disciplinae, qui perseverant in violatione disciplinae contra conscientiam} \] (CR 21, 933–934; St.A. 2/2, 621).

\(^{37}\) Melanchthon’s discussion of the first use in his 1540 Romans: ran along similar lines in this respect. There he had written: “Also the godly, who are still weak and unlearned, have need for such exercises in order that they may be coerced and may learn as Paul says [Eph. 6:4]: ‘Educate children in the discipline and admonition of the Lord’” (Kramer, 142). “Habent et pii, qui adhuc sunt infirmi et rudes, opus talibus exercitiis, ut coercantur et discant, sicut inquit Paulus: Educate pueros in disciplina et admonitione Domini” (CR 15, 633).

\(^{38}\) As Elert identified both the first and third uses of the law as emerging from Melanchthon’s desire to combat libertinism (Elert, Christian Ethos, 297, 300), he was losing sight of the fact that for Melanchthon — as for article VI of the Formula of Concord — the law’s first use was coercive, not the third.

\(^{39}\) Preus, 73. “Est enim Lex perpetuum Dei iudicium damnantis peccatum in toto genere humano” (CR 21, 718; St.A. 2/1, 323).
punishment, namely, death and other sorrows, in order that there might be testimonies of His judgment against sin.”

Over against the sort of position set forth by Agricola, Melanchthon maintained that the law, far from being absent from the church, was if anything proclaimed more and believed more there than anywhere else. Starting with God’s reproof of the fallen Adam and Eve and during the succeeding years through the patriarchs, he recounted, the law has condemned sin and proclaimed repentance. Melanchthon made it very clear that God’s voice “rings out in the church announcing the wrath of God against the sins of men,” and that it would be a crime to silence that voice.

Thereupon the praeceptor turned his attention to the traditional Roman opponents of the Reformation. He singled out for correction those in the church who thought that the law was promulgated to merit reconciliation or to take away sin. At this point Melanchthon repeated almost all of his discussion of the second

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40 Translation altered from that in Preus, 73. “... variis modis revelatum est voce et exemplis, ut in Paradiso arguit Deus inobedientiam et addit poenam, scilicet mortem et ceteras calamitates, ut essent testimonia iudicii adversus peccata” (CR 21, 718; St.A. 2/1, 323).

41 Preus, 73. “Hic testatur coelestem vocem in Ecclesia sonare, quae iram Dei denuntiat adversus hominum peccata” (CR 21, 718; St.A. 2/1, 324).

42 CR 21, 718; St.A. 2/1, 324; Preus, 73. Later in the 1543 Loci, Melanchthon wrote that the people of Israel in Old Testament times “did not understand the principal reason for the promulgation of the law. For it was given not only as the civil law by which this nation should be ruled, but that it might be the voice of God given by sure and clear testimony by which the judgment of God was revealed as something eternal and immutable in its opposition to sin, so that the promise of the Messiah might be sought when the wrath of God became understood” (Preus, 118). “Non intelligebant, cur praecipue Lex promulgata esset. Non enim tantum promulgata est, ut politica disciplina hic populus regeretur, sed ut extaret vox Dei certo et
use from the 1535 *Loci*, including several Bible passages on the law’s accusation. As in 1535, he added the importance of proclaiming the gospel of the Lamb of God who takes away sins and reveals the mercy of the God who frees from sin those who believe in his Son.\(^43\)

"Third," Melanchthon went on, "it is asked concerning the use of the law in the regenerate" (*Tertio quaeritur de usu Legis in renatis*).\(^44\) Instead of immediately discussing the law’s instructional use, however, the *praecceptor* backtracked a bit and affirmed that since the regenerate are justified by faith, they are free from the law.\(^45\)

That is, Melanchthon clarified, they are free from the law’s curse and God’s wrath, if they retain their faith and fight against sin. Reiterating the law’s second use, he once again called for the law to be taught to point out the remnants of sin and

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\(^43\)CR 21, 718-719; *St.A.* 2/1, 324-325; Preus, 73-74.

\(^44\)Translation altered from that in Preus, 74 (CR 21, 719; *St.A.* 2/1, 325). It might be observed that Melanchthon was not claiming that the third or instructional use was the law’s *only* use in the life of the regenerate. Previously, Melanchthon had indicated that the first use of the law applied to *all men* (CR 21, 716; *St.A.* 2/1, 321; Preus, 72) and the second use rang out especially in the church (CR 21, 718; *St.A.* 2/1, 324; Preus, 73). In other words, the *praecceptor* had already acknowledged the application of the law to Christians in its first two uses. By contrast, as already noted, Schäfer was of the opinion that both Luther and Melanchthon restricted the scope of the first use to unbelievers (Schäfer, 151, note 3.b.).

\(^45\)Insofar as they have been reborn and justified by faith, they are free from the law. [This] must be said in this place [*suo loco*, which could also be translated “under this locus,” as Preus rendered it]. For they are freed from the law . . .” (translation altered from that in Preus, 74). “Quatenus autem renati et iustificati fide sint liberati a Lege, dicendum est suo loco. Sunt enim liberati a lege . . .” (CR 21, 719; *St.A.* 2/1, 325).
increase repentance. At the same time, he added, the gospel of Christ should be proclaimed so faith grows.46

This portion of the paragraph has proven challenging to modern scholars. Richter cited it in support of his contention that Melanchthon’s position on the third use — and the respect in which it differed from the second use — was vague.47 Bauer may have had these words in mind when he indicated that for the 1543 Loci the “sense and task” (Sinn und Aufgabe) of the law in its third use was freedom.48 But a simpler interpretation seems preferable. A more straightforward reading of this section’s significance is that the praeceptor was going out of his way to set his forthcoming description of the third use into an evangelical, “law [second use] and gospel” context. Moreover, if in these words Melanchthon was not decisively ruling out the thought that fighting against sin formed a condition or cause for retaining freedom from the law’s condemnation, neither was he promoting it here. He explicitly attributed growth in faith to the gospel.

46 ... that is, [the regenerate are freed] from the curse and the condemnation or from the wrath of God which is set forth in the law, namely, if they retain faith and fight against sin by confidence in the Son of God and overcome the terrors of sin. Yet in the meantime the law must be taught which points out the remnants of sin, in order that the knowledge of sin and repentance may increase [crescat], and at the same time the gospel concerning Christ might ring out so that faith may grow [crescat]” (translation altered from that in Preus, 74). “... id est, a maledictione et damnatione seu ab ira Dei, quae in Lege proponitur, scilicet, si fidem retinent et fiducia filii Dei repugnant peccato et vincunt terrores peccati. Interim tamen docenda est Lex, quae reliquias peccati indicat, ut crescat agnizio peccati et poenitentia, et simul sonet Evangelium de Christo, ut crescat fides” (CR 21, 719; St.A. 2/1, 325).

47 Richter, 378; see also Bring, “Gesetz und Evangelium,” 48; Haikola, Usus Legis, 31; Meyer, 225.

48 Bauer, 74.
Next Melanchthon detailed the instructional use of the law.

Furthermore, the law must be preached to the regenerate to teach certain works in which God wants us to exercise obedience. For God does not want us to devise works or worship by our own wisdom, but he wants us to be ruled by his word, as it is written, “In vain do they worship me by the commandments of men,” Matt. 15:9. Again, “Your Word is a lamp unto my feet,” etc., Ps. 119:105. When human reason is not directed by the Word of God, it easily goes astray. For it is seized by wicked desires so it approves iniquitous works, as is apparent in the laws of the gentiles. The divine arrangement [ordinatio] that we are to obey God remains unchangeable. Therefore, even though we have been freed from the law, that is from damnation, because we are righteous by faith for the sake of the Son of God, yet because it pertains to obedience, the Law remains, that is, the divine arrangement [ordinatio] remains that those who have been justified obey God. Indeed, they have the beginning of obedience which we shall discuss under its own chapter as to how it is pleasing [to God].

This description strikingly resembled the paragraph on the third use in the 1535 Loci. As in 1535, Melanchthon wrote in 1543 that the law teaches Christians certain works in which to exercise obedience. Both the 1535 and 1543 editions pointed out that Christians are free from the law, that is, in the sense of being justified (so 1535) or no longer damned (1543). Both said that the law remains as far as obedience is concerned. And both noted, almost at the end of their respective paragraphs, that the obedience of Christians, although inchoate, pleases God. In

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1543 Melanchthon even made these points using some of the same words that he had employed in 1535.

