

Luther – an Antinomian?

By Gottfried G. Krodel

That the gospel of God's grace in and through Jesus Christ, that the freedom for which Christ has set the believer free, and that faith in that gospel can and have been distorted in an antinomian way are fixed items in the history of the church since the days of St. Paul. And as every Lutheran confirmand, but especially every Lutheran pastor, knows, or ought to know, these items are not missing in the church of the Lutheran Reformation. And so Robert W. Jenson, the editor of the Lutheran theological journal »Dialog«, feels compelled to write: »Antinomianism, ... this venerable error, in its protean forms, is *the* heresy of the contemporary American church.«¹ To this voice from within the church comes now one from the outside, directed not at the contemporary church but at Luther.

Several years ago, Gerald Strauss, one of the leading American social historians of the German Reformation, published a book entitled »Law, resistance, and the state: the opposition to Roman law in Reformation Germany«.² On the basis of this book one would have to assume that the antinomianism creeping within the Lutheran church is the result of Luther's »doctrine« (209). Therefore Strauss's position has to be presented (I), and its basis in the sources and Strauss's way of

- COG Martin Luther: Commentary on Galatians (In epistolam S. Pauli ad Galatas commentarius, 1535 (engl.))
- Dietz Philipp Dietz: Wörterbuch zu Dr. Martin Luthers deutschen Schriften. L 1870, 1872; repr. Hildesheim 1961, 1973.
- DWB Deutsches Wörterbuch/ founded by Jacob and Wilhelm Grimm. L 1854-1971; repr. M 1984.
- PGOT Martin Luther: Preface to the German translation of the Old Testament, 1523.
- TA Martin Luther: Temporal authority: to what extent it should be obeyed (Von weltlicher Obrigkeit, wie weit man ihr Gehorsam schuldig sei, 1523 (engl.))

1 Dialog 22 (St. Paul, MN 1983), 244, editorial page (emphasis by Jenson).

2 Gerald STRAUSS: Law, resistance, and the state: the opposition to Roman law in Reformation Germany. Princeton, NJ, 1986. For reviews and some details, see Gottfried G. KRODEL: Luther and the opposition to Roman law in Germany. LuJ 58 (1991), 13-16.

working with these sources have to be examined (II). Was Luther the sort of antinomian that is presented in this book? May one derive from Luther's position an »antinomian strain« and »a bracingly libertarian allure«?³

A clarification in advance: As a social historian, Strauss uses »antinomian« not with a theological but a social meaning, and his book makes clear that he has little interest in antinomianism as a theological problem; in fact, he mentions Luther's controversy with the antinomians only in passing (e. g. 204, n. 40; 205). For Strauss an antinomian is a person who opposed the introduction of Roman law into the German legal system, or who was dissatisfied with the legal conditions existing in the Empire at the beginning of the 16th century and tried to change them, if necessary even with force. Luther has to be considered the bridge between this antinomianism late dicta and the antinomianism stricte theologie dicta. Luther did not create the antinomianism late dicta, but did push it to the extreme through some of his theological positions and the force of his rhetorical ability. Therefore »in its original impulse, ... the Reformation was driven by a strong antinomianism« (192).⁴

I Luther's Use of 1 T 1, 9, and a New Social Order

1 Introduction

On pages 208 f Strauss discusses some passages from TA.⁵ He assumes that there are »ambivalent ties joining Christians to the law« (208), and he argues that »Luther spoke so often and in so many different ways« about these ambivalent ties »that his audiences could not have failed to pay due heed to this fateful problem« (ibid.). 1 T 1, 9⁶ is »the fixed point of departure« – Strauss does not tell

3 Strauss: Law, resistance and the state, 210. Strauss puts much weight on Luther's rhetorical skill and on the »popular vein« of Luther's speaking and writing (210). Therefore for demonstrating Luther's position an effort has been made to draw on Luther's sermons, those that were actually preached and those which were destined only to be read.

4 For details, see Gottfried G. KRODEL: »Evangelische Bewegung« – Luther – Anfänge der lutherischen Landeskirche: die ersten Jahre der Reformation im Schnittpunkt von Kirchengeschichte und Sozialgeschichte. In: Luthers Wirkung = Festschrift für Martin Brecht zum 60. Geburtstag/ ed. by Wolf-Dieter Hauschild ... S 1992, 9-45; ID.: The opposition to Roman law and the Reformation in Germany. The journal of law and religion 10 (1993-94), 221-266.

5 Strauss summarizes, paraphrases, refers to, or quotes from, WA 11, 249, 36 - 250, 2; 250, 6-9. 13-20; 251, 12-15. 35-37; 259, 25-36; 260, 2 f. 5 f.

6 Cited by Luther in WA 11, 250, 9. 24. For Luther's work with this passage, see also WA 10 11, 360, 24 - 361, 14.

the reader for whom or what; since he works with materials selected from TA, one has to assume that it is the fixed point of departure for what Luther says in the passages which he selects from this book.

Strauss's assumption is unfounded. In 1 T 1, 9 are no »ambivalent ties« joining the Christian to law, and that »fateful problem« does not exist in *this* text.⁷ Therefore Strauss makes Luther deal with a non-existent problem, and the materials which he selects from TA are placed in a frame of reference which does not exist. Further, for Luther »the fixed point of departure« for what he presents in the section of TA in which he cites 1 T 1, 9 is the division of »Adams kinder« into two sections: those who belong to the regnum dei or Christi, and those who belong to the regnum mundi.⁸ And from this position Luther moves first (in section 3 of this first part of his book) into a discussion of the nature of the regnum Christi, of the conduct of its citizens, and of the role of law in this conduct; and 1 T 1, 9 is cited in this context.⁹

In the following section 4,¹⁰ Luther proceeds in the same way, but now his subject is the regnum mundi. He adds two new topics: The relationship of the »zwey regiment« to each other and the conduct of the citizens of the regnum Christi in the regnum mundi (which includes the role of law). This second topic becomes the point of departure for what Luther says in the remaining sections of the first part of this book. Strauss ignores these remaining sections, but picks out some of the statements which Luther makes in the conclusion of his discussion of that latter topic.¹¹ Just because in section 3 Luther quotes 1 T 1, 9 twice does not permit one to make that passage »the fixed point of departure«; and the compositional structure of the text clearly prohibits this.

7 See, e.g., Martin DIBELIUS: The pastoral epistles (Die Pastoralbriefe (engl.))// transl. from the 4th ed. rev. Tü 1966, by Philip Buttolph and Adela Yarbro. Phil 1972, 22 f; Heikki RÄISÄNEN: Paul and the law. Phil 1986 (207: »... the author simply shows his common sense«; or: a »überraschend einfache Formulierung«, so Otto BAUERNFEIND: Gesetz. IV: Im NT. Die Religion in Geschichte und Gegenwart. 3rd ed. Vol. 2. Tü 1958, 1519; in general, see Brice L. MARTIN: Christ and the Law in Paul. Leiden 1989.

8 WA 11, 249, 24 f; in general, see WA 2, 96, 15 - 98, 2; 18, 389, 19-26; 30 II, 554, 20 - 557, 31; for regnum Christi, see WA 12, 688, 20-29; 15, 542, 14 - 543, 3; 22, 122, 12-28; 52, 268, 1 - 269, 31; for regnum mundi, see WA 12, 675, 13 - 676, 4; 23, 514, 1-4.

9 See above, n. 6.

10 WA 11, 251, 1 - 253, 16.

11 WA 11, 259, 25-36; 260, 2 f. 5 f.

2 Strauss's Position

Strauss's position on Luther and law becomes clear when one considers his work with the passages which he selects from TA. On page 208 he writes:

»The fixed point of departure is I Timothy 1:9: the law is not aimed at the just and law-abiding, but at the lawless and the unruly. The former require neither statutes nor political direction. If all the world were Christian, says Luther (in his 1523 treatise *On Secular Authority*),¹² there would be no need for kings, lords, authority, or law.«

Then Strauss quotes from TA¹³: A good tree needs no instruction or written law to bear good fruit; by the Spirit and the faith Christians have such a nature (»genaturt«)¹⁴ that they do more good and right than one could force them to do with books of law and instruction. Therefore »for themselves, they need¹⁵ neither statutes nor a code of laws«. And he continues (209):

»But, alas, the world is far from such perfection. »Not one in a thousand is a right Christian,« he [Luther] suspected.¹⁶ Instruction, law, and compulsion are therefore indispensable. The alternative to these is chaos. »The world and the crowd are and remain unchristian,« Luther wrote, »though they are all baptized and call themselves Christians by name.«¹⁷ Even now, when the gospel has risen again, there can be no talk of abolishing laws, not the Old Testament and not any of the other forms of law.¹⁸ Jesus did not abrogate them;¹⁹ what he accom-

12 See WA II, 249, 36 - 250, 1.

13 WA II, 250, 13-20.

14 WA II, 250, 19.

15 Luther writes »dürffen«; WA II, 250, 20; see below, n. 21.

16 Strauss quotes WA II, 251, 12 f; see below, n. 51.

17 Strauss quotes WA II, 251, 35-37.

18 From here to »Christians, then, are released from the law, ...« Strauss works with WA II, 259, 25 - 260, 6: »Denn hie sihestu, das Christus nicht das gesetz auffhebt, da er spricht: ... [Mt 5, 38 f], Sondern er legt den verstand des gesetzes auß, ..., Als sollt er sagen: yhr Juden meynet, es sey für Gott recht unnd wol than, wenn yhr das ewr mit recht widder holet, und verlasset euch drauff, das Moses gesagt hatt: eyn auge umb eyn auge etc. [31] Ich sage euch aber, das solch gesetz Mose darumb geben hatt uber die bößen, die nicht zu Gottes reych gehören, das sie sich selb nicht rechen odder ergers thun, sondern durch solch euserlich recht gezwungen werden, böses zu lassen, das sie doch mit eym euserlichen recht und regiment verfasst werden unter die gewalt; [note the semicolon for which in the first print stands a slash (StA 3, 49, 15); now begins Strauss's quotation.] [35] Yhr aber sollt euch ßo hallten, das yhr solchs rechts nicht dürffet noch suchet. [The period is also in the first print. Strauss eliminates the following.] [36] Denn ob wol die weltliche uberkeytt solch gesetz muß haben, darnach sie die unglewbigen richte, und auch yhr selbs wol des [260, 1] brauchen mügt, andere darnach zu richten, ßo sollt yrs doch fur euch unnd ynn ewr sachen nicht suchen nach brauchen, [Strauss quotes the

plished was to remove his own people from its grip.²⁰ 'You Christians,' Jesus said to his followers, 'must so conduct yourselves that you neither make use of,²¹ nor require such a law. ...²² You own the kingdom of heaven. Leave the kingdom of the earth to those who want it.'²³ Christians, then, are released²⁴ from the law, although nothing about their behavior in the world reveals this state of emancipation. Indeed, they are in everything they do the

following] [2] denn yhr habt das hymelreych, drumb solt yhr das erdreych lassenn wer es euch nympt.« [End of quotation. Strauss continues: Christians, then, are released from the law ...«, and this could be once more (see below, n. 20) a paraphrase of 260, 5 f.]

