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ORAL DEFENSE

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A Creative and Administrative Actuality:
Historical and Theological Analysis
of the Orders of Creation
in the Ethics of Werner Elert

The vote of the Thesis Committee was unanimous.

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A CREATIVE AND ADMINISTRATIVE ACTUALITY: HISTORICAL AND THEOLOGICAL ANALYSIS OF THE ORDERS OF CREATION IN THE ETHICS OF WERNER ELERT

A Thesis Presented to the Faculty of
Bethany Lutheran Theological Seminary, Mankato, MN,
Departments of Historical and Systematic Theology
in Partial Fulfillment of the
Requirements for the Degree of
Master of Divinity

By
Patrick D. Ernst
October 2018

Mir ists selb offt widerfahren, das [der Teufel] mir ein gepölter im Hauß angerichtet hat unnd mich hat schrecken wöllen. Aber ich hab meinen berüff für mich genommen und gesagt: Ich weiß, das mich Gott inn dies Haus gesetzt hat, das ich drinnen soll Herr sein. So du nun ein sterkern berüff hast denn ich, und bist Herr da, so bleib da. Aber ich weyß wol, das du nicht Herr bist und gehörest an ein andern ort, in die hell hinunder. Bin also wider eingeschlafen und hab jn lassen böß sein, Denn ich hab wol gewist, das er mir nichts hat können thün (*WA* 52:261).

The devil has often raised a racket in the house and has tried to scare me, but I appealed to my calling and said: I know that God has placed me into this house to be lord here. Now if you have a call that is stronger than mine and are lord here, then stay where you are. But I well know that you are not lord here and that you belong in a different place—down in hell.—And so I fell asleep again and let him be angry, for I well knew that he could do nothing to me (*What Luther Says*, no 1192, 404).

Martin Luther, *Haus-Postille 1544*, sermon for Easter Tuesday on Luke 24:36–47

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PREFACE

The church has always faced battles, but it has not always faced the same battles. The early church deliberated over the doctrines of the trinity, the person of Christ, and the Holy Spirit. The false teachers forced them to answer the question, "Who is God?" In the Reformation, evangelical theologians needed to re-affirm the dogma of Christ's work for humankind. The Roman Catholic Church forced them to answer the question, "How has God saved sinful man?" Today, the church fights on a different front line. The questions which confront Christianity center on what could be called "first article" topics. The counterculture movement in America and the Vietnam War of the 1960s and 1970s damaged in many a positive and obedient attitude toward the state. The same period saw massive changes in the institution of the church, from Roman Catholicism's Vatican II Council to the usage of contemporary worship styles and the ordination of women in Protestant churches. Since that time, American society has accepted and encouraged homosexuality, gender dysphoria, no-fault divorce, and abortion. Christians are not immune, and these issues force theologians to consider again the question, "Who is man and what does God intend his creation to be?"

A spirituality created to cater to a liberated American society is moral therapeutic deism (MTD).[1] In MTD, the deity gives unbounded endorsement for the pursuit of personal pleasure and fulfillment. The only thing it demands in social ethics is mutual love and consent. An example of this MTD piety at work is the turning tide of American Christians, many of them young, toward a softened Christianity. National Public Radio documented one aspect of this shift, the coming together of principled, conservative Christian colleges and their socially progressive students.[2] A junior at Calvin College in Grand Rapids, Michigan, identifies both as a devout Christian and as queer. This would pose little problem in the myriad educational institutions which have embraced a changed and changing model of human sexuality. Calvin College, however, is affiliated with the Christian Reformed Church, which holds that a homosexual lifestyle is incompatible with the revealed will of the Christian God. Between institutional dogma and personal views, he chooses the latter. He says, "When I realized that my faith wasn't necessarily about the [Christian Reformed] Church, and it wasn't even necessarily about the Bible but about my relationship with God and that God is all-encompassing and loving, I felt very free."[3] Among many Americans, Christian ethics consist of freedom from constraint. Its ecclesiology says the institution of the church must bend to the ideas of the people who belong to it, if it is relevant to faith life at all. Law and gospel are confused. Antinomianism reigns. In this climate, Lutheranism has a powerful contribution to make: divine order.

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[1] For an explanation of moral(istic) therapeutic deism and its relevance to the future of the American religious context, see Christian Smith and Melinda Lundquist Denton, *Soul Searching: The Religious and Spiritual Lives of American Teenagers* (New York: Oxford University Press, 2005); Christian Smith, "Is Moralistic Therapeutic Deism the New Religion of American Youth?: Implications for the Challenge of Religious Socialization and Reproduction," in *Passing on the Faith: Transforming Traditions for the Next Generation of Jews, Christians, and Muslims*, ed. James L. Heft (New York: Fordham University Press, 2006), 55–74; Rod Dreher, *The Benedict Option: A Strategy for Christians in a Post-Christian Nation* (New York: Sentinel, 2017), 10–12.

[2] Tom Gjelten, "Christian Colleges Are Tangled In Their Own LGBT Policies," *Morning Edition* (March 27, 2018), accessed March 28, 2018, https://www.npr.org/2018/03/27/591140811/christian-colleges-are-tangled-in-their-own-lgbt-policies.