But with the 1543 version Melanchthon was also expanding somewhat on his 1535 exposition. First, in 1543 he emphasized the permanence of the law as an *ordinatio divina* more than he had in 1535, where he had simply noted that it was necessary to obey God. Second — and still more prominent in view of the four sentences devoted to it in 1543 — was the appearance of a theme on which Melanchthon had elaborated elsewhere, but not in his 1535 description of the third use: the confusion and futility of self-chosen works.\(^{50}\)

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\(^{50}\) Melanchthon had made the case against self-chosen works in the Augsburg Confession and the Apology (see chapter four above), and even in the 1521 *Loci* (see chapter three above). Sobered by the example of the Anabaptists, he sounded this note again in the 1540 revision of his *Romans Commentary*: “It is right to lead the minds to the Word of God so they may know their whole life — in the midst of the struggle of the conscience and in actions — is to be ruled by the Word of God . . . the works taught to us by God are to be done. Moreover, a sure Word should be set before us, namely, the Decalogue, as it is repeated and explained in the NT . . . This must be said, lest people think it is permitted to invent acts of worship and works by our own will without a command from God, as the Enthusiasts do at all times. Some time ago the monks, and now the Anabaptists, after they had given up and cast off the Word of God, chose works according to their own judgment, and afterward invented the excuse that they were incited by the Spirit, and that the Spirit must not be hindered by the Law. Hence there followed the dreaded lawlessness of the Anabaptists” (Kramer, 36). “Rectum est deducere mentes ad verbum Dei, ut sciant totam vitam in certamine conscientiae, et in actionibus regendam esse verbo Dei . . . facienda esse opera nobis a Deo praeciepta. Et certum verbum proponatur, videlicet, Decalogus ut in novo testamento repetitus et narratus est . . . Hoc eo dicendum est, ne putent homines licere fingi cultus et opera nostro arbitrio sine mandato Dei, sicut Enthusiastae omnibus temporibus, hoc est, olim Monachi, et nunc Anabaptistae, omissio et abieicto verbo Dei, opera elegerunt suo iudicio, postea affinxeunt se sic incitari a spiritu, nec esse lege spiritum impediemund. Hinc secuta est horribilis Anabaptistarum *anomia*” (CR 15, 522).
Both of these points were eventually made in the Formula of Concord. If one were trying to re-write the description of the third use in the 1535 *Loci* so that it would parallel article VI of the Formula in the closest possible way, these two expansions would constitute the required "finishing touches." The description of an instructional use of the law from the 1543 *Loci* formed the last step on a journey in which the third use teaching moved intact from Melanchthon's work into the Formula of Concord.

The most significant changes from 1535 to 1543 in the chapter on the law, then, were four in number. First, in 1543 Melanchthon stressed the eternal and unchangeable nature of the law to a greater extent than he had in earlier editions of the *Loci*.\(^1\) He had not used the word "eternal" in reference to the law in the 1535 edition, although he had done so in the Apology (Ap IV 131) and elsewhere.\(^2\) The second important change was that in 1543, to a greater extent than in the 1521 or the 1535 editions, Melanchthon was identifying the law as God's own instrument or voice. That is, he was no longer content to say only that the law condemned or

\(^1\)See CR 21, 1042; St.A. 2/2, 769-770; Preus, 242. Already in the year 1535, Melanchthon had spoken of the comparability between the knowledge of numbers as an implanted idea in the mind and that of moral principles. "While the mind by its own light discerns that this proposition is true, certain, and immovable: twice four are eight, as much as this statement is true, certain, and immovable: adultery is disgraceful and is to be avoided." "Ut mens ipsa sua luce cemit hanc propositionem veram, certam et immotam esse: Bis quatuor sunt octo: sic vera, certa et immota est haec sententia: Adulterium est turpe et vitandum" (CR 2, 850-851).

\(^2\)In the prolegomena to Cicero's *De Officia* (1530), Melanchthon wrote, "Lex moralis est aeterna et immota sapientia, et norma iustitiae in Deo" (CR 16, 537).
accused, but he stressed that *God Himself* condemned and accused through the law. Third, Melanchthon included four points on discipline in his discussion of the first use, the last of which connected to his later assertion that because Christians remain in faith in part because they fight evil desires. The idea of not resisting the work of God and doing good works so as to retain salvation was beginning to impact upon Melanchthon’s discussion of the law, even though in 1543 he could still describe the law’s informative function in terms very much like those of the 1535 *Loci*. The fourth change noteworthy for present purposes was that Melanchthon introduced into that description not only an emphasis on the permanence of the law as an *ordinatio divina*, but also the theme that self-chosen works are futile. In so doing, he put the description of the third use into its “final form” for incorporation into the Formula of Concord. He certainly did not portray the law in its third use as an elaborate checklist of instructions by which Christians were to retain salvation.

As in the 1535 *Loci*, Melanchthon ended his 1543 discussion of the use of the law promising to return to the subject. Therefore it is necessary to turn to the chapter on good works in the 1543 *Loci*.

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53ae These comments suffice to give instruction briefly regarding the threefold use of the law, for below we will once more speak concerning the second and third use” (translation altered from that in Preus, 74). “Haec de triplici usu Legis satis sit breviter monuisse, nam de secundo et tertio usu infra rursus dicetur” (CR 21, St.A. 2/1, 326).
Good Works

Melanchthon almost completely re-wrote the 1543 chapter on good works. Leaving behind the more uncomplicated outline of 1535 (which featured basically four points: the necessity of good works, why they are pleasing to God, their dignity, and rewards for them), the praecceptor employed a division of the topic similar to that of the “Argumentum” section in his 1540 Romans Commentary. He organized the new chapter around a series of five questions:

1. What works must be done?
2. How can they be performed?
3. How are they pleasing to God?
4. Why must they be performed?
5. What is the difference among sins?54

The greatest similarity in approach between the 1535 and 1543 editions was evident at the very beginning of the chapter, before Melanchthon even introduced the above five questions. He wrote that “our obedience, that is the righteousness of a good conscience or of works, which God has commanded us, must necessarily follow our reconciliation.”55 As in 1535, he added that “Christ clearly gives command regarding repentance,” then he quoted Romans 8:12 (“we are debtors not to live according to the flesh”), but not Matthew 19:17 (“if you will enter into life,

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54CR 21, 762; St.A. 2/2, 387; Preus, 97. These questions and answers to them, except the fourth, are found in the 1540 Romans (CR 15, 521ff.; Kramer, 35ff.).

55Translation altered from that in Preus, 97. “Obedientia nostra, hoc est, iustitia bonae conscientiae seu operum, quae Deus nobis praecepit, necessario sequi reconciliationem debet” (CR 21, 762; St.A. 2/2, 386).
keep the commandments” this time. A bit later, and also as in 1535, he added:

“Thus we are born again in reconciliation so that the new obedience might be begun in us,” and he quoted Ephesians 2:10 (“We are his workmanship created through Christ Jesus unto good works which God has prepared that we should walk in them”). Here once more was the familiar two-pronged approach of the Augsburg Confession, that good works must be done because God commanded them and that they are the fruit of faith. But this time Melanchthon added to his first prong two more biblical quotations, 1 Corinthians 6:9 (“neither fornicators, nor adulterers, nor idolaters, nor thieves . . . will inherit the kingdom of God”) and 1 John 3:7-8, (“he who commits sin is of the devil”). In the 1535 Loci Melanchthon had cited 1 Corinthians 6:9 as part of his claim that good works are necessary for salvation, and earlier in the 1543 Loci both of these Bible passages had appeared in a similar connection in Melanchthon’s exposition of his fourth point on discipline under the first use of the law. By placing these passages near the head of the 1543 chapter on good works, Melanchthon was serving notice that he was not backing away from the substance of his controversial premise in the rewrite.

The answer to the first question, “Which works must be done?”, came very early in the section: the works God commands. Melanchthon explained, “we need

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56 Preus, 97. “Christus enim clare praecipit de poenitentia . . . Regeneramur igitur in reconciliatiane, ut nova obedientin in nobis inchoetur” (CR 21, 762; St.A. 2/2, 386-387).

57 CR 21, 762; St.A. 2/2, 386 Preus, 97.
to know that not only the external works of the Decalogue must be done which can
be imitated even by the ungodly, but there must be a beginning of the inner
obedience. And the inner works which pertain to the First Commandment are that
we must believe the Word of God, fear God, and trust in God."\(^58\) The rest of the
section was devoted to a discussion of these “inner works” and their import.

Melanchthon began his discussion of the second question, “How can good
works be performed?” where he had ended with the first. He wrote that “the inner
obedience cannot be begun without knowing the gospel and without the Holy Spirit.
. . . love for God cannot exist before the hearing of the gospel regarding
forgiveness.”\(^59\) This theme was a familiar one for Melanchthon, but his discussion
of it held a new wrinkle in store for the reader. Melanchthon wrote that the answer
to the second question is valuable “that we may know with certainty that the Son of
God is our helper and defender, as Paul also says when he tells us that He was with
the people in the wilderness, 1 Cor. 10; and also that we may know with certainty
that the Holy Spirit is given to those who ask for Him . . . and He rules in such a
way that He can give his gifts, righteousness, life, good counsel, governance,

\(^{58}\)Preus, 97. “. . . sciendo est non tantum externa opera Decalogi facienda esse,
quae etiam ab impiis utcunque simulari possunt, sed inchoandam esse interiorem obedientiam.
Sunt autem opera interiora, quae ad primum praeceptum pertinent: Credere verbo Dei, timere
Deum, confidere Deo” (CR 21, 763; \textit{StA.} 2/2, 387).

\(^{59}\)Preus, 98. “Sed interior obedientia non potest inchoari sine agnizione Evangelii
et sine Spiritu sancto . . . dilectio Dei existere non potest nisi prius audita voce Evangelii de
remissione” (CR 21, 765; \textit{StA.} 2/2, 390).
successes, and other things." Here Melanchthon was pointing to a dynamic role played by Christ and the Holy Spirit in the experience of the Christian.