19 This is a summary of WA 11, 259, 25-35.

20 This is a summary of WA 11, 260, 5 f: »[Christ] zeucht die seynen erauß, das sie fur sich selb der [i.e., law of Moses and of secular authority] nicht brauchen, sondern den unglewbigen lassen sollen, wilchen sie doch auch mit solchem yhrem recht dienen mügen, ...«

21 Strauss quotes WA 11, 259, 35 f. Luther writes »dürffet«; WA 11, 259, 36. According to Dietz 1, 470 f, Luther used »dürfen«, connected with the genitive of the person or thing – as he did here – for »bedürfen, egere, nöthig haben« – and this is the *first* meaning. (See also WA 17 II, 74, 33 f; DWB 2, 1721-1730, esp. § 1; TRÜBNER'S DEUTSCHES WÖRTERBUCH. Vol. 2/ ed. by Alfred Götze. B 1940, 116 f.) The construction of the verb (»solchs rechts nicht dürffet ...«) demands the translation: »... conduct yourselves in such a way that you neither need nor require [literally: »search for«] such a law.« See also StA 3, 49, n. 100 (on p. 38). This translation is suggested also by the way in which Luther phrased his ideas in the following sentence: 11, 259, 36 - 260, 2, ignored by Strauss. Luther wrote that Christians »can [in the sense of »being able to«, or »being authorized to«] make use of law« and he used the verb »brauchen« (11, 260, 1). He also used »brauchen« (11, 260, 6) in the sentence quoted above, in n. 20, which Strauss also ignored. Conversely, Luther used »dürffen« (11, 250, 20) in the sentence quoted above, at n. 15. And here Strauss – correctly – translates »dürfen« with »need«. Why does he in the present sentence change his translation from »need« to »make use of«? Further, there is a difference between »to make use of something« and »to need something«. Strauss makes Luther say something like the following: »You Christians are released from the law; therefore do not use the law – it doesn't matter whether you might need it.« From here it is only one step to the argument that Christians are *emancipated from law*, and Strauss at once takes this step; see above. And it is only one further step to the argument that Christians who obey the law anyhow do so with a condescending attitude (see below, 96 f), or as Strauss says in the next paragraph, out of a sense of *noblesse oblige*; see the following block quotation.

22 Ellipses by Strauss.

23 Strauss quotes WA 11, 260, 2 f. Luther did not say that Christians ought to »leave the kingdom of the earth to those who *want* it«. He said (11, 260, 2 f, emphasis mine): »... darumb solt yhr das erdreych lassen wer *es euch nympt*«. Luther's statement does not deal with Christians who *withdraw* from the world in order to form »a select small band« (see the following block quotation) of the emancipated ones (see the text above). But it deals with the conduct of Christians who are confronted with force. – For the following, see above, n. 18. What Strauss selectively quotes from WA 11, 259, 35 - 260, 3 is in reality two sentences, beginning in 259, 31, ending in 260, 3, and separated by a period (259, 36). Both sentences are parallel constructions and are concessively connected (»Denn ob wol ...«; 259, 36). In the *first sentence*

most punctilious abiders by the law. Once again, Luther permits no distinction here between religious and secular laws.²⁵ Neither Christians nor ›non-Christians‹ discriminate between them in their workaday lives.²⁶ All law is one. In its overall purpose and in its objectives, it is indivisible.«

At this point Strauss wonders »where this doctrine left the individual follower [of Luther] with respect to the many external rules set for him by his society. Is it likely to have affected his attitude and demeanor toward laws, and if so how?« (209) Prior to answering this question, Strauss poses a »puzzle«: As

(259, 31-36) Luther has Christ make an *affirmation* (»Ich sage euch aber, ...«) and an *exhortation* which stands in contrast to the affirmation (»Yhr aber sollt ...«). And in the *second sentence* Luther has Christ make an *affirmation* (»... die weltliche uberkeytt solch gesetz muß haben, ... und auch yr selbs wol des brauchen mügt, ...«) and an *exhortation* which stands in contrast to the affirmation (»ßo sollt yhrs *doch* ... *nicht* ... brauchenn, ...«). To the second sentence Luther makes Christ add (260, 2) the basis for the exhortation (»denn ... darumb«), which in connection with the prior affirmation provides the proper understanding of the exhortation. Both sentences are also related to each other in gradation because in the second sentence Luther picks up and develops further what he has said in the first sentence. In the *exhortation of the first sentence* he speaks of not *needing and searching* for secular law; in the *exhortation of the second sentence* he speaks of not *searching* for secular law and also of *not using* it. In the second clause of the *affirmation of the second sentence* (»und auch yr selbs wol des [Rechts] brauchen mügt«) and in the *exhortation of this second sentence* (»so sollt yrs doch«) he develops *the role which secular law does and does not have for Christians*. In the *exhortation of the first sentence* he has spoken only of *the role secular law does not have for Christians*, and in the *affirmation of the first sentence* he has only spoken of *the role secular law has for the »bößen«*. If one does not perform textual surgery, as Strauss does, if one adopts the translation of »dürfen« mandated by Luther's usage (see above, n. 21), and if one follows the structure of both sentences, then Luther has Christ say: »Laws have been given so that the evil ones are ›verfasset ... unter die Gewalt« (259, 31-35). But you Christians ought to behave yourselves, as individuals and as a group (»fur euch unnd in ewr sachen«; 260, 1 f; see also 1 K 6, 1-8), in such a way that you neither need secular law nor search for it nor use it (259, 35 f. 260, 2: »dürffet«, »suchet«, »suchen«, »brauchenn«). I also affirm (a) that secular authority has to have laws to judge the evil ones and the unbelievers (259, 34 f. 36 f), and (b) that in your dealings with those others (260, 1) – but only with them – not withstanding my exhortations – you can [you are enabled, or you are authorized] to make use of the law (259, 37 - 260, 1); in fact, this possibility is for you an obligation of service, as I have already demonstrated; see 1 I, 254, 11 - 255, 4. If someone tries to take away from you the regnum mundi and all that pertains to it (see also WA 23, 514, 1-4), laßt fahren dahin, sie haben kein Gewinn, das Himmelreich belongs to you; therefore you do not need the (regnum mundi and its) law.« Except for the last clause (of which the translation lacks precision), Strauss eliminates the second sentence. As a result, the connection of this last clause with all the preceding materials is missing, and Strauss's selective reading of this text creates a wrong impression of Luther's position. According to Luther's text, Christ gives two clear instructions for the conduct of a Christian who is con-

people were listening to Luther, did they »tend to think of themselves as lost or saved? If not »one in a thousand« was a right Christian, on what grounds was an individual entitled to think that God in his mysterious way had selected him or her above the nine hundred and ninety-nine?« And then he continues (209 f):

»No deep psychological insight is needed to doubt the supposition that anyone did in fact perform such a tortured mental calculus. So great is the rhetorical force of Luther's words – particularly when he spoke and wrote in the popular vein – and so positive and optimistic, despite his constant disclaimers and qualifications, the sense he conveys of God's eager solicitude for perplexed humanity, that few men and women are likely to have been persuaded that they must exclude themselves from the ranks of the chosen. In fact, the exhilaration of election is sure to have contributed signally to the enticement of the early Reformation. While accepting, with equanimity or resignation, the unregenerate state of the great majority of his fellow citizens, the receptive individual must have been moved to see himself or herself as part of that special elite of whom Luther, speaking in the voice of Christ, writes so affectingly.²⁷ This sense of participation placed Luther's followers in a highly privileged position vis-à-vis the law – a favored position exactly opposite to the subordinate condition in which the greatest number of them actually found themselves in the world. Complying with the law out of a sense of *noblesse oblige* was a far better thing than obeying it because low birth and menial rank left one no choice. Minding commands as a member of a select small band was infinitely preferable to heeding them because it was one's station in life to submit. In these – explicitly political and social – terms, the Reformation's original message would seem to have contained a deeply – because psychologically based – and concretely – because socially understood – antinomian strain and a bracingly libertarian allure. The broadcasting of this appeal won Luther the massive acclaim that lifted his movement off the ground. The expectation of changing places with the privileged – those favored by the law – could not have been the least among the attractions of his cause.«

fronted with the questions when and why to make use of secular law and when and why not. One wonders how in light of this text Strauss can arrive at the idea that Christians are joined to the law by *ambivalent ties*, as he assumes in the introduction to this selection from TA, or are *emancipated* from the law, as he argues in the following sentence.

24 See above, n. 20. Cf. this verb with what Luther says in WA 11, 260, 6-15 (the paragraph which follows Strauss's quoted text), or in 249, 36-251, 31. The issue is not being »released from the law«, but not *needing* it and when to use it. One can be released from the hospital but actually still need the hospital's care!

25 It is not clear what Strauss means by »religious laws«. See also 207. On page 206, he differentiates between »political and theological laws«. One understands what he suggests with »civil«, »secular«, or »political« laws, but one feels lost when he uses the adjectives »religious« and »theological«.

26 How does Strauss know this?

27 For what Luther has Christ say, see above, n. 23.

In order to evaluate Strauss's position, it has to be divided into two parts: what he says about Luther's position on law, and what he says about the public's understanding of, and reaction to, Luther.

II Evaluation

1 Luther on Law

In Strauss's presentation of Luther's position on law there two problems: what Strauss says about Luther's position on the unity of law as to essence and objectives (1.1); and what he says about the »emancipation« of the Christian from law (1.2).

