

# A “Third Use” of the Law? Doest the Formula Say That? Does the Notion Make Sense?

Colleagues,

This week’s offering is the burnished version of a note Ed Schroeder dashed off a week or so ago to Pastor Samuel Wang of the Lutheran Church of Singapore. He’s responding to a concern Pr. Wang raised about an old Thursday Theology post ([#459, 19 Mar. 2007](#)) in which Timothy Hoyer asserts that the so-called “third use” of the law as a guide for Christian behavior puts baptized people at odds with Christ. In asking Ed to clarify, Pr. Wang observed that this appears to contradict what the [Formula of Concord](#) has to say on the subject. He wondered if Pr. Hoyer’s view might surface at a Crossings conference that’s being planned for Singapore sometime next year. He hoped not. It would stir up controversy, he said.

Thus Ed’s comments below. In writing to Pr. Wang he’s addressing a former student (at Trinity Theological College, Singapore, 2004), a good friend of Crossings (two trans-Pacific trips so far for our conferences in Belleville, Illinois), and a current doctoral candidate (at the Lutheran Church of Australia’s theological institution in Adelaide). He’s also touching on a neuralgic topic that continues, the Formula notwithstanding, to stir passions among serious Lutherans today, certainly in the U.S. I wish I could say the passions were pleasant. They tend not to be. Now and then they’ve surfaced even within our own Crossings community.

For readers who aren’t familiar with Lutheran theological jargon, a quick word about the “uses” of the Law. As far I know,

Lutherans are unanimous in agreeing about two of them. First, it controls sinners. It keeps them from running amok and ruining the world. It preserves God's old creation. Insiders often refer to this as the "political" use. Next, it exposes sinners for the rebellious creatures they are, and cannot help but be. It accuses them. It gets their backs up, it throws them on the defensive, it aggravates their sinning to the point that even they begin to notice that they really don't like God, and that God for God's part has every good reason to put them to death. Here the insider term is the "theological" use. Comes the argument. When sinners learn to know and trust Christ and fall under the rubric of "new creation" (2 Cor. 5:17), does the law operate on them and for them in a different way, a third way?

Here I punt to Ed. In doing so, a word of thanks to Steve Hitchcock of [Bread for the World](#) for turning Ed's email prose into standard English, and to Marie Schroeder for some further editing and polishing. ☺☺Peace and Joy,☺Jerry Burce

---

## **On the Third Use of the Law: Edward H. Schroeder to Samuel Wang**

Dear Sam,

I'll say a few things about the third use of the law, namely the notion that the Decalogue or Ten Commandments – along with their elaboration in Deuteronomy and elsewhere – provides guidance and instruction to Christians.

1. Werner Elert helped me to see that the presentation of the third use of the law in Article 6 of Formula of Concord (FC 6) was an attempt by second generation Lutherans to

resolve the differences between what Luther said and what Melanchthon said about a third “job” that God’s law does. The prose of FC 6 is circuitous, sometimes tortured. If I remember aright, Elert said: FC 6 starts out with Melanchthon’s view and ends with Luther’s. But “perfectly clear” it is not.

2. The “full story” on that lack of clarity is the section on Third Use in Elert’s monograph (which I translated and Fortress published years ago) *Law and Gospel*.
3. Elert said that, in discussing *usus* (a Latin legal term), it is important to know its meaning in late medieval German jurisprudence. What is important is who has the right to “use” something. Who has ownership of an item? Either de facto ownership by having it in his own hand or delegated “interim” ownership and therefore the right to “use” it?
4. And from that, so I think, comes the clear understanding that *God alone* has the “right” to use God’s law. So any talk about *our* using God’s law for anything, as though we had it in our hand to do something with it, is misinformed. At worst, we usurp ownership away from God over something that does not belong to us.
5. It’s clear from *usus* #1 and *usus* #2 that God is the “owner,” the one doing the using. Thus it is God preserving his first creation (also preserving sinners in that creation) and God critiquing us for being sinners.
6. And, for Luther, the law was not simply the Ten Commandments or any set of rules or instructions. Rather the law – as it both preserves and accuses – is the way the world works. The law is the web of relationships and even the structure of creation in which quid pro quo is the operating system. The law is “justice” in the sense that, in life, you get what you earn or deserve. And when you don’t earn or deserve, then there are consequences.