The heart of the answer to the third question, on how good works please God, remained unchanged from Melanchthon's previous works. But this time the praeceptor worked up to it rather deliberately, after a fairly long comment on the sin that remains in the Christian. Flawed as the Christian's obedience is, "in the case of those who have been reconciled, it is pleasing to God for the sake of His Son the Mediator who presents our prayers and our worship before the Father and overlooks our weakness." As elsewhere, Melanchthon affirmed that the forgiveness of sins so covers Christians that not only they but also their works are accepted by God for Christ's sake. Here he was stating an important premise for the third use of the law. He added that God's gracious acceptance arouses in Christians a zeal for doing good. Faith is trained in good works, Melanchthon said, first by meditating on the fact that in Christ the obedience of believers pleases God. In this case he was motivating good works from the gospel, not from the law.

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60 Preus, 99. "... sciamus vere nobis esse adiutorem et defensorem Filium Dei, sicut et Paulus inquit affuisse eum populo in deserto. Et sciamus vere dari Spiritum sanctum invocantibus... Sic regnat, ut dona sua, iustitiam, vitam, consilium, gubernationem, successus et alia bona impertiat" (CR 21, 767; St.A. 2/2, 393).

61 If it was not precisely an instance of "Christ in us" thinking (as sought by Schäfer, 10-18), this discussion went further beyond "Christ for us" than anything in the 1535 Loci had.

62 Preus, 101. "... in reconciliatis placere Deo propter Filium Mediatorem, qui nostram invocationem et nostros cultus perfert ad Patrem et condonat infirmitatem" (CR 21, 771; St.A. 2/2, 399).

63 CR 21, 772; St.A. 2/2, 399; Preus, 102. The second way in which faith is trained in
Melanchthon's section on why good works are to be done (his fourth question) paralleled the entire chapter on good works from the 1535 Loci. The three basic reasons that he gave in this section for doing good works — necessity, dignity, and rewards — had all been mentioned in the 1535 version.

The most complex reason to do good works was the first one listed by Melanchthon, necessity. In both the 1535 and the 1543 Loci he had three subpoints under this heading, but the subpoints were different in the two editions. In 1535 the first two subpoints under necessity were the twin emphases from the Augsburg Confession: 1.) that it is fitting (*opportuit*) for good works to follow faith, and 2.) that God commands good works (with an added mention of repentance). The other subpoint 3.) was that good works are necessary to eternal life. In 1543 the three subpoints were a.) necessity of command and debt (corresponding to #2 above), b.) necessity of retaining faith (basically the same as #3 above), and c.) necessity of avoiding punishment. In the 1543 Loci Melanchthon did not treat the "natural causality" between faith and works as part of the answer to this question.⁶⁴

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⁶⁴In a 1550 book based on his Wittenberg lectures on the Nicene Creed, Melanchthon included a treatment of good works very similar to that in the 1543 Loci. But at the beginning of this discussion, before mentioning command and debt, he spoke in terms of natural causality utilizing the "tree and its fruit" terminology (*Enarratio secundae tertiaeque partis Symboli Nicaeni* [1550], hrsg. Hans-Peter Hasse, Quellen und Forschungen zur Reformationsgeschichte, Band 64 [Gütersloh: Gütersloher Verlagshaus, 1996], 102). Engelland was right to point out
The necessity of command and debt was not a matter of compulsion, Melanchthon said, but “there remains in force the eternal and immutable ordering of God that the creature shall render obedience to the will of God.” Thus, the creature is obligated or indebted to render obedience. The basic thought was hardly new for Melanchthon, dressed this time in the garb of the 1543 Loci’s references to the “eternal ordering,” and so forth.

Next, Melanchthon stated that good works are necessary to retain faith. The basis for this assertion was the fact that “the Holy Spirit is driven out and grieved when sins against conscience are allowed.” That is, Melanchthon reasoned from the premise that faith is cut off through sinful works to the conclusion that faith is retained through good works. As Richter has most recently pointed out, Melanchthon’s 1543 claim that good works are necessary to retain faith really amounted to a different way of expressing the premise from the 1535 edition that good works are necessary for salvation.

that Melanchthon never lost the “natural causality” in which faith produced good works (Engelland, 433, 443; cf. 521). Perhaps it was absent from the section on the necessity of good works in the 1543 Loci because the praeceptor thought he had adequately expressed it earlier in the chapter, in the answers to the second and third major questions.

Translation altered from that in Preus, 103. “Etsi enim aliud est loqui de coactione, tamen manet ordinatio aeterna Dei et immutabilis, ut voluntati Dei creatura obtemperet . . . Et executi fidem per mala opera” (CR 21, 775-776; St.A. 2/2, 404).

Translation altered from that in Preus, 103. “Spiritus sanctus expellitur et perturbantur, cum admittuntur peccata contra conscientiam” (CR 21, 775; St.A. 2/2, 405). This sort of reasoning was rejected later by the Formula of Concord. See FC SD IV 30-36 (BKS, 946-949; Tappert, 555-557; see Kolb and Wengert, 579-580).

Richter, 374.
The third form of necessity, that of avoiding punishment, puts the reader in mind of Melanchthon's discussion of the law's first use, where he had written that one of the reasons for discipline was to avoid penalties imposed either by God or by magistrates. Now he added that the baser motive of avoiding punishment should not be held at an unduly low level of esteem, for "there are many causes and reasons for the same action." True, he said, Christians know that "we must do the right thing for the sake of God rather than because of the punishments. But they also know that God wills that His will and His wrath be acknowledged in the punishments we undergo." As in the 1535 Loci, Melanchthon was deploying a variety of reasons for the performance of good works, not all of which centered in the teaching of forgiveness of sins and new life in Christ. But the similarity between this section on avoiding punishment and Melanchthon's earlier discussion of the first use should not be overlooked. The praeeptor categorized fearing and avoiding punishments as a manifestation of the first use of the law, not the third.

After finishing his rather complicated exposition of the necessity of doing good works, Melanchthon turned to the dignity (dignitas) of good works. Here he departed from the similar section in the 1535 Loci, in which he had not emphasized that the works of Christians please God because those who do them are in Christ

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68 CR 21, 717; St.A. 2/1, 322; Preus, 73.

69 Preus, 104. "... eiusdem facti multas esse causas et ordinatas... propter Deum recte faciendum esse quam propter poenas. Sed sciant hoc quoque Deum velle agnosci voluntatem suam et iram in poenis" (CR 21, 776; St.A. 2/2, 406).

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(although he had said so often throughout that work). In 1535 he had stressed the value of the works as witnesses to God’s good will and glory. But in the 1543 treatment of the dignity of good works, Melanchthon turned the spotlight back on the believer doing these works: “Thus when any member of the church believes that it is the highest calling of all that he be a member of the people of God, he will pray to God for himself and others; he will offer sacrifices, that is, every kind of good works which has been commanded by God.”

Rewards provided the third major reason to do good works. Melanchthon wrote that “in those who have been reconciled, after conversion, their good works, since they are pleasing by faith for the sake of the Mediator, as we have said, do merit spiritual and physical rewards in this life and after this life . . . Scripture is full of promises of this kind concerning both spiritual and physical rewards.”

Neither here nor in his earlier treatment of the third use did Melanchthon forge a link between the third use and rewards. He did not depict the third use as a map to the treasure of rewards.

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70 CR 21, 433, as noted in the previous chapter.

71 Preus, 104. “Sed quodlibet membro Ecclesiae sentiat hanc summam omnium vocationum esse, ut sit membro populi Dei, invocet Deum pro se et aliis, offerat sacrificia, id est, omnis generis bona opera praecepta a Deo” (CR 21, 777; St.A. 2/2, 408).

72 Preus, 105. “Sed in reconciliatis postea bona opera, cum placeant fide propter Mediatorem, ut dictum est, merentur praemia spiritualia et corporalia in hac vita et post hanc vitam . . . plena est scriptura talium promissionum de spiritualibus et corporalibus praemiis” (CR 21, 778; St.A. 2/2, 408-409).
Finally, the fifth of the major questions around which Melanchthon structured his chapter on good works in the 1543 *Loci* was “What is the difference among sins?” His basic point in this section was that while those who have been reborn still have sins, they lose faith, righteousness, and the Holy Spirit when they sin against conscience. Obviously, then, sinning against conscience was to be avoided. In itself, this point was not new for Melanchthon. Already in the Apology he had warned that the Holy Spirit could be offended by a failure to love, resulting in the loss of faith. But, as noted earlier, the *praecceptor* went an additional step: “But *because* the saints fight against their evil desires and believe that for the sake of the Son of God their weaknesses are forgiven, *therefore* they do remain in grace and keep their faith and the Holy Spirit.”

Here was another assertion of Melanchthon’s theme that good works are necessary to retain faith or that good works are necessary for salvation.