[3] Ibid.

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I thank also my wife, Kate, for her support and understanding as I finished this project during our first year of marriage.

Finally, I can never repay my parents, David and Sharon Ernst, with thanks, but thankful I am. Many years of education are culminating in this project, and they have supported me through each one. Whatever worthwhile I have produced below, I dedicate to them.

God be praised.

CHRONOLOGY[1]

Elert born in Heldrungen am Kyffhäuser, Thuringia	1885 (August 19)
Beings study at Breslau seminary	1906
Earns Ph.D. at Erlangen	1910
Completes Th.D. at Erlangen	1911
Teaches in Livonia and travels to Russia	1911
Marries Annemarie Froböß	1912
Ordained in Seefeld bei Kolberg	1912
Serves as part-time chaplain in the Prussian army	1914–1918
Called to direct Breslau seminary	1919
Called to Erlangen	1923
Publishes *Morphologie des Luthertums*	1931
Adolf Hitler seizes dictatorial power upon election	1933
Elert publishes *Bekenntnis, Blut, und Boden*	1934
Serves as permanent dean of theological faculty	1935–43
Americans denazify Erlangen theological faculty	1945–47
Elert publishes *Das Christliche Ethos*	1949
Participates in the Second Assembly of the LWF	1952
Retires from teaching	1953
Publishes *Abendmahl und Kirchengemeinschaft*	1954
Dies from cancer	1954 (November 21)

[1] Matthew Becker, "Werner Elert (1885–1954)," in *Twentieth-Century Lutheran Theologians*, ed. Mark C. Mattes (Göttingen: Vandenhoeck & Ruprecht, 2013), 95–101; Lowell C. Green, *The Erlangen School of Theology: Its History, Teaching, and Practice* (Fort Wayne: Lutheran Legacy, 2010), 231–234.

ABSTRACT

Ernst, Patrick D. “A Creative and Administrative Actuality: Historical and Theological Analysis of the Orders of Creation in the Ethics of Werner Elert” M.Div. Thesis, Bethany Lutheran Theological Seminary, 2018. 88 pp.

Werner Elert (1885–1954) was widely influential in twentieth-century Lutheranism, a high point of the Erlangen school’s second period of prominence. He wrote extensively on the orders of creation (*Schöpfungsordnungen*) and used them as part of his inductive theological method to construct Lutheran ethics. The rise of Adolf Hitler and National Socialism required him and his colleagues to clarify the role of the orders and apply them. This paper examines his articulation of the orders in his major works *Morphologie des Luthertums* (1931) and *The Christian Ethos* (*Das Christliche Ethos*, 1949) and analyses his development of them in practice during the Third Reich. It situates the orders within Elert’s theological system, showing their relationship to law and gospel, the two kingdoms, and the three estates. It argues that the orders give insight into Elert’s reservations about the third use of the law and form an integral part of his ethical framework. Finally, it maintains that Elert’s orders are not culpable of justifying the atrocities of Nazi Germany, but that the National Socialists misappropriated the Lutheran doctrine of the orders for ideological ends.

CHAPTER ONE

INTORODUCTION

Werner Elert (1885–1954), German-Lutheran theologian and professor at the University of Erlangen from 1923 until 1954, has been called "the *Lutheranissimus*" among Germans in the twentieth century.[1] Together with several colleagues at the University of Erlangen, Elert not only felt the pulse of twentieth-century confessional Lutheranism, he helped to set it. With regard to Elert and the Erlangen faculty, Matthew Becker suggests, "No other confessional Lutherans exerted as wide an influence in the middle decades of the twentieth century as they did."[2]

Elert has been described as "likely the most brilliant and balanced Lutheran theologian of the twentieth century" with "great synthetic power and deep thinking," and he was influential in the Lutheran state church of Bavaria to the point of influencing entire church conventions.[3] His work with original sources coupled with a powerful memory allowed him to author works in which he "digested" hundreds of publications and writings from the span of several centuries and distilled them into coherent categories.[4]

Historically, he looms large in the second generation of what is known as the "Erlangen school" of Lutheran theology. The Erlangen school was a Neo-Lutheran,[5] confessional

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[1] Matthew Becker, "Werner Elert (1885–1954)," in *Twentieth-Century Lutheran Theologians*, ed. Mark C. Mattes (Göttingen: Vandenhoeck & Ruprecht, 2013), 93.

[2] Ibid., 94.

[3] Lowell C. Green, *The Erlangen School of Theology: Its History, Teaching, and Practice* (Fort Wayne: Lutheran Legacy, 2010), 234.

[4] Ibid., 235.