1.1 Law: Essence and Objectives

1.1.1 Law vs. Laws

Strauss is correct when he states that for Luther »all law is one« (209). This unity is of a different nature, however, than Strauss's argumentation suggests. Luther does not work with »one law, differentiated only by its sundry guises – divine, Mosaic, natural, civil or statutory (i. e., imperial or regional) – and by the uses made of it« (206; emphasis mine). The passage from the Table Talks cited by Strauss in support of this statement does not confirm this argument; Luther differentiates between laws.²⁸ For Luther, the *unity of law* rests on the fact that

²⁸ Strauss cites WA TR 3, 156, 22-31 (3047), available in two versions, one by Cordatus, one by Aurifaber; Strauss does not tell the reader which version he cites. In neither version is there one word about »the uses made of« law or laws. Further, if one follows the Aurifaber version and considers the opening phrase (»Mancherlei Gesetze«) to be the title added by the editor (Aurifaber), then Luther started out by stating: »Ich wollt gerne die Gesetze [note the plural] unterscheiden, denn [note the conjunction] es ist 1. Gottes Gesetz ...« Then Luther listed as Nos. 2 through 4 natural law, Imperial law, and the law of the land. In a second sentence are recorded brief comments on each of these laws. In the Cordatus version the text is in Latin (except for a few words), and the title, the opening sentence (»Ich wollt gerne die Gesetze unterscheiden, denn ...«), and the numbers are missing. The laws are listed, and the short comments, which Aurifaber records in a separate sentence, are at once added to each law. After the last law some additional information is recorded. In terms of phrasing, the Cordatus version provides us with the *lectio difficilior*. It is possible that Aurifaber added the opening sentence and restructured the text in order to arrive at a smooth reading. It is also possible that Luther actually did say this opening sentence, or something to this effect, and that Cordatus did not record it because he took the content of the sentence for granted. If Luther actually did say this sentence, then he would not have spoken of »one law, differentiated only by its sundry guises ... and by the uses made of it«, as Strauss argues; Luther would have wanted to make

LAW manifests God's action of wrath over a sinful mankind so that the existence of mankind under LAW is an existence under God's judgment. LAW is for Luther not an idea, or a sum of sentences and regulations, designed to stifle man's vitality (207), but LAW is the given reality of sinful man.²⁹ Man has no choice but to live by LAW, not because of his or her socio-political »station in life«, as Strauss argues (210), but because of his or her station coram Deo. LAW expresses the religious reality of man as a sinner, long before it fixes any »station in life«, or is manifested in »sundry guises«, or becomes a legal-social reality. Strauss oversimplifies Luther's position, even though he states that for Luther »all [laws] are God's law« (206); he overlooks Luther's hermeneutical presuppositions and ignores almost all of the literature which could have helped him grasp the depth of Luther's position on law.³⁰

Strauss mentions that Luther speaks of »spiritual law, the law relating to faith and salvation«, and of »temporal law« (203). In this connection he mentions Luther's statement in PGOT to the effect that there are three sets of laws: Laws pertaining to temporal matters, to the worship of God, and to faith and love.³¹ Since Strauss's interpretation of Luther's text is not precise,³² his use of

clear that he differentiated four laws. And even the Cordatus version does not support Strauss's statement, because Cordatus has Luther simply list four laws. See also below, n. 32. For the use of the table talks, see Ernst KROKER: *Luthers Tischreden als geschichtliche Quelle*. LuJ 1 (1919), 81-131; Helmar JUNGHANS: *Nachwort to the Leipzig, 1981, facsimile edition of the first edition (1566) of »Tischreden oder colloquia Doct. Mart. Luthers« by Johannes Aurifaber.*

29 See Ebeling's statement quoted below, in n. 30.

30 Strauss cites (204, n. 41), e. g., Gerhard EBELING: *Zur Lehre vom triplex usus legis in der reformatorischen Theologie*. ThLZ 75 (1959), 235-246; now in: ID.: *Wort und Glaube*. Tü 1960, 50-68. The wealth of materials and insights presented by Ebeling (e. g., Ebeling's statement: »Gesetz ist ... nicht eine Idee oder eine Summe von Sätzen, sondern die Wirklichkeit des gefallen Menschen«; *ibid.*, 65) seems to have had little impact on Strauss's interpretation of Luther's position on law. – For the remainder of the following argumentation, see for Luther WA 10 I 2, 155, 8 – 159, 19; and for the New Testament materials, Günther BORNKAMM: *Das Ende des Gesetzes: Paulusstudien*. M 1966; Otto BETZ: *Der fleischliche Mensch und das göttliche Gesetz*. In: ID.: *Jesus: der Herr der Kirche; Aufsätze zur biblischen Theologie*. Vol. 2. Tü 1990, 129-196.

31 WA DB 8, 16, 33-36; 18, 1-7.

32 On page 203 f Strauss writes: »Three varieties (*dreierley art*) of law [note the singular] exists, Luther explained in his preface to the German Old Testament of 1523. »One sort deals only with temporal goods, our imperial laws, for instance.« (WA DB 8, 16, 33 f). He continues to quote what Luther says about such secular laws and summarizes what Luther says about the »two other kinds of law«, those pertaining to the worship of God and to faith and love (*ibid.*, 16, 35-38; 18, 1-7). [And on page 206 Strauss writes: »Though Luther speaks of »varieties«

this passage does not contribute to an adequate picture of Luther's position. He finally argues: »In its [i. e., the law's] overall purpose and in its objectives, it is indivisible.«³³ »All law [in the prior sentence Strauss has spoken of »the laws declaring one's duty to God and the laws governing people's mutual obligations in society«] condemns, all law restrains and thwarts« (207). »The various forms and functions in which it [law] expresses itself are identical in their essentially negative role and their restrictive use«. He also states that »all divine laws, Luther says, aim at *two objectives*: faith in God and love of neighbor«; he then at once argues that »*before* people can accept this lesson, they must be admonished and punished« (206; emphases mine). If for Luther one objective of divine laws is the creation of faith in God, and another objective is the creation of love of neighbor, and if people have to be admonished and punished by law before they can accept this lesson, then law has four objectives, goals, purposes, or whatever. Therefore it does not make any sense to argue that »in its overall purpose and in its objectives [law] is indivisible«. Contrary to Strauss, law has for Luther not *one* indivisible purpose – to play a negative, restrictive, destructive role, a fact which is manifested in sundry guises, and various functions and objectives. Faith in God – for Strauss one of the objectives of law according to Luther – is different from destroying, restricting, punishing, forestalling, impeding, and frustrating.

or ›kinds‹, there is but one law differentiated only by its sundry guises ... and by the uses made of it.«) In the PGOT passage Luther writes: »... ist zu mercken, das *die Gesetz dreyerley art* sind, Ettlich die nur von zeytlichen guttern sagen, ...« (16, 33 f, emphases mine). I. e., »... one has to note that the laws are of a threefold *Art*, some [laws] speak only of temporal goods ...« Luther does not speak of »law«, as Strauss translates, but of »laws«. Further, contrary to Strauss, »Art« designates for Luther not »varieties« of one thing or different forms of the same thing, a subspecies. Rather it designates the innate nature or quality or form of something, the species. See Dietz 1, 117 f; DWB 1, 568-573; WA 10 I 1, 360, 6; 11, 240, 14 (»art« which Strauss – correctly – translates [209] as »nature«); 19, 224, 7; D. Martin LUTHER: *Die gantze Heilige Schrift Deudsch*/ ed. by Hans Volz and Heinz Blanke. M 1972, Anhang 304* (Art). Based on their innate »Art«, Luther divides the laws he knows into three groups, or into laws of three different natures; and then he lists as the first group not »one sort« of law, but »some« laws which deal with temporal goods. In the following sentences (18, 1-3) he qualifies these different natures with the adjective »weltlich« and with the phrases »eusserlich Gottesdienst« and »Glaube und Liebe«. Contrary to Strauss, Luther does not say that there is *one law* which exists in three varieties, or in »sundry guises«, but that each of the laws which he is about to consider has its own »Art«. He differentiates between the laws, and he does so on the basis of their inborn nature, not only on the basis of their use. The textual situation is the opposite of what Strauss says. He uses the singular, »law«, Luther uses the plural, »laws«; he uses the plural, »varieties«, Luther uses the singular, »Art«.

³³ See above, 74.

1.1.2 *Usus Civilis and Usus Theologicus Legis*

For his affirmation of Luther's position on the unity of law, Strauss, in addition to the table talk mentioned above, also refers the reader (206, n. 46) to the well-known book by Edward Cranz.³⁴ On the page cited, Cranz cautions the reader not to understand »the contrast between the civil and the theological uses of law as if it were a contrast between different kinds of law«. But he also produces sufficient materials from Luther³⁵ which demonstrate that, contrary to Strauss (209), for Luther law in »its overall purpose and in its objectives« is divisible because he *differentiates* in the *objectives of law, depending on the forum* (coram hominibus, coram Deo) in which law is being used. Strauss does not see the significance of this material for Luther's position, even though he argues (205) that for Luther law has a »double function« (civil and theological), or that »one law« is »differentiated ... by the uses made of it« – for him it is »only« differentiated (206). But for Luther this differentiation is one in essence and objectives of law. Luther's *iustitia civilis*, the objective of law as being practiced in a secular court, is fundamentally different from the *iustitia spiritualis*, the objective of law as being practiced in God's court.³⁶ Law is not only a matter of *iustitia civilis*, of preventing, forestalling, impeding, frustrating (206). It is this too. But primarily law is a matter of something which happens in man's relationship with God. Therefore law is more than »restraining walls, leaving as little space as possible for people's natural inclinations to assert themselves« (207).

Strauss affirms that it is the mundane life which at Luther's time mattered to people, just as it does today (210, n. 56). He is unable, therefore, to grasp the depth of Luther's position on law in its *usus theologicus*,³⁷ though he does differentiate between the *usus civilis* and the *usus theologicus legis*.³⁸ Since he develops a blurred picture of Luther's three sets of laws,³⁹ he makes Luther speak of

34 Edward CRANZ: An essay on the development of Luther's thought on justice, law, and society. Cambridge 1959; Strauss cites page 104.

35 See Cranz: *Ibid.*, 99-105.

36 See, e.g., WA 12, 675, 13 - 676, 4.

37 See WA 1, 360, 37 - 361, 5: »... haec docemur, ideo Lex notum facit peccatum, ut cognito peccato gratia quaeratur et impetretur. Sic sic humilibus dat gratiam, et qui humiliatur, exaltatur. Lex humiliat, gratia exaltat. Lex timorem et iram, gratia spem et misericordiam operatur. Per Legem enim cognitio peccati, per cognitionem autem peccati humilitas, per humilitatem gratia acquiritur. Sic opus alienum Dei inducit tandem opus eius proprium, dum facit peccatorem, ut iustum faciat« (emphasis mine); 10 I 2, 155, 27 - 158, 4; 18, 767, 4-18.

38 See, e. g., 204 f.

39 See above, n. 32.

law as if it were a unity in essence and objectives, and both are dominated by social categories. Luther, on the other hand, differentiates between »geistliche« and »weltliche Gesetze,« once he has established the unity of law as a theological entity.⁴⁰ Luther also differentiates in the objectives (»Amt«, »officium«) of law: the Amt of the usus theologicus aiming at being »frum fur Gott« is different from that of the usus civilis aiming at law and order.⁴¹

In the materials selected by Strauss from TA, Luther distinguishes between law and law by differentiating between the regnum Christi (or the kingdom of faith)⁴² and the regnum mundi.⁴³ In the regnum Christi the Holy Spirit rules the hearts of the believers who live by the law of the life in Christ.⁴⁴ And that lex spiritus is different from the law of the regnum mundi (»weltlich schwerd und recht«), which is active among those who are »ungerecht«.⁴⁵

The essence of this (religious) lex spiritus is different from that of secular law. The former is a law of life (R 8, 2), of never hurting anyone, of loving everyone, of »eyttel recht thun«, of being willing to suffer injustice and even death, of producing naturally (i. e., without coercion) good fruit.⁴⁶ The latter is a law of quarreling, of judges, courts, judgments, coercion, punishment, the executioner's sword; it is a law of death.⁴⁷ Luther works here with *two, essentially different*

40 WA DB 8, 18, 31-38; 20, 1-5.

41 WA DB 8, 20, 6-29; cf. 14, 13-37; for law and order, see 16, 6-9, 33-38; 18, 1. Luther uses »frum, fromm« for »dikaios, iustus«. For Luther, to be *fromm* means to be just in God's sight; see Dietz, 1, 719; Ernst MÜLLER: Das mittelalterliche und das reformatorische »fromm«. Beiträge zur Geschichte der deutschen Sprache und Literatur 95 (1973), 333-357; Hugo MOSER: »Fromm« bei Luther und Melanchthon: ein Beitrag zur Wortgeschichte in der Reformationszeit. Zeitschrift für deutsche Philologie 86 (1967) Sonderheft, 161-182. – How different Luther's position is from Strauss's interpretation can be seen, e. g., in Luther's explanation of G 3, 21b in COG (WA 40 I, 510, 14 - 513, 18), a work which Strauss repeatedly cites. Here Luther differentiates between the law of God and the law of man (510, 17 f; 511, 24 f) and argues: Coram deo (510, 18 f) neither law is given »ad iustificandum, vivificandum et salvandum, sed simpliciter ad damnum, occidendum et perdendum« (511, 27-30). Then, on the basis of the »proprium discrimen officiorum legis et Evangelii«, he engages in some arguments with the papists and sectarians (511, 31 - 512, 16) and ends his explanation by developing the *usus theologicus legis*: »Humiliat enim homines et capaces iustitiae Christi reddit« (512, 19 f).