It is also worth noting that in answering his fifth question Melanchthon highlighted common, even selfish motives for keeping the law. His central biblical example in this section was the patriarch Joseph. When tempted by Potiphar’s wife, “Joseph, seeing God’s command and foreseeing punishments, scandals, and other catastrophes which would follow, rejected her attentions. He also sought divine

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73Preus, 106, emphasis added. “Quia vero sancti vitiosis affectibus repugnant et credunt sibi propter Filium Dei condonari infirmitatem, ideo manent in gratia et retinent fidem et Spiritum sanctum” (CR 21, 781; St.A. 2/2, 413).

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guidance and added his own determination. Melanchthon’s emphasis at this point in the 1543 *Loci* differed markedly from his own handling of the same Bible story some thirteen years earlier, in his 1530 prolegomena to Cicero’s *De Officia*. There Melanchthon had noted at some length that Joseph’s virtue really consisted in God Himself, who dwelt in the patriarch through his word. Father, Son, and Holy Spirit inspired good impulses in Joseph as a man who knew God, feared him, believed in the Mediator, and was joyful in God. Melanchthon had maintained that the efficient cause of Joseph’s chastity was Christ, who was effective in Joseph’s mind through God’s word to prohibit adultery and approve obedience for his own (Christ’s) sake. The Holy Spirit confirmed these thoughts and inspired the chastity to which Joseph’s will freely submitted. The final cause of the chastity was the glory of God, as Joseph did not want scandal to mar God’s teaching. In 1530 Melanchthon contrasted the case of Joseph with that of unbelievers who lack almost all of the factors that had upheld Joseph in his chastity. Unbelievers can only try to derive some locomotive force for their behavior through natural processes, the *praecceptor* had concluded in 1530, by reasoning from laws and prohibitions.

The 1543 *Loci*, except perhaps for the mention of Joseph’s seeking divine guidance, made the patriarch look like the unbelievers about whom Melanchthon had

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75 CR 16, 541.
written in 1530. In his 1543 chapter on “Human Powers or Free Choice,”
Melanchthon had adopted the case of Joseph as an illustration of the way in which
the will can prevent outward falls into sin. While God’s word and the Holy Spirit
were encouraging Joseph, his mind was thinking of “how great a ruin would follow,
if he yielded to the devil, namely, the loss of his gifts, the eternal wrath of God, the
punishments in this life and the life to come, besides the many lapses and many
offenses. Moved by these thoughts [not by the Holy Spirit, as in the 1530
discussion], his will assented and the Holy Spirit strengthened his will in its
weakness . . .”76 This depiction of Joseph set him up as an example of outward
conformity with the law not unlike that of unbelievers. It formed an instance of the
law’s first use, and even the second as it mentioned God’s wrath and eternal
punishment, but not the third.77

In an examination of Melanchthon’s doctrine of the third use of the law, one
of the prime questions that arises about good works is whether the praeeceptor was
still recognizing the “natural causality” by which faith produced works. Or was he
simply trying to get Christians to do good works because the law demanded them,

76Preus, 44. “. . . quanta ruina secutur esse, si Diabolo obtentgeraret, videlicet
amission donorum, aeterna ira Dei, poenae in hac vita et futura, praeterea multi lapsus et muta
scandala. His cogitationibus mota voluntas assentiebatur, et confirmabat eam languentem
Spiritus sanctus . . . . ” (CR 21, 660; St.A. 2/1, 246). This sort of motivation did not rise to the
level of duty for which Bring criticized Melanchthon (Bring, Verhaltnis, 61-63, 159).

77Melanchthon’s treatment of the Joseph story in the 1540 edition of the Romans
Commentary was similar to that in the 1543 Loci. In 1540, he said that Joseph “coerced
himself with discipline” (Kramer, 48). “cum ipse discipline se coercuit” (CR 15, 535), re-
confirming that he considered the story illustrative of the law’s first use.
and if so, did he consider coercion by the law to be an aspect of the third use? The 1543 *Loci* offers a mixed bag of responses to such a query. First, its chapter on good works contained several significant gospel-oriented features. Melanchthon depicted both Christ and the Holy Spirit playing more dynamic roles as helpers and defenders in the lives of Christians than he had in the 1535 *Loci*. He dwelt not on the *dignitas* of good works themselves but of the believer who was accepted on account of the Christ through whom the works were produced and for whose sake God accepted them. In more than one place he drew attention back to forgiveness and reconciliation with God as the basis and the motivation for the exercise of faith. To use Melanchthon's own words from the Augsburg Confession, he was "offering help as to how they [good works] may be done." 78

On the other hand, there is no doubt that Melanchthon deployed avoidance of punishment as a motive more than he had in 1535. For purposes of the present dissertation this point must take on greater precision. Insofar as avoidance of punishment could be used to coerce behavior, such a motive formed a species of the first use, not the third. Even in 1535 Melanchthon had said that in its first use the law coerces all men into external conformity, including Christians. An examination of the section on good works in the 1543 *Loci* suggests that Karl Holl had a point in

78CA XX 35 (Tappert, 46; see Kolb and Wengert, 56, 57). "... hilf anbiete, wie man zu guten Werken kumen muge" (BKS, 81).
declaring that the mature Melanchthon had many reasons for the Christian to do good works, but no *throughgoing* reason.™

Further, Melanchthon’s insistence that good works are necessary for salvation constituted a motive for good works based on the law. This teaching differed from the Augsburg Confession which said that good works must be done because God commands them but that they actually *are* done as the fruit of faith. Instead, it maintained that good works were done in part to retain salvation.

**Christian Freedom**

Although expanded, this chapter did not differ much in substance from its predecessor of 1535. Melanchthon reiterated his degrees of Christian freedom, the first of which was still that for Christ’s sake God gives forgiveness of sins, reconciliation, imputation of righteousness, and eternal life. The second degree continued to be “the bestowal of the Holy Spirit, who kindles new light in our minds and new movements in our will and heart, guides us, and begins eternal life in us.”°° Melanchthon highlighted the distinction between the first two degrees for

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°° Preus, 241. “... *donatio Spiritus sancti, qui novam lucem in mente et novos motus in voluntate et corde accendit, gubernat nos et inchoat in nobis vitam aeternam*” (CR 21, 1039; *St.A*. 2/2, 765).
the sake of clarity. For liberation from the law means not only help to keep it, as he said Augustine repeatedly asserted, but more basically it means the free imputation of righteousness, as in the first degree. In the corresponding discussion from 1535, Melanchthon had briefly indicated that he wanted to speak of obedience not only as a gift of the Holy Spirit but also according to the law (nomikoos). In 1543 he was emphasizing imputed righteousness on account of Christ to make it clear that there was a difference between such righteousness and obedience assisted by the Holy Spirit.

Melanchthon added that the first two degrees show God's great blessings such as "the giving of righteousness and eternal life, defense against the devils, guidance in all matters and dangers, with the Holy Spirit ruling our heart and kindling in us the understanding of the Word of God." The blessings included "the presence of the eternal God, who holds us in His arms for the sake of His Son, our Lord Jesus Christ." These words, reminiscent of Melanchthon's discussion of the role of Christ and the Holy Spirit in the Christian life in the chapter on good works, contributed to the gospel-oriented tone of the exposition of the first two degrees of Christian freedom.

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81 CR 21, 459.

82 Preus, 241. "... donatio iustitiae et vitae aeternae, defensio adversus Diabolum, gubernatio in omnibus negotiis et periculis, regente corda Spiritu sancto et ascendente in nobis cognitionem verbi Dei ... prae sentia aeterni Dei nos iam complectentis propter Filium suum, Dominum nostrum Iesum Christum" (CR 21, 1040-1041; St.A. 2/2, 767).
The third degree was that Christians are not bound to the ceremonial and judicial laws of Moses. As in 1535, Melanchthon included an explanation of why the works of the Decalogue are not to be omitted, in which he repeated what he had said earlier in the book.\textsuperscript{83} That is, God's law is still to be obeyed by Christians as creatures who owe obedience to their Creator. Further, God gives Christians the Holy Spirit to spark in them motions of the heart that agree with God's law, but in this world they are still governed by the Spirit through the light provided by God's word. Finally, in treating the fourth and final degree of Christian freedom (freedom from adiaphorous rites in the church), Melanchthon noted that it is always a mistake for people to devise their own opinions about God and try to worship him accordingly.\textsuperscript{84} In treating the last two degrees of Christian freedom, then, the praecceptor was reiterating some of the basic premises of his teaching on the third use, both from this edition of the \textit{Loci} and earlier.

\textbf{Summary}

If the \textit{Loci} of 1535 constituted the definitive edition of the work, the 1543 version stood out by far as the most sophisticated. In 1543 Melanchthon employed his widest array of arguments and rhetorical repetitions. Moreover, the \textit{praecceptor}

\begin{footnotesize}
\begin{itemize}
\item[^{83}]CR 21, 1042-1043; \textit{St.A.} 2/2, 769-771; Preus, 242-243.
\item[^{84}]CR 21, 1043-1044; \textit{St.A.} 2/2, 772; Preus, 243.
\end{itemize}
\end{footnotesize}

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featured in his discussion of good works the activity of Christ and of the Holy Spirit in the ongoing Christian life and the power of Christ's saving work to impel believers to do good works. That chapter followed the section on the use of the law, which included a description of an instructional use. This description constituted the final link between, on one hand, Melanchthon's acknowledgment in the 1521 *Loci* of the help that the law gives to the forgiven sinner in avoiding self-chosen works and, on the other hand, the third use of the law as described by Formula of Concord article VI.