[5] Neo-Lutheranism is a channel of Lutheran theology encompassing several specific schools resulting from the Lutheran Awakening (*Erweckungsbewegung*) in nineteenth- and twentieth-century Germany. In the seventeenth and eighteenth centuries, Pietism and Rationalism had compromised the integrity of Lutheran churches in German-speaking lands. Romanticism returned life to German culture, and its religious counterpart, the Lutheran Awakening, returned life to the church. When Claus Harms' wrote a new set of Ninety-five Theses in 1817 as a confessional counterpoint to the Prussian Union, many Lutherans in Germany strove to reclaim their confessional heritage and integrity. Two strains of approach came from this confessional renewal: Repristination Theology and Neo-Lutheranism. Both rejected Rationalism, idealism, and Pietism. Repristination Theology saw the dogmaticians

movement in German theology strongest from the middle of the nineteenth century to the middle of the twentieth century.[6] It was present not only at the University of Erlangen, its namesake, but also at the universities in Leipzig, Rostock, Dorpat (present day Tartu in Estonia), Greifswald, and Göttingen because of their generally confessional proclivities.[7] Lutheran professors in this school of thought often taught at or received calls to teach at several of these universities. Elert, for example, came from directing the Old Lutheran seminary in Breslau (too confessional to remain in the Prussian Union of churches) to teach at Erlangen. In 1936, he received a call to Göttingen. His 1926 call to Münster seems to break the trend, but part of the motivation behind that call was for Elert to serve as a robustly Lutheran "counterweight" to Barth on the Münster faculty.[8] The Erlangen school sought to be truly Lutheran in a modern context, keeping a distance from both Rationalism and classic Protestant Liberalism. At the same time, the Erlangen

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of Lutheran Orthodoxy as the accurate interpreters of Luther and the Reformation. Theologians of this school sought to recover the truths of the early Lutheran fathers in order to revitalize contemporary teaching and practice. Neo-Lutheranism, almost synonymous with Erlangen Theology, was more "progressive" in its theological approach (Otto W. Heick, "Awakening, The Lutheran," in *The Encyclopedia of the Lutheran Church*, ed. Julius Bodensieck [Minneapolis: Augsburg Publishing House, 1965], 1:162). It sought fresh study of Luther and incorporated human experience into theology (*Erfahrungstheologie*). Repristination Theology was deductive in method, beginning with the crystalized doctrines of classical dogmatics and applying them to current situations. Erlangen Theology was inductive, beginning in the current situations of Christians and formulating "novel ways of articulating classic Christian teaching" to address those situations (Matthew Becker, "Erlangen," in *Dictionary of Luther and the Lutheran Traditions*, edited by Timothy J. Wengert, Mark A. Granquist, et al. [Grand Rapids: Baker Academic, 2017], 228). Neo-Lutheran theologians were closer to mainstream German thought, sympathetic to ideas of Schleiermacher and Hegel, especially concerning experience as an element of theology (Heick, 162). However, they were distinct from both Pietism and classical Liberalism in their submission to the Lutheran Confessions and their insistence that church unity come through doctrinal unity. Lutheran churches in the German diaspora and the Nordic countries evidenced very similar currents of renewal (Ibid., 164).

Since American Lutherans operated under a de-centralized model of church governance relative to the European churches, individual pastors and members, not consistorial decrees, were the building blocks of renewal. Many of them were immigrants who had experienced renewal in Europe before emigrating. Lutheran awakening occurred in the established churches of the East and found a boost from the formation of the new Missouri, Ohio, Iowa, Buffalo, Norwegian, and Augustana synods (Ibid., 166–167).

[6] Green recognizes that the school and the University of Erlangen's theological faculty are not one and the same, but cites the "formal end" of the Erlangen school "when the theological faculty of Erlangen voted in 1969 that its teachers were no longer committed to the Lutheran Book of Concord" (Green, *Erlangen School*, 33). Since that time, the Erlangen school has found renewal and development in American Lutheranism.

[7] Green, *Erlangen School*, 33.

[8] Becker, "Werner Elert," 99n20. Barth taught at Münster 1925–1930.

school's method contained what has been termed "experience theology" (*Erfahrungstheologie*) within its robust, confessional Lutheran approach. One of its distinguishing emphases, compared to other strains of Lutheran thought, is its treatment and application of the orders of creation (*Schöpfungsordnungen*). Though a Neo-Lutheran term, the *Schöpfungsordnungen* are not something Neo-Lutherans invented. Their explanations are efforts to articulate "[Luther's] own threefold division of the orders of creation." This refers to the three estates: the home (*status oeconomicus*), the state (*status politicus*), and the church (*status ecclesiasticus*).[9]

The practical stress test of the orders came during the height of Elert's career, the 1930s and 1940s, while he was serving as professor and dean of the theological faculty in Erlangen. As a theologian, he began theology with the experiences of his time and place and proceeded to bring the Christian faith to bear on them.[10] The ways in which the Erlangen theologians understood the orders and applied them in the era of National Socialism in Germany have played into many discussions of them as a theological concept since. This paper will examine the orders in several of Elert's works and contextualize Elert and the orders in 1930s German theology.

Thesis

This paper argues that the orders are integral to Werner Elert's ethics and that their function sheds light on Elert's view of the third use of the law. It also argues that the orders of creation are not to blame for the atrocities of the German National Socialist regime; the Nazis and their ecclesial equivalent, the German Christians (*Deutsche Christen*), misappropriated them to make totalitarian ideology palatable to a heavily Lutheran society.