42 For »reych des glaubens«, see WA 17 I, 296, 13-35.

43 WA 11, 249, 24 f.

44 WA 11, 250, 2-6.

45 WA 11, 250, 6-9 (1 T 1, 9); see also 251, 4-6.

46 WA 11, 250, 2-5. 10-20 (Mt 7, 18). See also WA 4, 361, 4 f: »Lex autem Christi est humilis charitas omnibus serviens, omnibus se debitorem et inferiorem faciens«; 22, 122, 12-37.

47 WA 11, 250, 4-6 (contrariwise phrased). 11 f; 251, 1-11; see also WA 12, 675, 13 - 676, 4.

laws, and not just with one law in »sundry guises« (206) or with a »double function« (205). Strauss develops a blurred picture when he argues (207, 209) that »Luther permits no distinction ... between religious and secular laws«. Luther's position demands such a distinction. The difference in the laws is so fundamental that the secular law is a law which restrains »eyn wild böße thier mit keten und banden«,⁴⁸ while the *lex spiritus* brings about a new nature in the believer who lives by it. Contrary to Strauss, Luther works here with a clear distinction in the essence of laws because he differentiates in the objectives of these two laws. The objective of the *lex spiritus* is the building up of the *regnum Christi* and its members; the objective of secular law is the maintaining of the *iustitia civilis*.

Having established this clear distinction between law and law, Luther takes the next step. »By nature no one is a Christian or pious⁴⁹ [i. e., a member of the *regnum Christi*], but all are indeed (»altzumal«) sinners and evil ones.«⁵⁰ He ascribes to »all« two qualities: A religious-spiritual one (»sinner«), and a social one (»evil one«). Then he looks at society at large and states: Among a thousand there is »hardly« one true Christian,⁵¹ even though the crowd has been baptized and calls itself Christian.⁵² Therefore the *regnum mundi* (secular law and its objective) is, by nature, the rule – the law is given to the unrighteous and by nature all are unrighteous⁵³ – and everyone who wants it otherwise will bring about chaos.⁵⁴

Following R 7, 7 and apparently G 3, 19 and 24,⁵⁵ Luther now endows law, in addition to its *usus civilis*, with the *usus theologicus*. God uses law to lead man to recognize and deal with his social condition (man's condition *coram*

48 WA 11, 251, 8 f.

49 Luther writes »frum« (WA 11, 250, 26 f); see above, n. 41.

50 WA 11, 250, 26 f. It is difficult to render Luther's »altzumal« with one word since it has both a qualitative and a quantitative meaning; see FRÜHNEUHOCHDEUTSCHES WÖRTERBUCH/ ed. by Robert R. Anderson; Ulrich Goebel; Oskar Reichmann. Vol. 1. B; NY 1989, 906.

51 WA 11, 251, 12 f; see also 251, 2 f. Luther does not say: »not one in a thousand is a right Christian« (see above, 72), but that among a thousand there is hardly (»kaum«) one right (or true) Christian. Contrary to Luther, in Strauss's translation there is no chance that among the thousand there may be one true Christian.

52 WA 11, 251, 35-37.

53 WA 11, 250, 9 (contrariwise phrased). 24-29; 251, 35 - 252, 11.

54 WA 11, 251, 22 - 252, 24.

55 Luther writes: »Gal.:2.«. WA 11, 250, 30f identifies this as G 2, 21. It would require a tour de force to see in this passage the basis for Luther's statement. This seems to be the case also

hominibus], his »Bosheit«. And God uses law to lead man to recognize and deal with his sinfulness and all that this means (death as God's judgment over the sinner), i. e., man's condition coram Deo.⁵⁶ Luther expands the objective of law (its »Amt«)⁵⁷ as it is being used in the regnum mundi by adding another objective to it. Law has a restraining, punishing objective, the »Amt« of the executioner, and Strauss is correct on this point. But God also uses law for a fundamentally different objective, namely, for *preparing* people for grace and faith, i. e., for the operation of the lex spiritus (for no longer being »Böse« and »Sünder«).

One may not suggest that Luther thinks that law in its usus civilis is directed toward the evil ones (social misfits, tough criminals), and that law in its usus theologicus is directed toward sinners, people who are not quite as bad as the evil ones. All are sinners and evil ones, and God uses law to deal with all in such a way that he might accomplish two goals: restraint of evil, preparation for salvation.⁵⁸ This latter Amt of the law is for Luther not identical with the Amt of the lex spiritus; it is only preparatory for it.⁵⁹ Therefore in PGOT Moses is not an Amtmann of life but of death; Moses is unable to give the power to do what the law demands of us, and as a result must leave us »stuck« in our sins and condemnation before God. Through the law no one can become »frum fur Gott«. ⁶⁰ Alone the regnum Christi and its lex spiritus makes people »frum«. ⁶¹ In sum:

with G 3, 19, one of the passages proposed in StA 3, 39, n. 112. G 3, 24, the other passage proposed in StA, seems to be closer to what Luther says than any other passage proposed. Accepting this suggestion would require the assumption that Luther was careless or had a slip of memory. In light of the following reference to Mt 5, 39 (250, 31-34), with which Luther picks up his line of thinking begun in the previous section 2 (WA 11, 248, 32) and builds the bridge to his section 4 (see also 251, 22-31), I wonder whether Luther was perhaps thinking of G 2, 16. – For Luther's interpretation of G 3, 24, see Erdmann Schott: »lex paedagogus noster fuit in Christo Jesu« (Vulgata): zu Luthers Auslegung von Gal. 3, 24. ThLZ 95 (1970), 561-570.

⁵⁶ WA 11, 250, 24-31.

⁵⁷ For Luther the proper use of law in contrast to its abuses (Luther lists several, among which is antinomianism) is not identical with the usus theologicus or the usus civilis legis. This proper use is the *proper differentiation* between law and gospel. He differentiates, therefore, between usus and officium legis and argues that in the proprium officium legis law is being used legitimately, i. e., as law – and not as gospel. From this proprium officium legis comes (sequitur) the legitimate usus of this officium and thus of law (legitime utatur). See WA 40 I, 475, 22 - 476, 31; 511, 31 - 512, 26; 528, 21-34; 533, 28 - 534, 33; see also below, n. 59.

⁵⁸ See also Ebeling's statement quoted below, in n. 67.

⁵⁹ WA 11, 250, 30 f (emphases mine): In addition to the usus civilis, law has the Amt »daß es die sund erkennen leret, damit es den menschen demütigt zur gnad unnd zum glawben Christi«.

⁶⁰ WA DB 8, 20, 14-29; see also above, n. 41.

⁶¹ WA 11, 251, 15 f.

Law creates recognition of »Bosheit«, a social entity, and leads man to deal with this problem by organizing law and order; and law creates recognition of sin, a spiritual entity, and leads man to deal with this problem by driving man to Christ.⁶²

Strauss does point out this preparatory role of law (203-206). But he seems not to have grasped the *nature* and *ongoing functioning* which it has for Luther when he writes: »At times Luther presented this goal [i. e., the one objective of law, which Strauss defines as »law prevents, forestalls, impedes, and frustrates«, and which, in turn, is the basis for the punishing and admonishing function of law to which man must be exposed *before* he or she can grasp the lesson that »all divine laws ... aim at two objectives: faith in God and love of neighbor«] as a great blessing for humankind« (206; emphasis mine). On the basis of some statements selected from COG (on 3, 24), he writes (203; emphases mine):

»Originating in the human being's fall from grace, law ... is *preeminently a bulwark* against the evil tendencies rooted in the human heart. Law insists upon complete obedience and subservience, but this is a posture man is neither willing nor able to assume: even the reborn Christian, while on earth, remains as much a sinner as the unregenerate. Both as the divine commandments given in the Bible, and as the natural law in man's conscience, law demands the impossible. *Incapable of understanding God's purpose, man rebels ...* and expresses anger and resentment against the law and its author. In truth, *the law is a hard taskmaster*. But, as Luther writes in commenting on Galatians 3:24, *it does not only flog and frighten us. As paedagogus, law also leads us to Christ, and for this reason the law is good, holy, useful, and necessary, so long as we use it in an legitimate way.*»⁶³

Thus Luther on the spiritual law, the law relating to faith and salvation.«

Strauss overlooks here the fact that Luther does not use two nouns, »taskmaster« (exactor)⁶⁴ who flogs and frightens us, *and* »paedagogus« who does something else, namely, lead us to Christ. Luther uses *one* noun, paedagogus, and describes the activities of this paedagogus, his motivations, and the results of his work. It is precisely the hard task of the »Zuchtmeyster«,⁶⁵ called law, to drive the sinner to Christ and to salvation. Writes Luther in the context of the passage summarized by Strauss in his first reference:

»[Ludimagistri tyranni et carnifices] ... vapulabant pueri, multo labore et infatigabile diligentia discebant, sed perpauci veniebant at aliquam frugem. Talis paedagogus non est Lex, quia non tantum peterrefacit et vexat, ut indoctus et stolidus paedagogus tantum

62 WA DB 8, 20, 14-37; 22, 1-37; 24, 1-28; see also above, n. 59.

63 Strauss refers to Am 26, 346. 348 (quotation) = WA 40 I, 532, 17 f; 534, 12 f (quotation).

64 So in WA 40 I, 298, 19.

65 So in the September Testament for *paedagogus* in G 3, 24.

flagellat et nihil docet pueros, sed verberibus suis impellit ad Christum, Quemadmodum bonus paedagogus verberat, instituit et exercet legendo et scribendo pueros in hunc finem, ut perveniant ad cognitionem bonarum literarum et aliarum honestarum rerum et hoc postea cum voluptate faciant, quod prius, cum cogerentur a paedagogo, inviti fecerunt.«⁶⁶

The task of the paedagogus is not a different one, to be connected with the task of the taskmaster by »also« so that the taskmaster (finally, also) becomes the paedagogus. »Non tantum ... sed« *is governed by one* clause (describing one and not two entities), »talīs paedagogus non est lex«, and this results in the fact that lex is the (one) bonus paedagogus (and not an exactor and also a paedagogus). *The law is the taskmaster, and as such it is the bonus paedagogus who is to lead to Christ.* Luther deals here with nothing other than the *usus theologicus legis*. While that *usus* has to be differentiated from the *usus civilis*, it may not be separated from it, as if at one point the one stops and the other begins, or simply be identified with it by making out of law exclusively a »bulwark against the evil tendencies rooted in the human heart« (203).⁶⁷

And finally, Strauss overlooks the fact that the work of this Zuchtmeyster is never finished. For, again quoting from COG, he writes (205; emphasis mine): »The law was not even given with the purpose that it should justify, but that it should disclose sin, frighten, accuse, and condemn.« For this reason, law must be allowed to do its work *before* the possibility of grace is offered in the preaching of the gospel.«⁶⁸ He makes a similar statement on page 206, when he says that

⁶⁶ WA 40 I, 532, 15-23 ≅ Am 26, 346.