Yet Melanchthon was determined to hold onto his insistence, from the 1535 *Loci*, that good works are necessary for salvation or that good works are necessary to retain salvation. In the 1543 *Loci* he was integrating this premise more thoroughly into the book. Unlike the 1535 edition, in 1543 came into his discussion of the law's uses. In describing the first use, Melanchthon wrote that discipline was a *paedagogia in Christum*. Thereby he prepared to assert, in the later chapter on good works, that good works helped to retain faith. Thus Melanchthon's discussion on the use of the law, if not explicitly the third use, was becoming associated with a teaching eventually rejected by the Formula of Concord.
CHAPTER SEVEN

CONCLUSION

The present research into the successive editions of Melanchthon’s *Loci*, plus the Augsburg Confession and its Apology, yields a number of conclusions. It helps to set the third use of the law into context as a Melanchthonian formulation reiterated by the Formula of Concord. It also has some implications for approaches to reading the Lutheran Confessions. Further, this research provides a standpoint from which to assess the twentieth-century assault on the third use of the law and the more general picture of Melanchthon that was emerging as the century ended. Finally, it might enable future researchers to put appropriate questions to Melanchthon’s other writings as well as Luther’s works.

*Melanchthon, the Formula of Concord, and the Third Use*

In the Formula of Concord, second-generation Lutherans in effect selected elements to retain from the theology of the mature Melanchthon. They kept the third use of the law but jettisoned the idea that good works are necessary for salvation. Might this step have been arbitrary, a pragmatic move made toward winning more widespread acceptance for their work? Or was there a cogent reason
to retain the third use while rejecting other material that had made its appearance in Melanchthon’s theology at approximately the time when he started writing about three uses of the law?

The present study finds just such a rationale within Melanchthon’s theological thought. Already in the 1521 edition, long before the praeceptor said that good works are necessary for salvation, he set forth a position on the law that strongly resembled article VI of the Formula of Concord. In 1521, Melanchthon held that the law accuses sinners not inherently but because of their sin. Yet since Christ satisfied the law, the Christian can see in it something other than condemnation. At the same time the Holy Spirit leads the believer, insofar as he is new man, spontaneously and voluntarily to conform to the law’s dictates. On account of the old man who clings to them in this world the Spirit brings Christians into contact with the proclamation of the law not only to accuse them on account of their sin but also to help them avoid self-chosen works that do not truly accord with God’s will. The Augsburg Confession and the Apology followed this approach, as they consistently defined or described good works in the context of God’s law. While good works are the “fruit” spontaneously produced by faith, they are also commanded by God. Neither in the Augsburg Confession nor in the Apology did Melanchthon construe the gospel as the removal of the law. On the contrary, as he put it in the 1535 Loci, the law abides and is not abrogated so far as obedience is concerned. Beyond its coercive and accusing functions, it shows believers the works
that please God. Even in 1543 Melanchthon could write at some length about this informatory function of the law and emphasize that self-devised works are to be avoided. In short, this line of thought is found in Melanchthon’s *Loci* from the first edition to the last. The *praeeptor* may have explicitly enumerated three uses of the law for the first time in his 1534 *Colossians* and the 1535 *Loci*, but he had been setting forth the essentials of the third use teaching for some time.

Alongside this continuity of thought, two noteworthy discontinuities have been identified in the present research. The first forms an aid in determining how long Melanchthon had been basically teaching the third use doctrine, even if not under that name. Some of his assertions in the 1521 *Loci* were out of keeping with his later third use position. Specifically, he held in 1521 that the law did not make any demands on the Christian and that the moral law would not have even applied to believers except for the Holy Spirit’s work as the “living law” within them. By the 1535 edition of the *Loci* the *praeeptor* had changed his mind and declared that the Decalogue was binding on Christians insofar as it accorded with natural law. In the Apology he had already called the moral law “eternal,” a description that he especially reiterated in the 1543 *Loci*.¹ Thus, the first noteworthy discontinuity stands between the 1521 *Loci* and all of Melanchthon’s other works considered in

¹Thus, while Schäfer was right from his point of view, to say that from the very first *Loci* Melanchthon failed to develop a Geistethik, nonetheless Engelland, Bauer and others were correct in pointing to development in Melanchthon’s thinking as related to the law and its use. In this case, the shift was Melanchthon’s acknowledgment of an eternal law after 1521. See Schäfer, 158-159; Engelland, 426, 437; Bauer, 75, 78-79.
the present study. By the time he wrote the Augsburg Confession and the Apology, he was teaching that Christ had freed Christians from the curse of the law, not from obedience to the law as such. This point formed the last element of the third use doctrine — as found later in the Formula of Concord — to appear in Melanchthon's work. In fact, it was the only element that had been absent from the 1521 *Loci*.

The second major discontinuity that the present research has noted in Melanchthon's thought began emerging in the 1535 *Loci*. Here, in addition to writing explicitly about three uses of the law, Melanchthon also indicated that penitence has a role in good works and that good works are necessary for salvation. The latter ideas, new in 1535, were reiterated at greater length in the 1543 edition where they entered Melanchthon’s discussion of the law proper. Among the many analysts of Melanchthon, Haikola and Richter were particularly suspicious that since the *praecceptor* was holding good works to be necessary for salvation, he would have been unable to maintain a purely informatory third use.¹ Study of other works by Melanchthon — e.g., sermon studies, Biblical commentaries, etc. — would be necessary to determine whether their suspicions are well-founded.

But there is more than sufficient evidence to assert, as the most basic conclusion to emerge from the present research, that the theology of the third use of the law in article VI of the Formula of Concord was indeed “Melanchthonian.” But

¹See Haikola, *Usus Legis*, 91; Richter, 371-374. Although Joest’s work dealt basically with Luther, and only obliquely with Melanchthon, he also seems to have been aware of the *praecceptor*’s tendency toward making works necessary for salvation. See Joest, 132-133.
it must immediately be added that the Formula reflected a definite stage in the
development of Melanchthon’s thinking. It reiterated Melanchthon’s theology of the
law from the time after 1521, but before synergistic and “Majoristic” ideas came
into the 1535 and 1543 Loci. That is, the Formula mirrored Melanchthon’s thinking
on the law as of the time when he wrote the Augsburg Confession and the Apology,
as shown in those confessional documents. Thus, the third use of the law was not a
foreign element that somehow later intruded into Lutheran theology. The Formula
added only the specification of three distinct uses, a feature of the 1535 Loci which
in that edition had not yet been coordinated with the idea that good works are
necessary for salvation.

Reading the Lutheran Confessions

This conclusion has significance for a hermeneutical approach to the
Lutheran Confessions. Perhaps most notably among twentieth-century scholars,
Edmund Schlink maintained that “To take the Confessions seriously as doctrine of
the church means to segregate them from the remaining literary input of their
authors.” It could be, he explained, that the church declined to affirm certain
particular thoughts expressed by a Luther or Melanchthon, even on the subjects
covered by the various confessional documents.³

³Therefore Schlink avoided weaving extra-confessional material into his account of the
theology of the Lutheran Confessions, even when a confessional author’s other writings offered
material by which the account could be supplemented. “All of these writings may serve as a
commentary, one that is indeed indispensable for a correct understanding of the Confessions,”
Schlink summarized, “but is not normative as the Confessions are” (Schlink, xviii).
The present study suggests that the authors of the Formula of Concord were applying essentially this approach to Melanchthon's writings relevant to the third use of the law. They employed Melanchthon's "three use" formulation of 1534/35, to be sure. But it was the theology of the Augsburg Confession and the Apology that they were reasserting in their day. They were not reiterating all the particulars of Melanchthon's teaching from any of the editions of the *Loci*.

Upon this observation follow two questions for further investigation. In the field of historical theology, especially among Lutherans, the first question looms as perennial. It is twofold: to what degree did the formulators make the same sort of effort with respect to other FC articles, and to what extent did they succeed? For ecclesiastical and dogmatic concerns, a second question inquires into the benefit Lutherans and others might derive from a renewal of Schlink's approach to reading the Lutheran Confessions over 50 years after he attempted it.

**Assessment of historiography**

This study also provides a corrective to several egregious misunderstandings of Melanchthon and his work on the third use. It shows that Elert was wrong, along with Bring and Meyer, to say that the *praeeptor* wanted the third use to be proclaimed to the Christian as new man. Elert also erred in thinking that

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4It should be noted that the Formula of Concord treated Luther differently, directing anyone wanting to know the genuine meaning of the Augsburg Confession to his doctrinal and polemical writings. See FC SD VII 41.

5See Elert, *Christian Ethos*, 299; Bring, "Gesetz und Evangelium," 85; Meyer, 229. There was only one place where the present research has found that Melanchthon by
Melanchthon held obedience to the law in the third use to be an attainable response of the believer in this life.⁶ The analyses of Haikola and Caemmerer, echoed by Wengert, were incorrect in holding that Melanchthon reduced the gospel to mere information.⁷ Melanchthon did not bring the third use of the law into discussions of civil order in society or the Christian magistrate, contrary to Keen.⁸ Although scholars as far back as Engelland were correct to notice that the praecptor had a growing tendency to compel Christians toward doing the performance of good works⁹, in Melanchthon's thinking such compulsion formed part of the first use of the law, not the third.