[9] Carl E. Braaten, *No Other Gospel!: Christianity among the World's Religions* (Minneapolis: Fortress Press, 1992), 119.

[10] Gerhard Müller, "Gleitwort," in Werner Elert, *Die Lehre des Luthertums im Abriss*, 2nd ed. (Erlangen: Martin Luther Verlag, 1978), vii.

Status of the Question

Elert's theological legacy endures through the Americans who studied under him and brought his influence back to the United States. Many in Europe have criticized Elert following World War II for his early support of Hitler's government,[11] while theologians in America were more willing to entertain his theological method and use his historical insights.[12] Figures in American Lutheranism from Theodore Tappert of the Lutheran Church in America to Armin Schuetze of the Wisconsin Evangelical Lutheran Synod endorsed his works when they were translated.[13] However, the importing of the Erlangen school in the twentieth century has not been without controversy. As early as the 1960s, conservative theologians in the Lutheran Church–Missouri Synod denounced Elert's theology as supporting the cause of the liberals among them. The struggle in that church body rose to the point of "theological crisis," with conservatives seeing Elert and his theological school as part of the problem.[14] Confessional Lutherans in America have targeted Elert for his reservations about verbal inspiration and the third use of the

[11] Berndt Hamm, "Werner Elert als Kriegstheologe: Zugleich ein Beitrag zur Diskussion 'Luthertum und Nationalsozioalismus,'" *Kirchliche Zeitgeschichte* 11, no. 2 (1998): 206–254.

[12] Several of his major works were translated and publishing in English between 1950 and 1980: Werner Elert, *The Christian Ethos*, trans. Carl J. Schindler (Philadelphia: Fortress Press, 1957); *The Structure of Lutheranism*, vol. 1, *The Theology and Philosophy of Life of Lutheranism Especially in the Sixteenth and Seventeenth Centuries*, trans. Walter A. Hansen (St. Louis: Concordia Publishing House, 1962); *Eucharist and Church Fellowship in the First Four Centuries*, trans N. E. Nagel (St. Louis: Concordia Publishing House, 1966); *The Christian Faith: An Outline of Lutheran Dogmatics*, trans. Martin H. Bertram and Walter R. Bouman (1974).

[13] Theodore G. Tappert, review of *The Structure of Lutheranism: The Theology and Philosophy of Life of Lutheranism Especially in the Sixteenth and Seventeenth Centuries*, vol. 1, by Werner Elert, trans Walter A. Hansen, *Church History* 32, no. 3 (June 1963): 214; Armin Schuetze, review of *Eucharist and Church Fellowship in the First Four Centuries*, by Werner Elert, trans. N. E. Nagel, *Wisconsin Lutheran Quarterly* 65, no. 1 (January 1968): 68–69; see also Franklin Sherman, review of *The Christian Ethos*, by Werner Elert, trans. Carl J. Schindler, *The Journal of Religion* 38, no. 1 (January 1958): 72–73; Frederick Wentz, review of *The Structure of Lutheranism: The Theology and Philosophy of Life of Lutheranism Especially in the Sixteenth and Seventeenth Centuries*, vol. 1, by Werner Elert, trans. Walter A. Hansen, *Interpretation* 17, no. 3 (1963): 337.

[14] Becker, "Werner Elert," 95, 95n8.

law.[15] Since 1990, several scholars have renewed the positive study of Elert, the orders of creation, and Erlangen theology in general. Carl Braaten,[16] Sigurjón Arni Eyjólfsson,[17] Lowell Green,[18] Ryan Tafilowski,[19] Oswald Bayer,[20] Nathan Howard Yoder,[21] and Matthew Becker[22] have all contributed to the rise in interest. This recent wave of scholarship treats the orders of creation as a lost element of Lutheranism, neglected in the aftermath of World War II. The scholars listed above have seen their task as reappraising and rehabilitating the orders.

Primary Sources

The works of Elert which most directly address the orders are his seminal work in historical theology, *Morphologie des Luthertums*,[23] and his ethics, *The Christian Ethos*.[24] Not only do these works provide two lenses (historical theology and ethics) through which to view

[15] Ibid., 95n8; see Scott R. Murray, *Law, Life, and the Living God: The Third Use of the Law in Modern American Lutheranism* (St. Louis: Concordia Publishing House, 2002).

[16] Carl E. Braaten, "God in Public Life: Rehabilitating the 'Orders of Creation,'" *First Things*, no. 8 (December 1990): 32–38; Braaten, *No Other Gospel!*.

[17] Sigurjón Arni Eyjólfsson, *Rechtfertigung und Schöpfung in der Theologie Werner Elerts*, Arbeiten zur Geschichte und Theologie des Luthertums, vol. 10 (Hannover: Lutherisches Verlagshaus), 1994.

[18] Lowell C. Green, *Lutherans Against Hitler: The Untold Story* (St. Louis: Concordia Publishing House, 2007); Green, *Erlangen Theology*; Lowell C. Green, "The 'Third Use of the Law' and Werner Elert's Position," *Logia* 22, no. 2 (Eastertide 2013): 27–33.