⁶⁷ Writes Ebeling: Zur Lehre vom triplex usus legis ..., 67: »Denn auch für Luther sind beide, der usus civilis wie der usus theologicus, insofern in Gal. 3, 24 angelegt, als es dasselbe Gesetz ist, das im coercere delicta und im ostendere delicta am Werke ist. Nec politica aut naturalis lex est quidquam, nisi sit damnans et terrens peccatores.« [WA 39 I, 358, 28 f] Obwohl theologisch scharf zu unterscheiden, liegen doch in der *Predigt* des Gesetzes der usus politicus und usus theologicus insofern aufs engste ineinander, als die *Predigt* immer darauf abzielt, daß das Gesetz zugleich im usus politicus und usus theologicus verstanden wird. Sind es doch die gleichen Menschen, denen das Gesetz in beiden usus gilt, und nicht etwa eine Kategorie ganz hartgesottener Sünder, für die allein der usus civilis, und eine andere Kategorie – ich weiß nicht wie zu bezeichnender Sünder, für die der usus theologicus zuständig ist.«

⁶⁸ Strauss quotes Am 27, 14 ≅ WA 40 II, 16, 20 f. Prior to the text quoted, Strauss summarizes (204 f) WA 40 II, 14, 28 - 16, 20 and adds some quotations from Luther's well-known statements about his experiences in the monastery. In the next paragraph, relying on Mark U. EDWARDS: Luther and the false brethren. Stanford, 1975, Strauss mentions briefly Luther's second clash with Agricola, and this leads him to speak of the »mutual interdependence« of law and gospel. »This relationship assigns to the law a double function: the ›civil‹ one ..., and the ›theological‹ one of leading men to an acknowledgement of their sins. For Christians in whose hearts the

»before people can accept« the lesson that all divine laws aim at faith in God and love of neighbor, they must be admonished and punished (emphasis mine). It is not clear why people should be unable to accept the fact that they should have faith in God and love for their neighbor *without having been punished first*. Further, for Luther the work of the paedagogus is an ongoing one because the paedagogus reveals man's sinfulness and thus drives man to Christ.⁶⁹ But since for Luther the believer is simul iustus et peccator, the work of the paedagogus never stops. Not only is he to bring the sinner to Christ, but he is also to keep him or her with Christ by preventing securitas and promoting the mortification of the flesh. Strauss seems to have no understanding for this concept.⁷⁰ He uses the category »before the possibility of grace is offered« and identifies it with law which *after* the gospel has been offered no longer functions, with the result that for him the believer lives in a »state of emancipation« from law.⁷¹ For his interpretation of Luther's position, Strauss apparently follows the sequential arrangement of salvation history, and thus of law and gospel, which, e. g., Augustin had developed.⁷² By itself there is nothing wrong with doing this. In Strauss's case this leads, however, to the *nullification* of the *ongoing dialectic of law and gospel*, which for Luther determines the existence of being simul iustus et peccator. Consequently, Luther turns out to be an antinomian of sorts. Strauss's interpretation also suggests that the gospel is a religious syrup which one eagerly accepts because one wants to avoid the bitter drink of the ongoing cognition of self, which the paedagogus forces one to take. That this view does not do justice to Luther's position need not be pursued.

Strauss is correct when he argues that in the comments on G 3, 24 Luther speaks about »the law relating to faith and salvation« (usus theologicus?).⁷³ Yet

gospel has taken root, the law ensures (to cite the elaboration of this doctrine later in the Formula of Concord) »that the old Adam ... may not employ his own will but may be subdued against his will, not only by the admonition and threatening of the law, but also by punishments and blows.« (205 f). At this point Strauss could have seen and clarified the *ongoing function* of law in the being iustus et peccator. Rather than dealing with this issue, he at once moves to the affirmation that »Luther and his ... successors made no formal distinctions between political and theological laws« (whatever the term »theological laws« is to suggest).

69 See also WA 2, 529, I-II.

70 Notwithstanding what Strauss says above, in n. 68.

71 See above, 73.

72 Aurelius AUGUSTINUS: Enchiridion ad Laurentium 31, 118; Corpus christianorum: series latina 46 (Tournhout 1969), 112, 23 - 113, 54.

73 See above, 83.

he misreads Luther when in the same breath he identifies this role of law with »the spiritual law«. He does not define this »spiritual law«; therefore one has to assume that he means the *lex spiritus*. But for Luther the *lex spiritus* is not identical with the law as *paedagogus*. Strauss could have seen how the two are related in an ongoing way, had he looked at the pages in COG following the ones from which he selects his first set of passages discussed above.⁷⁴ The result of this inability to come to terms with Luther's understanding of the *usus theologicus legis* and of its relationship to the *lex spiritus* is Strauss's blurred picture of the Christian's freedom from the law. And to this issue one has to turn now.

1.2 »Emancipation« vs. Christian Freedom

Strauss argues⁷⁵ that, according to Luther, Christ removed his people from the »grip« of the law or »released« them from the law. Christ's people, therefore, live in a »state of emancipation«, »although nothing about their behavior in the world reveals this« situation. This emancipation is the result of Luther's message about Christ, from which the public derives a »bracingly libertarian allure« because it detects in this message an »antinomian strain«.⁷⁶ This Luther, the antinomian who promotes opposition to law and order, is quite a novelty since, in general, social historians present a pro-law-and-order Luther. That Luther is not missing in Strauss's view of the Reformation, but he does not appear until later in the Reformer's career (192. 211. 239);⁷⁷ we need not be concerned with him.

Strauss tells the reader, on the one hand, that for Luther »laws are made for the *unregenerate*: this is as true of the »theological« use of laws ... as of their »political« use ...« (204; emphasis mine). One wonders how Strauss can make this statement in light of the fifth set of theses against the antinomians.⁷⁸ He is familiar with them, at least he quotes one thesis on the same page.⁷⁹ In these theses Luther argues that the law, just as the gospel, has to be taught to both the *pii*s and the *impi*is (No. 42). Then he continues: by preaching the law, the *impi*i

74 WA 40 I, 533, 14 - 539, 32; see also WA 2, 498, 22 - 503, 12.

75 See above, 72 f.

76 For Strauss's usage of »antinomian«, see above, 70.

77 See also Krodol: The opposition to Roman law ..., 238-246; id.: Luther and the opposition to Roman law ..., 20-22.

78 WA 39 I, 354, 15 - 357, 38.

79 On page 204, n. 41, Strauss cites thesis 7 (WA 39 I, 354, 24) and the article by Ebeling: Zur Lehre vom triplex usus legis ..., 65, in which this thesis also is mentioned.

are to be led to the acknowledgement of their sinfulness and of God's wrath over sin (No. 43). The pii are to be led to the continuous mortification of the flesh so that they do not fall into the trap of *securitas* (No. 44); this *securitas* would destroy faith and the fear of God, and thus create a situation which would be worse than what existed before (No. 45). Contrary to Strauss, law pertains for Luther to both the regenerate *and* the unregenerate ones. On the other hand, Strauss tells the reader that »even the reborn Christian, while on earth, remains as much a sinner as the unregenerate« and is therefore exposed to the law (203). At this point law pertains not only to the unregenerate ones, as Strauss argues on the following page. Yet Strauss insists that Christians do live in a »state of emancipation« from law (209).

On the basis of the passages selected from TA, Strauss argues (209) that Christians »are released from the law«.⁸⁰ At this point Strauss does not deal with the fact that »release« pertains to the *members of the regnum Christi*.⁸¹ Those people are »pulled out« from the law of Moses, whose *sins have been forgiven* through the work of Christ and who *are reborn by the Holy Spirit*; therefore they belong to Christ;⁸² earlier in TA Luther called these people the »recht glewbigen«.⁸³ In a narrow sense, Luther discusses the conduct of Christ's people when they are confronted with un-Christian people.⁸⁴ He affirms that Christ does not nullify the law for his people,⁸⁵ but rather that *Christ tells his people how to understand law and therefore how to use and not use law*.⁸⁶ In a wider sense Luther discusses the relationship of the »zwey regiment« to each other.⁸⁷ In the materials he

80 See above, n. 24.

81 WA II, 259, 17 - 260, 15.

82 »Seynen« (WA II, 260, 6) has to be understood in light of what Luther says in »On Christian freedom« about the »royal marriage« and »blessed exchange« between Christ and the soul (Maurer calls it »Christusgemeinschaft«); WA 7, 25, 26 - 26, 12 (German version); 54, 31 - 55, 36 (Latin version). See further, Wilhelm MAURER: Von der Freiheit eines Christenmenschen: zwei Untersuchungen zu Luthers Reformationsschriften 1520/21. GÖ 1949, 35-40. See also (what may be considered the classic passage) »Small Catechism«, 2, 4 (explanation of the second article of the Creed), WA 30 I, 249, 7-22; Luther's explanation of G 2, 20 in COG, WA 40 I, 282, 16 - 300, 22 (esp. 285, 8 - 287, 23); Reinhard SCHWARZ: »... mit Christus zusammengeschweift«: vom Einssein des Christen mit Christus bei Martin Luther. Zeitwende 60 (1989), 94-102.