As described in chapter one above, criticism of the third use doctrine generally progressed through three stages of development over the last 60 years. The first basically unfolded during the 1940s, as Elert, Ebeling, and Bring made the most outlandish and unhistorical claims of the twentieth century regarding Melanchthon and the third use. In addition to those listed near the beginning of the previous paragraph, for example, Bring asserted that the third use amounted to a means for justification in Melanchthon's thinking, and Ebeling implied much the implication took the position attributed to him by these scholars. As noted previously, it was in a set of disputation theses (CR 12, 479; see above, chapter five, note 38).

⁶Elert, Christian Ethos, 301.
⁷Haikola, "Vergleich," 103; Wengert, Law and Gospel, 190; also Caemmerer, 328.
⁸Keen, Divine and Human Authority, 53.
⁹Engelland, 436-438.

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same thing.\textsuperscript{10} These scholars were moved largely by dogmatic, philosophical, and cultural considerations. Moreover, theirs was the generation of systematic theologians that inherited and applied to their work the conclusions of the Luther Renaissance that frequently contrasted Luther and Melanchthon, almost always with a negative judgment on the \textit{praecceptor}. Also at mid-century Althaus, acknowledging that his vocabulary differed from Luther and the Confessions, insisted that the abiding will of God guiding the Christian be called "command," not "law." In another departure from the sixteenth-century Lutherans, he continued that "command" forms an aspect of the gospel.\textsuperscript{11}

In the second phase, essentially over the following decade, Haikola and Joest cast their nets of systematic theology more widely and considered in their studies additional material from the hands of Melanchthon and Luther respectively. They too made outlandish assertions arising from their systems of thought but in effect leaping over textual data. For example, Haikola wrote that Melanchthon constructed a law-centered theology in which the gospel served as nothing but information about forgiveness, while the very formulation that Joest thought impossible so far as Luther was concerned ("Christ has, but now you must also") basically appeared in Augsburg Confession IV and VI.\textsuperscript{12} However, amid their other

\textsuperscript{10}Bring, "Gesetz und Evangelium," 62; Ebelling, "Triplex Usus Legis," 62-64.

\textsuperscript{11}Althaus, \textit{Divine Command}, 29.

\textsuperscript{12}Haikola, "Vergleich," 103; Joest, 133.
critiques and more clearly than their predecessors, both of these scholars pointed to the potential of Melanchthon’s eventual teaching that “good works are necessary for salvation” to skew a purely informatory third use of the law. Not long thereafter, Schäfer identified strands of thought in Melanchthon’s 1521 *Loci* that stretched to the later third use of the law formulation. The present study confirms these last two findings from the second stage of the twentieth-century historiography.

Via still more text-oriented research, in the third and most recent stage there has been a renewed emphasis on general themes that endured from work earlier in the century. However, the present study finds that there was greater continuity in Melanchthon’s teachings both on the abiding nature of the law and on justification from the Augsburg Confession and Apology to the 1535 *Loci* than Wengert allows. As Richter points out, echoing Haikola, much of the significance of Melanchthon’s views concerning the law during the first half of the 1530s lies in their relationship to Luther’s position. Richter also drew attention to Melanchthon’s claim on the necessity of good works to retain faith, or that good works are necessary for salvation.

Members of the “new Finnish” school of Luther interpretation are the latest players to step onto the stage of this historiographical drama. Ironically, this school

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13 See the addendum on Luther below. At this point, it might simply be noted that Luther himself was an adherent of the Augsburg Confession and the Apology, and that this fact can provide a powerful clue to his position on the law and justification.

14 See Richter, 374.
contends on one hand that Luther did not teach concerning the law and justification in such a way as to set the stage for the third use doctrine, yet on the other hand it asserts that the reformer upheld something very much like the “good works are necessary for salvation” position. By marking off another road to that conclusion, this school albeit unintentionally raises the question whether the assertions of the law’s abiding character and imputative justification were, after all, decisive factors leading Melanchthon to conclude that good works were necessary for salvation. More generally, it should be noted that this school’s members underestimate the realism of Melanchthon’s imputative understanding of justification and its similarity to Luther’s conception, as well as perhaps the Formula of Concord’s dedication to the simultaneity of justification and sanctification. Their work figures to form a significant basis for further criticism of the third use of the law into the twenty-first century.

Assessment of Melanchthon

Finally, this study can lend additional precision to recent reconsiderations of Melanchthon. For most of the twentieth century, scholars attributed a synergistic and moralistic turn in Melanchthon’s thought to his humanism, particularly his renewed studies of Aristotle driven by an alleged crisis of vocation during the late

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15See Peura, “Christ as Favor and Gift,” 57.

16The Finnish school likewise has little to say about Luther as an adherent of the Augsburg Confession and the Apology.

17See FC SD III 41, as discussed above in chapter two, note 12.
1520s after he putatively grew disillusioned over Luther’s battle with Erasmus on free will. But an emerging consensus among present-day scholars disagrees. It allows that there was a shift, if not the radical break depicted previously, in Melanchthon’s thinking. Yet for a variety of reasons¹⁹, the newer view detects the causes of this shift more in the parish visitations of 1527 and subsequent years and in Melanchthon’s concurrent aspiration to respond to Roman Catholic attacks that Lutherans were libertine.²⁰ In other words, the newer scholarship points to Melanchthon’s need to avoid the reality and even the appearance of antinomianism, conceived in the broadest terms. In this view, it was not “humanist” optimism regarding human nature that caused Melanchthon’s shift, but rather his preoccupations with the good of the community at large (against lawlessness and disorder) and the health of the church (against the slanders of opponents).

The present study affirms that there is much validity to this newer approach. For even in the 1521 Loci, which the more traditional twentieth-century analysis of

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¹⁸See Wengert, Human Freedom, 69-70, 110-111 and the sources cited there.

¹⁹One of which is the recognition that humanists “did not share philosophical or theological positions on human nature, revelation, justification, sacraments, free will, or the other questions that generated Reformation controversy. On these points, their theologies could and did differ widely” (James Michael Weiss, “Humanism,” The Oxford Encyclopedia of the Reformation, Hans J. Hillerbrand editor in chief [New York: Oxford University Press, 1996], 2:265). They did share “methods of discourse,” which included philological expertise, a passion for rhetoric, and an opposition to scholastic method (see Tracy, 41 et passim and Alister McGrath, The Intellectual Origins of the European Reformation [Oxford: Blackwell, 1987], pp. 32ff.).

²⁰See Keen, “Moral World” 90-91 et passim; Kusukawa, 202; Mann, 307; Wengert, Human Freedom, 124 et passim.
Melanchthon took to have been relatively free of philosophical influence, the young praeceptor was already setting forth a position very much like the third use of the law as found in the Formula of Concord. He did not need to make reference to any supposed humanist predilections or non-biblical literature in order to find that the moral law as expressed in Scripture helped Christians avoid self-chosen works.\footnote{However, the present study also shows that Melanchthon’s biggest change from his position on the law in the 1521 Loci to the Augsburg Confession was his later conviction that the law is the ongoing will of God to which Christians are obligated. Melanchthon’s reading of the classics during the late 1520s might have been important to his thinking as he started referring to the law as eternal. The literature produced from the older perspective can serve as a useful guide for further study along these lines.}

The present study suggests that the newer approach stands in need of a bit of adjustment, too. Granted, Melanchthon’s work featured a strong ethical and community-minded concern. But his contributions on the third use were not designed to coerce obedience to law, certainly not within the general populace. Further, when the praeceptor set forth a premise that pulled his third use teaching away from being strictly informative — the idea that good works are necessary for salvation — his overriding concern was individual and soteriological, that the Christian retain faith and salvation. The present research on the third use can remind Melanchthon scholarship not to overlook this aspect of his thought while tracing his interest in good behavior. If Melanchthon’s mature position on the law cannot be neatly derived from some supposed “dogmatic” humanism, as the older scholarship saw it, nor should it be made out to depend on his idiosyncratic version
of "civic humanism." Especially in the Loci Melanchthon was writing as a theologian with a quasi-pastoral concern about the salvation of people, even when he explored doctrinal paths on which the authors of the Formula of Concord would later refuse to join him.

Addendum: A glance at Luther

Inevitably, a consideration of Melanchthon's teaching on the third use of the law must at least cast a glance in Luther's direction. As previously indicated, the reformer said in 1537 that Melanchthon "teaches clearly and eloquently about the function of the law. I am inferior to him, although I have also treated this topic clearly in my Galatians." By this time Luther had opposed the formulation, "Good works are necessary for salvation," which appeared in the 1535 Loci, yet he definitely approved Melanchthon's exposition of the use of the law.

Although it lies beyond the scope of the present study to enter into detailed analysis of Luther's position on the law, the findings of this research suggest four related questions that could be put to Luther's writings. The questions can assist in the task of determining whether Luther taught a third use of the law (in substance, even if not under that term), and how he might have differed from Melanchthon.