[19] Ryan Tafilowski, "A Reappraisal of the Orders of Creation," *Lutheran Quarterly* 31, no. 3 (Autumn 2017): 288–309; Ryan Tafilowski, "Inclusive Quarantine: The Pathology and Performance of Jewish Existence in the *Erlangen Opinion on the Aryan Paragraph*," in *Studies in Christian-Jewish Relations* 10, no. 1 (2015): 1–29, accessed August 22, 2018, doi: 10.6017/scjr.v10i1.9175.

[20] Oswald Bayer, "Nature and Institution: Luther's Doctrine of the Three Orders," *Lutheran Quarterly* 12, no. 2 (Summer 1998): 125–159.

[21] Nathan Howard Yoder, *Ordnung in Gemeinschaft: A Critical Appraisal of the Erlangen Contribution to the Orders of Creation*, Vol. 338, Series 7 (Theology and Religion) in *American University Studies* (New York: Peter Lang Publishing, Inc., 2016).

[22] Becker, "Werner Elert"; Matthew Becker, "Erlangen," 227–229; Matthew Becker, *The Self-Giving God and Salvation History: The Trinitarian Theology of Johannes von Hofmann* (New York: T & T Clark, 2004).

[23] Werner Elert, *Morphologie des Luthertums*, 2 vols. (München: C. H. Beck'sche Verlagsbuchhandlung, 1931). References will be abbreviated *ML*. Unless otherwise indicated, all translations from the second volume are the author's.

[24] Werner Elert, *Das Christliche Ethos* (Tübingen: Furche-Verlag, 1949).

the orders, they also serve to reveal Elert's development and maturation in his thinking about the orders. The *Morphologie,* published in the early 1930s, predates the experiences Elert would encounter under the Hitler regime. *The Christian Ethos,* on the other hand, was published in 1949, after the fall of National Socialism. There Elert expresses Luther's doctrine of the orders in ethics, incorporating his wisdom gained during the 1930s and 1940s. A smaller tract written in 1934, deceptively entitled *Bekenntnis, Blut, und Boden,*[25] will illuminate Elert's application of the orders to the conditions of the Third Reich as he was experiencing them. While not one of the main works under consideration, it will serve an auxiliary role in the historical analysis.

Plan

First, the paper will lay a groundwork of Lutheran ethics and show the relationship between the two-kingdoms doctrine and the three-estates doctrine. It will incorporate the debate concerning the third use of the law into the discussion of the two kingdoms, as well as Elert's rejection of the Barmen Declaration of 1934. Elert's presentation of the three estates in the *Morphologie* will set the stage for an analysis of the convergence of the two kingdoms, three-estates, and law and gospel. The paper will explain the orders, their prominence in early twentieth-century German Lutheran theology, and their place in Elert's theology. This contextualization will examine how the orders played into the Erlangen Opinion (*Gutachten*) on the Aryan Paragraph and the Ansbach Memorandum (*Ansbacher Ratschlag*) and how those documents have been interpreted since their composition.

Secondly, the paper will address criticisms brought against theologians under Hitler and against the orders of creation. Elert's ethical incorporation of the orders will be articulated based

[25] Werner Elert, *Bekenntnis, Blut, und Boden: Drei Theologische Vorträge* (Leipzig: Dörffling und Franke, 1934).

on the *Morphologie* and *The Christian Ethos*. *Eigengesetzlichkeit* and *Schicksal* will be clarified and addressed specifically as key terms for understanding Elert's theology.

Finally, the paper will give a brief overview of Elert's theology, centered in the gospel (*evangelischer Ansatz*), and his views on the church as *status ecclesiastucus*, as an order of creation. It will draw insights from Elert which address current trends of moral therapeutic deism (MTD) and anti-institutionalism among Christians and antinomianism among Lutherans. The conclusions of this paper will identify areas for further study.

Methodology

This paper approaches the orders as a systematic tenant of Lutheranism, a historically charged doctrine, and a component of Christian ethics. It seeks to connect Elert's writing on the orders to his systematic framework for the purpose of using the orders in ethics. Systematic conclusions drawn from Elert's writings will be interspersed with historical analysis of Elert's career and context.

Skills and Significance

While Americans have translated many of Elert's most important works into English, scholars have complained about the inadequacy of those translations.[26] The second volume of *Morphologie des Luthertums* has no English translation available; a working knowledge of modern theological German is necessary to read it.

Because Elert's work suffers from a lack of translation or unwieldiness in English, it suffers from a lack of study. This thesis does not intend to cover his work generally, nor give a comprehensive analysis of the orders of creation. It does seek to open and contextualize, through

[26] Sherman, 73; Edward Schroeder, "Werner Elert and Moral Decay in the ELCA!" *Crossroads: Where the Gospel Meets Our Daily Lives*, February 25, 2010, accessed November 19, 2017, https://crossings.org/werner-elert-and-moral-decay-in-the-elca/.

translation and analysis, portions of Elert's writing on the orders to an English-speaking audience for whom they were otherwise inaccessible.