83 WA II, 249, 37.

84 WA II, 259, 37 - 261, 24.

85 WA II, 259, 25. 37 - 260, 1. 4 f.

86 WA II, 259, 7 f. 27 f. 35 - 260, 2. 4 - 261. 24.

87 Beginning with WA II, 251, 12.

develops, he is not concerned with the issue »law vs. no-law«, but with the issue »sin vs. forgiven sin« and with the role that law does and does not have in the *conduct* of the *forgiven sinner*. When Strauss argues that, according to Luther, Christians live in a state of emancipation from law, »although nothing about their behavior in the world reveals this state of emancipation«, he draws something from the text which is not there, notwithstanding his statement that »Jesus did not abrogate [all »forms of law«]« (209); at the same time he overlooks the fact that Luther deals here with the conduct of the forgiven sinner. He could have seen this, had he not taken the passage out of its context. He could have seen this also in PGOT, the other text with which he works so heavily.⁸⁸ On page 204 Strauss quotes from this preface, and the last sentence which he quotes reads: »The power and ability to do it or not to do it [i. e., the requirements of Moses' law] he [Moses] cannot grant.« In the text follows a comma, and then Luther at once continues: »vnd lest vns also ynn der *sunde sticken*«. ⁸⁹ Now Luther begins a new sentence:

»Wenn wyr denn ynn der sunde sticken, so dringet der todt also bald auff vns, als eyne rach und straff vber die sunde, Daher nennet Paulus die sund des tods stachel, das der todt durch die sunde alle seyn recht vnd macht an vns hat. Aber wo das gesetz nicht were, so were auch keyne sunde, [now Strauss picks up Luther's text] darumb ist alles Moses ampt schuld, der reget vnd ruget die sund durchs gesetz, so folget der todt auff die sund mit gewalt, [end of Strauss's quotation; Luther continues:] das Mose ampt billich vnd recht eyne ampt der sunde vnd des tods von S. Paul genennet wirt, Denn er bringet nichts auff vns durch sein gesetz geben denn sund vnd todt.«⁹⁰

With Moses, man is stuck in sin and under the dominion of death as God's verdict over the sinner. Now Luther develops the role of Moses as an Amtmann of sin and death,⁹¹ and in this process introduces the *usus theologicus legis*. Then he moves on to discuss the role of Christ:

»Darumb wo nu Christus kompt, da horet das gesetz auff, sonderlich das Levitische, So horen auch die zehen gepot auff, *nicht also*, das man sie nicht halten noch erfüllen solt,⁹² sondern *Moses ampt horet drynnen auff*, das es nicht mehr durch die zehen gepot die sund

88 See also Krodel: Luther and the opposition to Roman law ..., 26 f.

89 WA DB 8, 20, 19-22 (emphasis mine); for the following, see also WA 20, 244, 26 - 252, 22.

90 WA DB 8, 20, 22-29.

91 WA DB 8, 20, 30-37; 22; 24, 1-19.

92 This was written by the »young« Luther (or before the Peasants' War), whose message, according to Strauss (above, 75), supposedly had for the public »a bracingly libertarian allure« and in whose message the public supposedly found an »antinomian strain«.

starck macht, vnd die sund nicht mehr des tods stachel ist, *Denn durch die gnade Christi das hertz nu gut worden vnd dem gesetz hold ist, vnd yhm gnug thut, das es Moses ampt nicht mehr kan straffen vnd zu sunden machen, als hette es die gepot nicht gehalten vnd were des tods schuldig,*⁹³ wie es thet fur der gnad und ehe denn Christus da war.«⁹⁴

Luther contrasts here the Amt of Moses, the office of sin and death, with Christ's »Amt der Gnaden«.⁹⁵ He argues – to use Strauss's »release« image – that through *Christ's office* sinners are released from the *office of Moses*, i. e., from the place where they have been stuck while Moses was in office; this is the place coram Deo where *unforgiven sinners* are condemned. Sinners, therefore, are not released from the law itself, and Christ is for Luther not the great emancipator from law and thus the creator of a new psycho-social situation, as Strauss suggests.⁹⁶ As the Amtmann der Gnade, Christ does liberate from the *office* of Moses, or in other words, from the terror of unforgiven sin, which is connected with the law as exercised by the Amtmann of sin and death. Even⁹⁷ the believer, the just one whose sin is forgiven and who has been released from the office of Moses, still is to fulfill the Ten Commandments and, above all else, has no choice but to die. Therefore it is self-deceiving to argue that law should or could be removed from the church – or to use Strauss's phrasing, that Christians are emancipated from the law – because the believer is simul iustus et peccator. But the believer is released from the office of Moses, i. e., from the terror, curse, and condemnation of the existence under law; he or she is no longer »stuck« under the office of Moses. Through faith the sinner is crucified with Christ, has died

93 See also WA 30 I, 206, 12 - 208, 12. With reference to WA 2, 499, 1-19, Schott: lex paedagogus ..., 567, is to the point when he writes: »Ohne Abschaffung des Gesetzes keine Gesetzeserfüllung.« In general, see Stephen D. REED: The Decalogue in Luther's Large Catechism. Dialog 22 (1983), 264-269; Thomas McDONOUGH: The law and the gospel in Luther: a study of Martin Luther's confessional writings. Oxford 1963.

94 WA DB 8, 24, 20-28 (emphases mine); see also WA 10 I 2, 155, 8 - 159, 19; 40 I, 524, 13 f. In WA 10 I 2, 206, 9 - 207, 25 Luther demonstrates first how the heart is made to realize its hostility toward God's Commandments (206, 18), and then how it becomes »hold« to the Lamb of God and thus willing to do God's will (207, 15-25). What Luther rather briefly describes in the two texts quoted from PGOT, he, going into details, at some other time calls the »summa« and »ordo Christianae vitae«: WA 14, 681, 14 - 682, 3.

95 WA DB 8, 20, 30; 22, 30; 24, 31-36; see also WA 20, 248, 35 - 252, 22; 40 I, 256, 17 - 261, 29; 51 I, 31 - 512, 26; Krodell: Luther and the opposition to Roman law ..., 26-37. 41 f. For the following, see also WA 40 I, 282, 15 - 288, 21.

96 See above, 75; below, section 2.

97 For the following, see WA 39 I, 354, 15 - 357, 38 (theses 1, 3, 8, 12-17, 19-24).

with Christ, and lives in Christ who has fulfilled the law and thus destroyed death as punishment for sin. Insofar Christ lives in the believer and the believer in Christ, the believer is without sin and, therefore, freed from the curse and terror of the law.⁹⁸ Insofar as the believer exists still in the flesh, he or she is still subject to sin and, therefore, the law. Luther's Christian freedom places the believer into the eschatological tension derived from the gospel;⁹⁹ therefore it has nothing in common with Strauss's emancipation from law, with antinomianism, or a bracingly libertarian allure.

In the materials Strauss selects from PGOT, the issue is not »law vs. no law« but »sin vs. forgiven sin« and the conduct of the forgiven sinner, or more specifically, the fulfillment of the Ten Commandments. Therefore in PGOT Luther defines Christ's work in two ways: (a) Through Christ's *office* the Ten Commandments cease, not in such a way that they are not to be obeyed, but in such a way that Moses' office connected with the Commandments ceases to exist as an office of sin, condemnation, and death. Result: the law has to be preached to lead man to cognition of self *and* of what Christ has done for man.¹⁰⁰ (b) Through Christ's office the heart of man begins to be »hold« to the law because that office of Moses has ceased to exist.¹⁰¹ Result: »release« from law is for the believer not an emancipation from law; »release« means being released from the curse of the law *and* being endowed with (or released to having) a new heart, a new ethos.¹⁰²

98 See also WA 2, 97, 20 - 98, 2; 16, 417, 29 - 418, 37; 40 I, 283, 33 - 284, 22.

99 See WA 39 I, 354, 15 - 357, 38 (in addition to the theses cited above, in n. 97, see also theses 35-37, 40 f); 40 I, 534, 31 - 538, 35.

100 WA DB 8, 24, 29-36; 26, 14-36; see also WA 39 I, 354, 15 - 357, 38 (theses 59, 61, 67); 50, 473, 6-25. For the cognition of self, see also WA 10 I 2, 155, 8 - 158, 4; 206, 9-27; 40 I, 258, 31 - 259, 25. See further Gerhard EBELING: Sündenblindheit und Sündenerkenntnis als Schlüssel zum Rechtfertigungsverständnis: zum Aufbau der vierten Thesenreihe Luthers über Rm 3,28. In: id.: Lutherstudien. Vol. 3. Tü 1985, 258-310.

101 See above, 88. See also WA 7, 654, 3 - 656, 17; 10 I 1, 137, 18 - 138, 3: »Denn eyenn Christlich weßen steht nit ynn eußerlichem wandel, es wandeltt auch den menschen nit nach dem eußerlichen stand, sondern nach dem ynnnerlichen, das ist, es gibt eyen ander hertz, eyen andern mutt, willen und synn, wilcher eben die werck thut, die eyen ander on solchen mutt und willen thutt; denn eyen Christen weyß, das es gar am glawben ligt; darumb geht, steht, ysset, ... er wie ðonst eyen gemeyn man ynn seynem stand, das man nit gewar wirt seyniß Christenthumß, [follows L 17, 20 f]«. Cf. this description of the existence of the believer with what Strauss presents (above, 75) about that existence! For the image of the new, pure, or different heart and the activity which it motivates, see also WA 32, 325, 23 - 329, 18.

102 For an elaboration on what in PGOT Luther only briefly spells out about the *believer's* freedom from the law, see WA 10 I 1, 360, 2 - 362, 8. For the argument that the believer is a new

This is the ethos of the Spirit-generated Christian freedom resulting from the presence of Christ in the believer and the believer's life in Christ.¹⁰³ This passage from PGOT contradicts Strauss's argument that for Luther all law is one; here Luther clearly speaks of »religious law«, *God's Ten Commandments*. It also contradicts Strauss's argument that Luther's position suggests an emancipation from law.¹⁰⁴

What Luther expresses in PGOT in the idea that through Christ's office of grace the heart of man becomes »hold« to the law, he also expresses in the materials which Strauss selects from TA, or its context.¹⁰⁵ Here Luther argues

person in his or her relationship to God's law, see also WA 42, 452, 17-27. Luther summarizes his position when, in the disputation on Mt 22, 1-14, he briefly states: »Ita fides facit personam, persona facit opera, non opera personam. Denn es wirdt keiner glauben, er wirdt auch gute Werck thun, widerumb wirdt keiner ein guds werck thun, er glaube denn ehr zuvor«; WA 39 I, 283, 29 f (B text: »ex ore ... Lutheri«). For early versions of, or elaborations on, this summary, see WA Br 2, 586, 9-18 (529) and WA 7, 32, 4-33, 28; 61, 26-63, 7. See further, WA 17 II, 69, 30-70, 33; 96, 28-97, 33; 21, 365, 12-37. In general, see Gerhard EBELING: *Frei aus Glauben: das Vermächtnis der Reformation*. In: id.: *Lutherstudien*. Vol. 1. Tü 1971, 308-329; Wilhelm MAURER: *Autorität in Freiheit: zu Marcuses Angriff auf Luthers Freiheitslehre*. S 1970; Oswald BAYER: *Aus Glauben leben: über Rechtfertigung und Heiligung*. S 1984.

¹⁰³ See 2 K 3, 17; R 8, 2; G 2, 20; see also above, n. 82.