7. So God uses his law on sinners, but “only” on sinners. That includes the old Adam present in every baptized sinner. But what about the New Man or Woman in Christ? That is the tough cookie that FC 6 wrestles with – and sometimes “waffles.”
8. Since “the law *always* accuses” (Melanchthon himself said that! In Apology 4 of the Augsburg Confession!), there is no way for the law to be non-condemnatory. But it is impossible for the law to accuse a Christ-truster, the New Man or New Woman, since that person is Christ-covered. Ergo, righteous. When we trust that, in Christ, we are new beings, there is nobody on the scene for God’s law to accuse. At Easter, God confirms Jesus’s “forgiveness” verdict, says this sinner is sin-free – so also law-free, free from condemnation. Isn’t that what the entire Galatians epistle is about? And half of Romans too? I think so.
9. And why would the only One who has *rightful use* of God’s law even think of accusing one of his own children who now carries the Christ-cover – one who has “put on the Lord Jesus Christ” and is now wearing the clothes of the righteousness of God’s own “only beloved Son”?
10. If Christ-covered sinners do need ethical counsel for living out the New Life in Christ, then two things are to be noted.
  - A. God’s law – as in the Decalogue or Ten Commandments – good and valid in its own place, is *ignorant* about the New Life in Christ. It is clueless as an ethical adviser for how to live that NEW Life.
  - B. The New Testament expressions for the ethical adviser for Christ-trusters come in two forms: “Following Christ” and “Being Led by the Holy Spirit.” St. Paul tells us, “the Lord is the Spirit and where the Spirit of the Lord is, there is

freedom" (2 Corinthians 3:17). Thus these two "ethical advisors" are fundamentally one and the same counselor.

In John's Gospel, both are called *parakletos* or the "Counselor" (John 14: 16). *Parakletos* is a Greek legal term for defense attorney, as in legal counsel. But in this case, the Counselor offers "Gospel counsel," a different sort of ethical "counsel."

In our Crossings crowd we've gotten used to calling this ethical *paraenesis* (exhortation) the "Second Use of the Gospel." Thus there are two uses for the Law (preserving and critiquing), two for the Gospel (redeeming and sanctifying, salvation and ethics).

11. There are sub-sections (31 and 33) in Elert's *Christian Ethos* on these two counselors for new-creation ethics when one's ethos is "Ethos under Grace."

A. The new ethos ("following Christ") is real, not imaginary. It is grounded in a forgiveness verdict, and thus we live in grace by continuous connection with Christ. "Lord and Master" are two terms the New Testament uses for this connection. Christ's lordship is not "legalistic lordship" (Latin: *imperium*, to rule as emperor). Rather his is a "gracious lordship" (Latin: *dominium*, ruling as a servant). As our "master" (teacher) Jesus does not "teach" us what we are to do. Rather Jesus IS what we are to do. And Christ's teaching (Christ as master) continues after his ascension, throughout history.

B. "Being led by the Spirit" is St. Paul's alternative to "following the Law." "For all who are led by the Spirit are children of God" (Romans 8:14). It is the creative work of the Holy Spirit in Christians (the

Counselor in John's Gospel). This work is tangible, but some of it is manifest only to the eye of faith. When the apostles speak of the Holy Spirit, they do not refer to psychological processes at all, but rather something that happens from outside myself, some of which all can see. But the full picture of what all is going on – the Spirit's generating a whole new existence for former sinners – is perceptible only to the "pneumatic" person, the one animated by this Holy Spirit coming from Christ.

C. St. Paul summarizes the paragraphs above in just two sentences with his opening words in Romans 8: "There is therefore now no condemnation for those who are in Christ Jesus. For the 'law' [your new master] of the Spirit of life in Christ Jesus has set you free from the law [old master] of sin and death." Which brings to mind Jesus' own words: "No one can serve two masters" (Matthew 6:24). It's either/or.

12. Another manifestation of the confusion over the third use of the law is talk about "preaching the law." Nowhere in the New Testament is the verb "preach" ever followed with "the law" as its object. In fact, New Testament Greek has no word for "preach" at all. In English translations of the Greek New Testament, the verb "preach" is used in an attempt to translate the Greek terms *euaggelizein* and *keryssein*. In Greek, those two words are themselves nouns-made-into-verbs. So "Speak euaggelion, speak kerygma. Gospel-ize people, Message them." And when it comes to the Law, it is better, I think, is to say God "gives" the law, administers the law (with his left-hand, ala Luther). Indeed, God *inflicts* the law, *imposes* the law.

13. Those Greek verbs about "preaching" the Gospel do point to something important: *human speech*. God's Gospel and God's

Law are polar opposites at several levels. Here what is opposite is that God's Law is always in force, on the scene, in action (like the law of gravity) – *even if no one ever says a word about it*. Not so the Gospel. If the Good News is not inserted – as proclamation or as sacramental speech/action – it is not present, not on the scene at all. Without the speaking of the Gospel, then the only God operation at work is God's Law – God at work preserving while also critiquing us and our world.

14. And it's also the case that God's Law already exists and fully functions in the existing state of the creation. *No human brings the law on the scene*. Like physicians diagnosing a patient, human beings can only "read the chart" of what's already going on and then point that out to people who are otherwise unaware of the Law's presence, its action, and its consequences.
15. Humans do come into the picture as agents of God, also as agents of God's Law. So do many other of God's creatures. Luther once saw a leaf falling from a tree and heard that leaf as a messenger of God telling him, "You too shall die." So creatures can be, yes, are, agents that God uses to do his left-hand work of preserving the creation and critiquing sinners. But when it comes to "using" the Law on Christ-trusters, if God never does "third use" work on those Christ-trusters, then we humans can hardly be God's agents for something God himself does not do.

So it seems to me.

Cheers!

Ed