CHAPTER TWO

A GRID OF LUTHERAN ETHICS: TWO KINGDOMS AND THREE ESTATES

In classical Lutheran terminology, the ethical field of the Christian lies on two axes. The intersection of these two axes, the two-kingdoms doctrine and the three-estates doctrine, will eventually provide precision to a discussion of the orders of creation and of the church as institution. Figure 1 illustrates their relationship.[31]

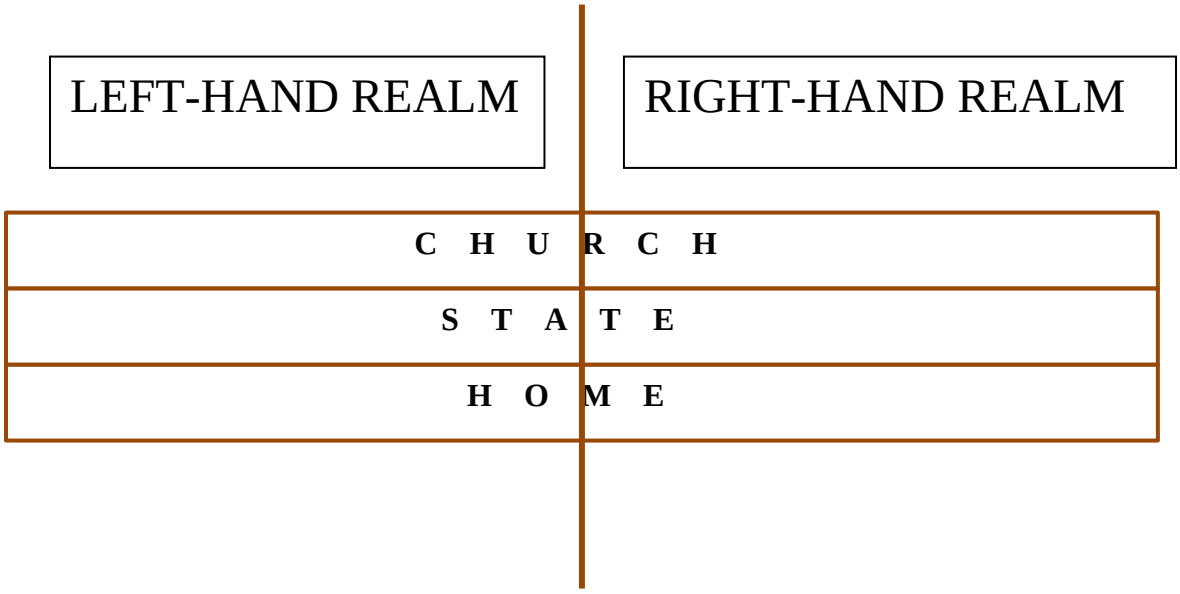

Figure 1. Intersection of the Two-Kingdoms Doctrine and the Three-Estates Doctrine.

[31] This figure makes a point in simplicity, not absolute precision. It is not equating the spiritual activity of the church with the spiritual import of the state and the home. It seeks to break a paradigm which equates the church and everything ecclesial with the right-hand kingdom and the state with the left-hand kingdom. Elert will express later that the Christian perceives ambiguity when he or she applies the two kingdoms and the three estates to life. The strength of the illustration is its integration of multiple Lutheran doctrines relating to ethics. Its weakness is its clear-cut presentation of distinctions which are difficult to perceive clearly in practice.

Two Kingdoms Doctrine

Definition and Clarification

The first, the two kingdoms doctrine, divides reality into two realms. One realm is the outward realm of the world, which includes everything that involves outward, physical and public life, *homo coram mundo*. The second realm is the spiritual realm, *homo coram deo*. Theologians, and this paper, also use the terms "kingdom" and "sphere" interchangeably with "realm."

Though simple in formula, the doctrine is prone to misunderstanding. Two false analyses in particular are relevant here. The first is extreme dualism, the notion that the worldly realm is evil and the spiritual realm is good. Closely related to that misconception is the idea that God controls and blesses the spiritual realm, while Satan and sin control the earthly realm. It is easiest to address the first idea by clarifying the second.

God is the ultimate control and governor of both realms. One can even refer to the worldly kingdom as the kingdom of the left and the spiritual kingdom as the kingdom of the right, as if these are the two hands of God at work. It is true that God uses different means to govern these two realms. In the spiritual realm, the law and gospel convert sinners and preserve them in the faith, and in evangelical fashion, the gospel reigns. In the world, the law of God restrains evil and, a point lost on some, fosters good order, prosperity, peace, and pleasure. God uses his law to order the worldly realm, even when it appears to embrace evil, so that his believers and all of humanity can enjoy it in all its fullness. Even though Luther suggests that the order of the state was intended only to restrain evil,[32] it is difficult to separate restraining evil and

[32] For instance, in his lectures on Genesis 2:16–17 (Luther, "Lectures on Genesis," in *LW* 1:104). Unless otherwise indicated, all English references to Luther's writings are based on Martin Luther, *Luther's Works*, ed. Jaroslav Pelikan, Helmut Lehmann, and Christopher Brown (St. Louis and Philadelphia: Concordia Publishing House and Fortress Publishing House, 1955–). References will be abbreviated *LW*. All Latin and German references

giving opportunity for good.[33] As opposed to thinking of the worldly realm as the source of evil which then corrupts the soul, Lutheran theology invites us to see the fall into sin as a spiritual corruption of the soul (right-hand realm) which then results in the corruption of the created order (left-hand realm).