¹⁰⁴ See also »On Christian freedom«; WA 7, 52, 20-54, 30; 59, 24-61, 17; 63, 8-21; 68, 15-25 (Latin version); 23, 24-25, 25; 29, 34-30, 30; 33, 29-34, 22; 37, 16-38, 5 (German version). – Strauss does not see that at this point questions arise regarding Luther's understanding of the role of law, particularly of the Ten Commandments, in the life of the *believer*, the one who is *iustus et peccator*. See also above, n. 68. While obviously the peccator is the target of the *usus theologicus* in an ongoing way, what is the role of law for the *iustus* who does good works? There is agreement that Luther did not maintain a *tertius usus legis*, as this term is generally understood. Yet the situation is not quite as simple as one has to assume on the basis of Strauss's presentation. He argues: »Laws are made for the unregenerate«, and comments that this statement applies both to the *usus theologicus* and the *usus civilis*, and that »the controversy within Lutheranism over the 'third use' of the law – for the sake of the regenerate, as a fixed rule by which to direct their lives – did not erupt until after Luther's death«. (204, and *ibid.*, n. 40.) Had he more thoroughly penetrated Luther's theology, particularly the »Fifth set of theses against the antinomians«, from which he cites (*ibid.*) thesis 7, and the available literature, (the article by Ebeling: *Zur Lehre vom triplex usus legis ...*, which he cites; *ibid.*), he would have been confronted with this problem. See (pars pro toto) Wilfried JOEST: *Gesetz und Freiheit: das Problem des tertius usus legis bei Luther und die neutestamentliche Parainese*. 4. ed. GÖ 1968; the materials in: *GESETZ UND EVANGELIUM*/ ed. by Ernst Kinder and Klaus Haendler. DA 1968; Klaus SCHWARZWÄLLER: *Luthers Auffassung von Gesetz und Evangelium*. *EvTh* 50 (1990), 196-206.

¹⁰⁵ See above, 72 f.

that the »frum leutt«, the »recht glewbigen ynn Christo unnd unter Christo«,¹⁰⁶ are so »genaturt« by their Spirit-generated faith that they, of themselves and without any external force or instruction,¹⁰⁷ do more than any laws are able to teach them or require of them; hence the quotation of 1 T 1, 9. He introduces Mt 7, 18, the image of the good tree which produces good fruit without being taught to do so by a thick book of laws;¹⁰⁸ it is awkward, of course, to bring this thick book of laws into the image, but it is precisely this tour de force which underscores Luther's point. As is the case in the passage in PGOT, so in this passage in TA, the issue is not »law vs. no-law«, but the conduct of the members of the regnum Christi and the role which law does and does not have in this conduct. Those who live in and by the *lex spiritus* for themselves and among themselves do not need, search for, or use the law as it functions in the *regnum mundi*. Since they are *simul iustus et peccator*, they are subject to law and use law in their dealings with those »others«.¹⁰⁹ Contrary to Strauss, they are not emancipated from law. As Strauss correctly states, they are »the most punctilious abiders by the law«.¹¹⁰ They are this *not in spite* of being supposedly released from law and placed in a state of emancipation from law, and not because they are motivated by a feeling of noblesse or an attitude of elitism.¹¹¹ According to Luther, within the proviso of Act 5, 29,¹¹² Christians are »the most punctilious abiders by the law« – or at least they try to be – because their living in, out of, and by the *lex spiritus*, makes them¹¹³ obey the law as obedient service to God and as love for the neighbor,¹¹⁴ elements which Strauss ignores.

106 WA 11, 249, 26 f.

107 WA 11, 250, 18-20; see also WA 10 I 1, 360, 2 - 361, 18.

108 WA 11, 250, 7-20.

109 See WA 11, 259, 35 - 260, 15.

110 See above, 73 f.

111 See above, 73. 75.

112 See Luther's argumentation on the basis of Act 5, 29 in the second part of TA, beginning with WA 11, 266, 32; see also Dietrich BRAUN: Luther über die Grenzen des Staates 1523. Jahrbuch für Berlin-Brandenburgische Kirchengeschichte 57 (1989), 27-64.

113 If one would use Luther's phrasing (»genaturt«: WA 11, 250, 19) one would have to say: »natures them«, i. e., gives them such a nature, or »Art« (WA 11, 250, 17; see also above, n. 32) that they obey. In PGOT Luther expressed this idea in the image of the heart which has become »hold« to the law; see also above, n. 94.

114 WA 11, 256, 8-26; 260, 17 - 261, 24. See also the references to »On Christian freedom« given above, in n. 104.

What Strauss on the basis his selective reading of TA and PGOT presents as Luther's »doctrine« creates a blurred picture of Luther's position. Just as Luther was not a socio-political agitator, as Strauss suggests,¹¹⁵ so he was not an antinomian of sorts. One agrees with individual statements, but the total picture which Strauss develops does not do justice to Luther's position on law. And with this picture in mind, one has to turn to Strauss's view of the peoples' understanding of, and response to, Luther.

2 Luther's Audience

Having finished the discussion of the passages which he selected from TA, Strauss continues¹¹⁶ by asking what reaction on the part of Luther's »individual follower« must have been triggered by Luther's doctrine? How must »this doctrine« have »affected« the people in their »attitude« toward »the many external rules« of society to which they found themselves exposed? Strauss feels that one cannot answer these questions unless one has first solved a »puzzle«.

2.1 The Puzzle and Its Solution

This is the puzzle: Did the people who listened to Luther's statement about the one true Christian among a thousand engage in a »tortured mental calculus« as to whether and why they were the one or belonged to the nine hundred and ninety-nine? Did the individual who listened to Luther try to figure out whether and why he or she was saved or lost? For solving this puzzle, Strauss does not consult the people, the only ones who could solve the puzzle. He solves the puzzle first by taking recourse to Luther's rhetorical skill, and then by speculating about how people must have been influenced by Luther.

Stimulated by the great »rhetorical force« with which Luther proclaimed his message about »God's eager solicitude for perplexed humanity«, few people »are likely to have been persuaded that they must exclude themselves from the ranks of the chosen«. Strauss shifts his argumentation from the puzzle – it really does not matter whether people actually performed this tortured mental calculus about their status of salvation – to Luther's rhetorical skill. But if people actually had engaged in this mental calculus, then, because of Luther's rhetorical skill with which he pounded God's solicitude for perplexed humanity into their heads, few

¹¹⁵ See Krodell: Luther and the opposition to Roman law ..., 26-34.

¹¹⁶ For the following, see above, 74 f.

people would have arrived at the conclusion that they should count themselves among those whom God has not chosen to be saved. Why? Strauss develops the following answer:

People were highly dissatisfied with their »station in life« and with the legal system of their day which favored the rich and powerful at the expense of the poor and those without clout (37. 43. 127. 208). Exposed to Luther's rhetorical skill, people heard the Reformer's message about God's solicitude for perplexed humanity as a message which produced personal worth because now they could understand themselves as God's chosen people. Therefore the people experienced an »exhilaration of election« which, coupled with the miserable station in life in which they existed, caused them to hear Luther's doctrine of law as a proclamation of emancipation from the old order and its laws and a promise of a new order with better laws by which they would move into a better station in life. In sum: People understood Luther's message in a psychological and a socio-political way, namely, as a message which produced personal worth and which promised a new social order.

On the basis of the following statements about group elitism and the feeling of noblesse on the part of the elect, it is clear that the minimum of psychology required to make Strauss's argumentation plausible has to do with self-image and self-worth.¹¹⁷ »God's eager solicitude for perplexed humanity« gave the people – whose »station in life« had assigned to them a »menial rank« – a sense of worth, a sense of noblesse. And the minimum of sociology required to make Strauss's argument plausible is the fact that all these people belonged to the out-group of society; they were those whom law did not favor and who therefore were dissatisfied with the legal conditions of the day and yearned for »new and better laws« (208).

Strauss produces no evidence for this society-wide »exhilaration« about election. Until he does, his well-sounding words are of little help for reconstructing and understanding what happened. Further, he connects that »tortured mental

¹¹⁷ Writes Strauss (210, in continuation of the quotation on 75, above): »One can only guess, of course, at the contribution made by this outlook [i. e., what Strauss has presented in the text quoted above, 75, concerning the »exhilaration of election«, the feeling of belonging to an elite, which generated a noblesse oblige attitude toward law, and the expectations of society's outgroup to change places with those of the ingroup] to the individual Lutheran's sense of personal worth. But surely it gave a significant psychological and emotional boost to the Reformation movement« (210). It would help to know on what sources Strauss bases this guess-work.

calculus« regarding election with Luther's statement about the one true Christian in a thousand.¹¹⁸ But in this statement and its context,¹¹⁹ Luther says nothing about election. It could be demonstrated that whenever Luther uses this statement, or similar ones, he dealt either with the conduct of the Christian or with the depth of the individual's faith, or with both, but not with any psychological condition of the Christian or with any reflection on the Christian's election status. In the present passage Luther speaks of the *regnum mundi* and its nature, and of the conduct of the believer and the evil people. Therefore, to be as speculative as Strauss sometimes is, the only line of thinking which Luther's statement could have triggered among some of his audience would have been the question: »Do I behave like a true Christian or like one of those ›wild böse thier‹ of whom Luther speaks?«¹²⁰ Some among Luther's audience would probably have answered: »I don't behave like a true Christian, but I try; Lord, forgive and have mercy on me when I fail.«¹²¹ Others would probably react in different ways. Among Luther's audience could have been *some* people who at one time or the other became convinced that they were God's chosen people. But Strauss does not do justice to *this statement* and makes unfounded generalizations about its audience when he connects that possibility with this text; that his translation and quotation of Luther's statement is not precise is perhaps unimportant.¹²²

2.2 The People

For Strauss¹²³ the people listened to Luther; influenced by Luther's rhetorical skill, they were receptive to his message because of their own psychological and socio-political needs. One has to assume that these people were identical with

118 See above, 75

119 WA 11, 251, 121.

120 WA 11, 251, 8.

121 Therefore Luther says (WA 38, 568, 34 - 569, 5): »... qui coepit esse Christianus, hoc restat, ut cogitet se nondum esse Christianum, sed querere, ut fiat Christianus, Ut cum Paulo possit gloriari [Ph 3, 12] ... Et quotquot perfecti sumus, in hac regula maneamus. Christianus enim non est in facto, sed in fieri, Dicitur enim ad eum: Petite, quaerite, pulsate, Non dicitur: Habetis, invenistis, intrastis, sed petite, quaerite, etc. Igitur, qui Christianus est, non est Christianus, hoc est, qui se putat factum Christianum, cum sit tantum fiendus Christianus, ille nihil est. Tendimus enim in coelum, nondum sumus in coelo. ... Summa, Proficiendum est, non standum et secure stertendum. Homo noster vetus debet de die in diem ... renovari.« See also WA 7, 336, 26 - 337, 13; 17 I, 295, 13 - 300, 22; 30 I, 190, 23 - 191, 16; 34 I, 275, 19 - 276, 6.

122 See above, n. 51.

123 For the following, see above 75.

those of whom Strauss is convinced that it is the mundane life that matters to them (210, n. 56). If this was the case, why should these people have been at all concerned about their *election* status? If only the mundane life matters, then no preacher can make people engage in any tortured thinking about any religious subject, regardless how much rhetorical energy he expends.

One also has to assume that these people were identical with those of whom Strauss assumes that they were unable to grasp Luther's distinction between their social and religious selves.¹²⁴ Yet if indeed these people experienced an exhilaration of election, they had to be able to differentiate between those two selves for the following reason: If those who belonged to the out-group ever thought about their election status, they had to do so in purely religious terms. Their social selves (their »station in life«) did not permit them to understand themselves as being in a favored position in any sense other than a religious one. On the one hand, Strauss tells the reader that people were unable to differentiate between their social and religious selves. On the other hand, his argumentation depends on peoples' ability to experience the difference between their social and their religious selves. How is one to understand this?