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22 Tischreden number 3554 from March 21, 1537 (AE 54, 233). "Qui diserte usum legis clarissime et docet, et ego illi cedo, quamvis in meis Galatis clare posui hunc locum" (WATr 3, 405).

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1. Did Luther teach that the law was eternal? If so, what did he mean?

That the law was eternal was mentioned by Melanchthon in the Apology, based on the eternal nature of God himself. The praeceptor returned to this thought in the Loci of 1535 and especially 1543, where he treated the moral law as a reflection of God’s own eternal mind. This sort of language was eventually included in the Formula of Concord.

Luther also described the law as eternal. For example, in a sermon on Matthew 22:34-40 from Sept. 30, 1537, he called the law “the eternal, immovable, unchanging will of God . . . .”23 In his first disputation against the Antinomians, also from 1537, Luther said: “decalogus est aeternus.”24 Above, chapter one noted the contention of Haikola that Luther in such expressions was referring only to God’s loyalty (Treue) to himself, not envisioning a law with normative content. Green’s opposition to Haikola on this point was also mentioned.25

Haikola granted that Luther and Melanchthon were not at totally opposite poles on this matter. For both, the law was grounded in God’s will and did not constitute an independent order of being to which the Lord himself was supposed to

\[\text{\footnotesize\textsuperscript{23}}\text{\textsuperscript{a}}} \ldots \text{der ewige, unverrückliche, unwandelbarer wille Gottes} \text{(WA 45, 149).}\]

\[\text{\footnotesize\textsuperscript{24}}\text{WA 39\textsuperscript{1}, 413.}\]

\[\text{\footnotesize\textsuperscript{25}}\text{See Haikola, Usus Legis, p. 101, note 53 and Green, How Melanchthon Helped Luther, p. 209, note 4. The work of Martin Schloemann, Natürliches und Gepredigtes Gesetz bei Luther: Eine Studie zur Frage nach der Einheit der Gesetzesauffassung Luthers mit besonderer Berücksichtigung seiner Auseinandersetzung mit den Antinomern (Berlin: Verlag Alfred Töpelmann, 1961) would have to figure in any study of Luther on this point.}\]
be subject.\textsuperscript{26} (Chapter six reported that especially in the 1543 \textit{Loci} Melanchthon emphasized the law as God’s own voice, and that he did so side by side with his many characterizations of the law as eternal and immovable.) A comparative study of the positions of the two men on the third use would do well to consider the precise nature of any difference between them as to whether the law was eternal.\textsuperscript{27} If the law was strictly an arrangement within the sinful world, the resurrection of Christ would bring an end to it and there could be no third use for the law in the life of a believer. Althaus and Joest, afraid that this summary was too pat as a depiction of Luther, wrote of God’s ongoing \textit{Gebot} which they took to be part of the gospel.\textsuperscript{28} This matter is ripe for further clarification by Luther scholars.\textsuperscript{29}

2. \textit{Did Luther teach that fulfillment of the law constitutes righteousness?}

In the 1521 \textit{Loci} Melanchthon briefly mentioned that the law was given so people might live. In the Apology he said that keeping the law constituted

\textsuperscript{26}Haikola, “Vergleich,” 89.

\textsuperscript{27}On a related point, Ebeling was correct that Melanchthon employed the term “usus legis” to refer to the law’s functions or effects (Ebeling, “\textit{Triplex Usus Legis},” 74-75). Whether he was correct in his analysis of Luther’s use of the term, and the significance of any difference between Luther and Melanchthon in their respective usages of this term could be a topic for further study.

\textsuperscript{28}Althaus, \textit{Divine Command}, 6, 27, 29; Joest, 14.

\textsuperscript{29}In his recent book on Luther’s theology Bernhard Lohse briefly treats Luther and the “Tertius Usus Legis.” He brings together insights from Althaus, Joest, and Ebeling, without totally supporting any of them. He ventures to say that for Luther “the law’s significance could never be reduced to these two functions [i.e., the “first” and “second” uses]. There is certainly a ‘pedagogical use’ construed as a positive use of the law or the commandments. Luther’s numerous catechetical writings and statements document this” (Lohse, 184; see 275-276).
righteousness, as noted in chapter four above. The 1535 Loci agreed that good works would justify, but only if people kept the law perfectly. The 1543 edition echoed the earlier thought that justification does not come about by the law because sinners fail to meet its standard. Haikola contended that for Melanchthon the law thus stood out as the principal way of salvation: since sinners could not earn blessedness and salvation through the law, Christ did it for them by submitting to the law's demands and punishments.\textsuperscript{30}

In some places Luther also seems to have thought that fulfillment of the law was righteousness. For example, his 1535 Galatians Commentary said: "If we were pure of all sin, and if we burned with a perfect love toward God and our neighbor, then we would certainly be righteous and holy through love, and there would be nothing more that God could require of us."\textsuperscript{31} In the Large Catechism he wrote, "If we could by our own strength keep the Ten Commandments as they ought to be kept, we would need nothing further, neither the Creed nor the Lord's Prayer."\textsuperscript{32} Further, as observed in chapter five above, Luther agreed with

\textsuperscript{30}See Haikola, "Vergleich," 90, 93-94.

\textsuperscript{31}"Si ab omnibus peccatis puri essemus et perfecte arderemus charitate erga Deum et proximum, tum certe iusti et sancti essemus per charitatem, nihilque esset, quod ultra Deus a nobis requirere posset" (AE 27, 64-65; WA 40\textsuperscript{2}, 80).

\textsuperscript{32}"Denn so wir könnten aus eigenen Kräften die zehen Gepot halten, wie sie zu halten sind, dürften wir nichts weiter, wider Glauben noch Vaterunser" (LC II 3, BKS, 646; translation altered from that in Tappert, 411; see Kolb and Wengert, 431).
Melanchthon that the gospel provides to sinners by imputation the very righteousness that the law demands.

Yet Luther was also capable of pointing in a second and different direction, sometimes right after indicating the first. In a sermon for New Year’s Day, 1531 (not long after the diet of Augsburg, while Melanchthon was still preparing the Apology) he said, as elsewhere, “Yes, if there were a law I could actually keep, I could say to Christ, I don’t need you; my righteousness comes from the law.” Then he added this second thought, though: “And even if we did succeed in keeping the Law, that would not enable us to stand [before God]!” Also in the 1535 Galatians he pointed in this second direction, that fulfillment of the law would not be righteousness, even if it were possible. “Therefore even if you were to do the work of the Law, according to the commandment, ‘You shall love the Lord your God with all your heart, etc.’ (Matt. 22:37), you still would not be justified in the sight of God; for a man is not justified by works of the Law.” In sum, there are two different lines of thought on this subject within Luther’s works.

Haikola was convinced that Melanchthon’s teaching of the third use rested on the assumption that man in his original state could preserve blessedness through

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34 AE 26, 122. “Ideo si etiam feceris opus legis secundum hoc praeceptum: ‘Diliges Dominum Deum tuum ex toto corde tuo’ etc., tamen non iustificaberis coram Deo, Quia ex operibus legis non iustificatur homo” (WA 401, 218).
keeping the law, and that in the state of grace the Christian actually did contribute to the preservation of blessedness through keeping the law. The present research has not uncovered much data on Melanchthon's views about the primal state, but Haikola's assertion is at least partly incorrect. Melanchthon was in effect teaching the third use of the law (although not by that name) well before he said that good works are necessary for salvation. Still, it is possible that in handling Bible passages such as Matthew 19:17 ("if you want to enter into life, keep the commandments") Melanchthon became convinced that an outward righteousness through an enacted keeping of the law in this life was necessary for salvation. This prospect suggests a potential topic for further inquiry into the exegetical works of Luther and Melanchthon.\(^\text{35}\)

Regarding Luther it might further be asked: how did the line in his thinking that agreed with Melanchthon (on fulfillment of the law constituting righteousness) manage to avoid Melanchthon's eventual tendency toward saying that good works are necessary for salvation? Also, how did this line of thought relate to Luther's

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\(^{35}\)Haikola, "Vergleich," 91.

\(^{36}\)In On Monastic Vows (1521), for example, Luther cited Matthew 19:17 to show that works of the divine law are necessary, but in precisely a place where he denied that such works are necessary for righteousness and salvation (WA 44, 298; WA 8, 606). Later, in his sermons on John (1539), Luther drew attention to texts like Matthew 19:17 and Luke 10:28 ("do this and you will live") as showing the impossibility of sinners complying with their demands. Therefore God provided Christ as the Lamb of God who takes away the sin of the world. (AE 22, 425; WA 47, 143). At that point Luther did not come back to Matthew 19:17 and say that one still had to keep the commandments to enter life. Compare Luther's treatment of this and
other one in which the reformer said that the fulfillment of the law is not righteousness?  

3. To what extent did Luther’s teaching of two kinds of righteousness prevent him from setting forth a third use of the law?

Starting with a sermon he probably preached in 1519, “On Two Kinds of Righteousness,” and extending through the prefatory argumentum section of his 1535 Galatians Commentary, Luther spoke of two kinds of righteousness, passive and active. In the latter writing he dubbed the distinction between these two “our theology.”