Law and Gospel

Understanding this distinction of the two realms is possible with the Lutheran understanding that God issues two distinct proclamations from himself toward humanity, the law and the gospel. The law holds the last word in the world, the gospel in the life of faith. If law and gospel are not two messages but one unified message, the one Word of Jesus Christ, then there cannot be two governances of God, but one. To a casual observer, it might seem arbitrary that an integration of law and gospel is necessary for acceptance of the two kingdoms. But upon a deep understanding of the distinction between law and gospel, one sees that it necessitates two kingdoms. In addition, placing Elert within a discussion of the law's purpose, especially its third, instructive use, is critical to understanding how the orders of creation fit into his theological system.

Since Lutheranism's inception, there has been a struggle at the boundary of how radically to distinguish law and gospel. As one can see also in Elert's context, Christian theology has long been plagued by the persistent temptation to mix law and gospel. This mixture takes different forms but remains essentially the same error: Following the law becomes part of accepting the gospel; or, more subtly, accepting the gospel as an act of will or virtue becomes a demand, an

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to Luther's writings are based on Martin Luther, *Dr. Martin Luthers Werke: Kritische Gesamtausgabe*, ed. J. K. F. Knaake et al. (Weimar: Böhlau, 1883–1993). References will be abbreviated *WA*.

[33] Luther speaks about the positive role of the state most notably in LC III.73–74, in Robert Kolb and Timothy J. Wengert, eds., *The Book of Concord: The Confessions of the Evangelical Lutheran Church* (Minneapolis: Fortress Press, 2000), 450.

ethical duty upon which salvation is contingent. These errors, works righteousness and synergism, have been rooted out of Lutheranism rather deftly. However, a backhanded way of mixing law and gospel is avoiding adding law to conversion and instead giving it an inflated place in the continuing life of the Christian. This is proto-Pietism. Worked out to its conclusions, this tendency intrudes upon conversion by rooting the assurance of a true conversion and salvation in the good works which follow. Comfort does not come from the promises of the gospel per se, but the works which give psychological confirmation that the gospel does apply to me, the individual. In all these cases, the problem is that the law encroaches upon the territory of the gospel. It wishes to play a role in salvation which it does not have and cannot play. Because of this tendency, distinguishing law and gospel involves a hefty discussion of the nature, purpose, and boundaries of the law. The orders of creation and the three estates fall outwardly in the realm of the law, so an understanding of the orders also requires an understanding of the law.

Principally important to a discussion of ethics is the question of whether the law of God can instruct a Christian in holy living (third use of the law) without simultaneously continuing to condemn him (second use of the law). While this paper will not give a comprehensive outline of this discussion throughout history, it must address the topic of law because that issue connects modern debates concerning radical grace and antinomianism to Elert and his ethical framework of the orders. Two generalized positions will be presented with the understanding that variation exists within them, followed by Elert's articulation of law, which includes aspects of both.

One Lutheran position holds the law capable of instruction without conviction. This argument holds the law is part of God's eternal essence, an extension of himself. Law and gospel

function within a "law-driven" system.[34] In paradise, the law did not need to accuse. Law was present for mankind through conscience and the revealed command of God not to eat of the tree of knowledge of good and evil. Adam and Eve were kept in good standing by keeping this law, and they sinned by violating it. God, however, promised salvation from this deadly fall. Christ's work was to fulfill the law, delivering sinners from disobedience and freeing them, *so that* they could live as they did in paradise, in perfect harmony with God's law. The law for the Christian is to be seen Christologically, beginning in faith.[35] Luther's explanations of the commandments root the latter nine in the first, in Christian faith. Moreover, the law is not merely accusatory, but is the framework for Christ's redemptive work. The commandments to love present man not only with the prescriptions which he must obey under threat of punishment, but for the Christian also the work that has found its fulfillment in Christ. "What God demanded, Christ accomplished, and the threats of the law were transformed into the gospel." Law is a perfect revelation of who God is, an extension of his eternal essence. In eternal glory, the law will only function with a third use, as it had in the garden, since man will only will and do what is congruent with God's will. The gospel allows a third use of the law by uniting the believer with Christ in faith and thereby also uniting him with Christ's will and works of love. Being united with Christ in faith, the believer becomes the attributed possessor of Christ's active righteousness as well as a capable doer of works patterned after Christ's. Dr. David Scaer sees a denial of the third use of the law as "symptomatic" of deeper theological issues. If law is re-defined as something separate from

[34] Some of the framework for understanding these insights were gained in class discussion with Dr. Timothy Schmeling. Poignant terms garnered from him will be designated with quotation marks.