2.3 *Election Psychology and Luther's Success*

On the basis of the assumption that »few men and women are likely to have been persuaded that they must exclude themselves from the ranks of the chosen«, Strauss argues:¹²⁵ The feeling of being one of God's chosen people created in »the receptive individual« an awareness of belonging to a »special elite«, »a select small band« of people; election gave the receptive individuals an awareness of personal worth and elitism.¹²⁶ For the members of this small band the emancipator Christ has replaced the enslavement, in which the individual by way of his or her »station in life« has been held by the laws which the Amtmann enforced, with »a highly privileged situation vis-à-vis the law – a favored position exactly opposite to the subordinate condition in which the greatest number of them actually found themselves in the world«.

As a group, then, those Christians understood themselves as people who somehow lived in a new social order. Their station in life no longer *forced* them to obey all those laws and regulations which the Amtmann enforced. Quite to the

124 For details, see Krodell: Luther and the opposition to Roman law ..., 17-19.

125 See above, 75.

126 See also above, n. 117.

contrary: they could expect to change places with those whom until now law has favored. But this expectation could be turned into social realities only through a victory of the man who taught them about the emancipator Christ and who taught them to understand themselves as God's elect. Therefore let us fight all who oppose prophet Martin, particularly all those hated Amtmänner and their laws. In sum: »The Reformation's original message would seem to have contained a[n] ... antinomian strain and a bracingly libertarian allure.«¹²⁷ (Strauss should have added, »a call to revolution«.) This fact, in turn, »won Luther the massive acclaim that lifted his movement off the ground« (210). But *in spite* of this, our noblesse, we obey the laws of those hated Amtmänner. This noblesse-motivated obedience is preferable, however, to the forced obedience of those who, due to their »station in life«, do not feel that they are God's chosen people and know nothing of the emancipator Christ. It is clear, then, that the ethos of these enthusiastic Martin's Christians is motivated by a combination of three attitudes: (a) *Group elitism* (»we are the ones whom God has chosen; therefore we are the perfect ones and our conduct demonstrates this«); (b) *condescension* (»since we are emancipated from law, we do not have to obey the laws, but we obey them anyhow because you, who do not have our noblesse, need these laws«; (c) a »*wait-and-see*« position (»wait and see, we, under prophet Martin's guidance, will accomplish what is right«).

2.4 Comments

1. Strauss's argumentation is the result of the social historian's concern to write the Rezeptionsgeschichte of Luther's ideas. Since it is not to be expected that people were qualified to penetrate »the systematic core of [Luther's] thought« (199), one has to assume that people understood Luther's message in their own terms. There is nothing wrong with this line of thinking, except that Strauss does not work with the possibility that, by the law of averages, there must have been some people who were able to grasp this systematic core.

The problem arises when Strauss defines these terms in which the people must have understood Luther's message. He takes them *exclusively* from peoples' social and legal conditions. He suggests, therefore, that the people must

¹²⁷ See above, 75. As far as I am able to see, Strauss at no time defines this original message by itself. He deals with it only in those terms in which he thinks society *must* have understood what he constructs to have been this message. For details, see Krodel: Opposition to Roman law ..., 244-254; id.: Luther and the opposition to Roman law ..., 20-37.

have understood Luther's message as building up their feeling of personal worth in contrast to the worthlessness and powerlessness they experienced as a result of their station in life. And they must have understood Luther's message as a promise (208. 239) of emancipation from that station and, therefore, as a call to arms. Since Strauss is convinced that it is the mundane life that mattered to these people (210, n. 56), religious needs have to be excluded from these terms, and Strauss's carefully phrased qualifiers do not remedy this situation.¹²⁸ Yet the validity of the argumentation as a whole rests on the fact that an exclusively religious question, conviction, or feeling (»am I one of *God's* chosen people? Yes I am«) is the important issue for the people. How is one to understand this?

2. Regardless of what supposedly went on in the minds of the people, there is no law that *automatically* leads a person from the conviction of being one of God's chosen people to a feeling of belonging to a psychologically and sociologically understood elite. It is beside the point that this conviction can lead to such a feeling and in the history of religions actually has done this on occasions with terrible results, and still does this. By making this one possibility the norm by which the people as a whole must have functioned, Strauss forces life into a straightjacket. He proceeds in the same way in connection with the idea that Christians are emancipated from law. He adopts the way in which some of the people understood Luther's position on the freedom of the Christian, and makes this understanding the norm by which all the people must have understood Luther's position.

Apparently no one detected whatever Luther said about the conduct of the members of the *regnum Christi* in the *regnum mundi*, but all were attracted to the supposed antinomian strain in Luther's position. Notwithstanding his careful phrasing¹²⁹ Strauss does not establish that he is speaking about one possibility which could have contributed to Luther's success. Nowhere does he seriously consider the possibility that there might have been other equally important reasons for this success, such as purely religious ones. There were more ways of understanding Luther's position and the reasons for his success than the

128 Writes Strauss (emphases mine): »*There can be little doubt that Luther's initial appeal ... was heard as a denunciation of law. ... Support for the evangelical cause grew in large part out of the period's general dissatisfaction with existing legislation*« (208). »*The expectation of changing places with the privileged – those favored by the law – could not have been the least among the attractions of [Luther's] cause*« (210). See also above, n. 117.

129 See above, n. 128.

one which Strauss develops in an effort to convince the reader that it was the only way. His monochromatic picture of society's response to Luther is of little help in reconstructing and understanding what actually happened.

3. Strauss's argumentation turns the faith of the Christian into an act of self-deception. He apparently thinks that the belief of being God's elect was a sort of opium which supplied people with a »high« (a sense of personal worth, an ability to cope with one's station in life), which projected them into a wonderland of a new social order. Regardless how concretely the people might have understood Luther's supposed doctrine on the basis of their psychological need for personal worth and their desire for social change, in the end absolutely nothing was changed: whether one believed in one's own election or not, one still was *forced* to obey those hated laws and rules, and the Amtmann still saw to it that one did. These facts of life would quickly have dispelled all illusions one might have had about one's privileged position vis-à-vis the law after one had read (or listened to) Luther and understood him in terms of one's own needs or dreams. Of course, one might pull off a revolution in the name of the emancipator Christ, whose message prophet Martin pounded in one's head. But until this happened absolutely nothing was changed. And the person who by temperament was not inclined to violence could not even hang on to this prospect that a revolution might change the situation. I do not deny that in Luther's days some people might have used their version of the Christian faith as such an opium of sorts, or that in Luther's days some people used their version of the Christian faith as a cover for revolution. But where is Strauss's substantiation for his suggestion that *all* of Luther's early followers actually affirmed such a caricature of the Christian faith?

III Summary

One appreciates Strauss's effort to make a contribution to the Rezeptionsgeschichte of Luther's ideas in the frame of psycho-social history. It is fascinating to read how people must have understood Luther's doctrine – but this fascination does not nullify two problems.

1. As a social historian, Strauss obviously would not wish to be counted among those (old-fashioned) historians who are still working with what Bob Scribner has called »methodological naiveté«; i. e., »read Luther's works intensively, and thus equipped with a close knowledge of the original texts, ... search diligently for traces of the words and ideas of the great Reformer«, and then on the basis of the »growing density of Luther quotations, acknowledged and unacknowledged«,

argue for Luther's »pervasive influence.«,¹³⁰ Strauss's selective reading of the Luther texts does not create the impression of a »close knowledge of the original texts«; to the contrary, it raises questions of textual interpretation. And, though he argues for what Scribner calls the Reformer's »pervasive influence« on people, he does not produce that »density of Luther quotations, acknowledged and unacknowledged«, of which Scribner speaks. He engages in guesswork and postulates what was going on in peoples' minds.

Few will doubt that texts have a history of their own which can be contrary to the intentions of the author.¹³¹ But prior to establishing that history, one first has to establish what the text itself says. One has to do this not because the audience, which generates the history of the text, is »a passive object on which Luther's thought merely »impressed« itself like a seal giving shape and form to featureless wax«, as Scribner argues.¹³² One has to do this because it is the only way to do justice to the text itself. Goethe was correct when he said: »Im Auslegen seid frisch und munter! Legt ihrs nicht aus, so legt was unter.«¹³³ Only in concentrating on the text can one avoid that the featureless wax – or to return to Strauss's presentation, that anonymous entity called »people« – determines the meaning of the text. To say it differently: What was Luther's doctrine of law – *regardless* of the impact that doctrine might have had on society? Luther was not the sort of antinomian Strauss depicts, and whatever antinomianism there was in society then, or is in our Lutheran church now, may not claim him as spiritus rector.

2. Strauss's blurred picture of Luther's doctrine is not only the result of the way he reads Luther, but also of reading these texts »backwards« by way of speculation which is governed by ideology. He reads Luther, not from the viewpoint of the *reconstructed and documented* influence which Luther actually had on people, but from the viewpoint of the influence which he feels Luther must have had on people; and he views the people exclusively in a mundane frame, their social »station in life«. He reads Luther from the viewpoint of what he postulates to be a society-wide dissatisfaction with existing laws, an antinomia-

¹³⁰ Bob SCRIBNER: Luther's anti-Roman polemics and popular belief. LuJ 57 (1990), 93.

¹³¹ What is commonly expressed in the phrase »author's intention« (see also Scribner: Luther's anti-Roman polemics ..., 93, n. 1; Krodell: Luther and the opposition to Roman law ..., 35, n. 51; 37, n. 52), Strauss expresses (223) in Luther's case with the phrase »the reformer's own spiritual sign-posts«; while he grants that the peoples' »points of reference« were »vastly different« from these sign-posts, he does not establish those sign-posts by themselves.

¹³² Scribner: Luther's anti-Roman polemics ..., 93 and 93, n. 2.

¹³³ Book 2 of »Zahme Xenien«.

nism of sorts. On the basis of Luther's undeniable success, Strauss engages in *histoire régressive*, and does so by way of speculating about processes which must have taken place in the psyche of the people who were exposed to Luther. And in this psyche there appears to have been room only for secular, materialistic concerns – one's »station in life« and dissatisfaction with existing legal conditions. If there was any room for religion at all – as is in the case of the exhilaration of election which the people supposedly experienced – then it is derived from, shaped by, and subordinated to, these concerns. The history of the text is not history but speculation, based on ideology, brilliant in some cases, but guesswork without foundation in sources nevertheless.

¹ Hans-Joachim Lauth, *Hamburg* 1984.

² Joseph Lortz, *Die Reformation als religiöser Aufbruch* (Bonn: Lohr, 1962), 1962; Lortz und die Reformation, *Beiträge zur evangelischen Theologie* (Göttingen) 1970, 23–31.

³ Über die internationalen Auswirkungen in Japan, Tschern, Frankreich, China und Finnland für die man Beiträge in *Zeit. Evangelium* ab Joseph Lortz 1963–1969, Beiträge zur Religionswissenschaft und Ökumene, *Beitrag zum Welt-Gottes und Christen* 1962, 1962; Joseph Lortz, *Die Reformation* (Leipzig: Leipzig, 1962), 1962.