Robert Kolb has argued that subsequent Lutherans did not take this distinction seriously enough, that they did not understand how much in earnest Luther was when he indicated that passive righteousness (the kind which avails before God) came as a pure gift and was in no way a matter of human performance. By contrast, “active” righteousness, that of obeying the law in action, only had validity in relationship to other creatures made by God to live under the same law.

related Bible passages in his large Galatians Commentary of 1535 (WA 401, 249-253; AE 26, 143-145).

During the summer of 1537, as Luther was dealing with Agricola, Melanchthon wrote that on several subjects, including the necessity of obedience after justification, he knew that he and Luther were of the same opinion: “De his omnibus scio re ipsa Lutherum sentire eadem” (CR 3, 383). The collegial and private conversations of Luther and Melanchthon, conducted out of earshot of eager student copyists, complicate today’s efforts to figure out how each of these men related his thought to the other’s.

See David A. Lumpp, “Luther’s ‘Two Kinds of Righteousness’: A Brief Historical
Kolb comes down on the side of the Luther expressions which say that fulfillment of the law cannot be righteousness before God. He adds that late Reformation theologians who wanted to follow Luther most closely ended up failing to recognize a key difference between Luther and Melanchthon on the law as a potential way of salvation. Thus, they really "continued the medieval teaching that human performance of the law -- though Christ's rather than the sinner's -- lies at the heart of salvation." Kolb characterizes these theologians as having forsaken Luther's "first commandment, faith-based piety" and instead "turning in upon the human self" and its keeping of the law.39

Could it be, then, that "as long as Luther spoke in terms of two kinds of righteousness, a righteousness coram Deo and a righteousness coram hominibus, he would naturally speak in terms of a theological and political use of the Law, and . . .


It should be noted that Kolb himself favors the teaching of the third use of the law as information for the confused sinner in this life, for he maintains that on account of the gospel Christians can look upon the law differently from the way others see it (Robert Kolb, The Christian Faith: A Lutheran Exposition [St. Louis: Concordia Publishing House, 1993], 118-121).

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it would not occur to him to speak in terms of three distinct functions”?

Timothy Wengert says that for Luther “the law never had an independent existence that demanded definition, but it was always a part of the human encounter with God,” a position resembling the existential expressions of Ebeling, but rather out of keeping with both Melanchthon and the Formula of Concord. Did the teaching of two kinds of righteousness inhibit Luther from setting forth a third use of the law?

4. How did Luther conceive of preaching law to Christians and Christians hearing the law?

A practical problem confronts every preacher who is convinced that the Christian as old man needs to hear the law while as new man he needs the gospel.

An observation made by Timothy Wengert, as reported by Lumpp, 28, note 4.


A related question involves Luther’s pairing of terms such as “heavenly” and “earthly,” in which “earthly” righteousness is the active righteousness of the law and the “heavenly” counterpart is the passive righteousness of the gospel (AE 26, 8; WA 40, 45). Other combinations are the “conscience” and the “flesh” (AE 26, 11; WA 40, 50-51), or the “heart” and the “hand.”

For example, Luther said: “The Christian’s teaching is to learn to distinguish between hand and heart. We do not make the hand free but lay many laws on it. But the heart knows of no command because it has died to all of these” (Luther’s Easter Monday sermon of March 29, 1529, The 1529 Holy Week and Easter Sermons of Dr. Martin Luther, trans. Irving L. Sandberg, annotated with an introduction by Timothy J. Wengert [St. Louis: Concordia Publishing House, 1999], 140). “... est Christianorum doctrina, ut sciant discernere inter manum et cor. Manum non liberamus, sed imponimus multas leges. Sed cor nescit de ullo praecepto quod ist rein abstorben his omnibus” (WA 29, 288). Was this expression equivalent to saying that while the law does not accuse believers in justification, they are still bound to obey it in sanctification or the Christian life? Or was there some subtle difference? See F. Edward Cranz, An Essay on the Development of Luther’s Thought on Justice, Law, and Society, Harvard Theological Studies 19 (Cambridge, Mass.: Harvard University Press, 1964), 64.
The preacher cannot ever address the one in isolation from the other. It is impossible for the new man to stand aside, as it were, while the old self and only the old self hears the law. The preacher is forced to speak to the whole person. The law is addressed to Christians insofar as they are old man, the gospel insofar as they are reborn in Christ.

Contrary to the claims of Elert and others, the present study has shown that in the various editions of the *Loci* Melanchthon said the law is to be preached to Christians insofar as they are old man, not new. This position is in accord with that of the Formula of Concord. It also agrees with Luther.

Another question remains, however: did Luther regard the Christian hearing the law as a unity? If so, in what sense? Bring resisted speaking about any sort of psychological unity of the Christian, convinced that such a step would lead to pietism. He was criticized for his stance by Schäfer.

Schäfer seems to have had good reason to be critical in light of words like these, from a 1537 sermon by Luther:

> Formerly I found that I had no delight in the Law. But now I discover that the Law is precious and good, that it was given to me for my life; and now it is pleasing to me. Formerly, it told me what to do; now I am beginning to conform to its requests, so that now I praise, laud, and serve God. This I do

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43 Again, it should be noted that an exception occurs in CR 12, 479, as indicated in chapter five, note 38 above. Compare Elert, *Christian Ethos*, 299 and Bring, "Gesetz und Evangelium," 85.


45 Schäfer, 152; see 150, 157.
through Christ, because I believe in Him. The Holy Spirit comes into my heart and engenders a spirit in me that delights in His words even when He chastizes me and subjects me to cross and temptation. 46

What Luther depicted was a reaction of the Christian according to the new man. These words did not voice either the old Adam’s contemptuousness over against God or a desire to manipulate God. But this reaction of the new man did not occur in isolation or separation from the old Adam. Seemingly contrary to Luther’s own advice from his then-completed 1535 Galatians Commentary, it does not say, “Law? I know of no law!” 47 Even though confronted with the law on account of the old Adam, in Luther’s depiction the Christian speaking according to the new man does not reject the law, but instead delights in it, does not fear its accusation, and takes note of its guidance. This seems to be an excellent case in point of Luther’s totus homo emphasis.

The 1535 Galatians offered another good example when Luther said he would not allow Christ to be “presented to me as exemplar except at a time of rejoicing, when I am out of reach of temptations.” For Christ as exemplar also

46 AE 22, 144. “...zu vor hab ichs in mir nicht funden, aber hie ist nu das Gesetz kostlich und gut und mir gegeben zum leben und gefellet mir, zu vor weisete es mir, was ich thun solte, jst hebe ich an und thue darnach, dass ich Gott jst preise, lobe und diene jm, solchs hab ich durch Christum, die weil ich an jn gleube, da komet der heilige Geist, der in meinem hertzen eine solche lust anrichtet, das ich ein wolgefallen an seinen worten und wercken hab, auch wenn er mich gleich steupt, das ich unter dem Creutz und anfechtung liden mus” (WA 46, 662).

47 “Therefore the highest art and wisdom of Christians is not to know the Law, to ignore works and all active righteousness” (AE 26, 6). “Summa igitur ars et sapientia Christianorum est nescire legem, ignorare opera et totam iustitiam activam” (WA 401, 43).
confronted him with “a mirror in which to contemplate how much I am still lacking.” Luther continued, “But in a time of tribulation I will not listen to or accept Christ except as a gift, as Him who died for my sins, who has bestowed His righteousness on me, and who accomplished and fulfilled what is lacking in my life.”

Luther recognized that when he considered Christ as example according to his new man (“at a time of rejoicing”), he would sense no threat or problem from this proclamation of the law. But the same law (Christ as example) would only assail him with his own inadequacy when considered according to his old Adam. Therefore, when he was already feeling the accusation of the law (“in a time of tribulation”), he wanted to hear of Christ as gift. That is, he wanted to hear the gospel. Whether or not Bring thought it wise to speak of this level of psychological complexity in the Christian life, Luther recognized its presence. The reformer’s attempts to deal with it require more definitive study.

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48AE 27, 34. “Sed hunc exemplarem Christum non patiar mihi proponi, nisi in die laeticiae, cum sum extra tentationes . . . ut habeam speculum, in quo, quantum adhuc mihi desit . . . In tempore vero tribulationis non audiam neque admittam nisi Christum donum, qui pro peccatis meis mortuus impertiit mihi suam iusticiam et hoc, quod mihi deest in vita, pro me fecit et implevit” (WA 402, 42).

49At the end of a lengthy dissertation on Luther’s disputations with the antinomians, Jeffrey Silcock writes: “Luther distinguishes between preaching the law (that is, the Decalogue) as lex accusans, hence as lex implenda, to the impii and to the piii, insofar as they are still sinners, on the one hand, and preaching the law as exhortation, hence as lex impleta, to the piii qua saints, on the other” (Silcock, 729). He also observed that in Luther’s view of those who are justified by faith, “the law is always tolerable even when it is directed to their flesh (the only place Luther would direct it) because as soon as guilt pangs or sorrow arises, Christians may appeal at once to the gospel of Christ and of his absolution” (Silcock, 712).
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