[35] From this point of the paragraph onward, Dr. David P. Scaer is paraphrased: David P. Scaer, "Lex Semper Accusat – Really?" (presentation, Symposium on the Lutheran Confessions, Fort Wayne, IN, January 17, 2018). He has come out against the "theology of the cross" proponents, who trace their theological ancestry to Gerhard O. Forde. In opposition to their views on law and atonement, he presents a clear, albeit single-voiced, explanation of the Anselmic theory of atonement and the classical, confessional Lutheran articulation of the law.

God's essence, then the law loses its objective character. If Christ did not die to pay for man's violation of the law but to stand in solidarity with man in his earthly affliction (*Anfechtung*), then substitutionary atonement becomes untenable and justification becomes a subjective experience instead of an objective fact of redemption. Finally, if the law always accuses, then it eliminates the possibility of good works, because whenever the Christian does a "good" work in faith, the law judges that work because of the sin tainting it. Thus, a third use of the law is not only possible, but necessary for the functioning of a substitutionary atonement theory and for good works.

The other position, which is broader than the group under Scaer's criticism, maintains that the law, whose main function is to convict sin, will continue convicting sin as long as the Christian lives. The *simul iustus et peccator* contains *peccator* until death – therefore, where sin remains, the law must convict it on contact. The use of a so-called "third use of the law" fails to recognize that directing the saint in godly living must also condemn the sinner who has not lived a godly life. The singular law exercises different functions, but one cannot choose the function in use nor somehow turn off the convicting nature of law. If the end of Lutheran theology is the salvation of man's soul and his spiritual comfort, presenting his obedience to law as the end of the gospel is burdensome and legalistic, not a comfort. Adam and Eve had their status in the garden by grace, not works. This system is "grace-driven," not "law-driven." It holds that the end goal of the gospel is not obedience to the law, though that may be an effect, but salvation from law. Gerhard Forde, Oswald Bayer, Timothy Wengert, James Nestingen, and Steven Paulson are among those whom Scaer puts in this camp.

Elert stands in a moderate position. Common to both Elert and the modern third-use skeptics is a fear of the law and gospel being *coordinated* instead of *distinguished*.[36] They fear the law will usurp the place of the gospel. Medieval theology saw the gospel as an infusing of divine grace which enabled one to become holier and more righteous. That process of discipline and obedience, made possible by grace, was one's justification. If Luther replaced that with a gospel of freedom from the law, then a third use of the law implies that the gospel has become again not an end in itself, but a means to the end of moral improvement. However great the *iustus* part of man becomes, it cannot extinguish the *peccator* outright. To hold that is to hold to perfectionism. For the killing of the old man, only the theological use of the law and the gospel will suffice. In repentance, not works, is the old man put to death. The third use falls away in a dual view of the Christian. The new man needs no law, and the old man, as said before, must either be coerced to work or killed. The old man cannot undergo reformation. According to the confessions, "[a]s far as the old creature, which still clings to [Christians], is concerned, it must be driven not only by the law but also by tribulations, because it does everything against its own will, under compulsion, no less than the godless are driven by the threats of the law and are thus kept obedient (1 Cor. 9[:27]; Rom. 7[:18, 19])."[37] The law drives the old man to bend to God's will, but this is not the third use of the law. It is a description of the first use acting in the same way upon the *peccator* of the Christian as it does upon "the godless."

Elert recognizes that when the Formula of Concord lays out a third use of the law, it is addressing the law to the individual who is both saint and sinner. For the regenerate in the narrow sense of the *iustus*, the law has no power or use; but for the regenerate in the wide sense,

[36] Lowell Green, "Third Use of the Law," 29.

[37] FC SD VI.19 in Kolb and Wengert, 590.

the Christian who is *simul iustus et peccator*, the law is needed to instruct and guide. At the same time as it instructs, it casts the light of accusation on all those works it finds the believer striving to do.[38]

However, for Elert, the law is more unified order than catalog of casuistic prescriptions. The law *is* part of God's eternal essence and will, yet it is more than "laws, rules, and prohibitions,"[39] more than a legal code. It is "the orderly rule of God," the order which God established.[40] Creation reflects the law, or *nomos*, of God. Elert lists human interdependence, the parent-child relationship, and the marriage bond as "nomologically given fact[s] in nature," "understood as part of the natural order."[41] This order is the connection between creation and ethical responsibility. Man is put into the world and encounters the *nomos* of God in revelation and in the natural law. To sin, to step out of or away from that order, is rebellion against God.[42] While this order gives people a measure of security by sustaining and giving shape to life, it also gives the assurance that everyone will die. The fact that our death must be in accord with this will of God means that our death is God's will of retribution for sin.[43] Even the law of nature convicts.

Elert's views of law and the order of creation fit with the doctrine of the two kingdoms. If the gospel is a way to regain the power to keep God's law, and if the law's primary purpose is to instruct, not accuse, then Christ is a lawgiver. Then the right-hand kingdom has become dependent on the left-hand kingdom, and the gospel is in service to the law. Elert describes a

[38] Werner Elert, *Christian Ethos*, 298–299. See FC SD VI.21–22, in Kolb and Wengert, 590–591.

[39] Elert, *Christian Ethos*, 50.

[40] Ibid., 51.

[41] Ibid.

[42] Ibid., 50.

[43] Ibid., 52.

"theoretical paradox" in that God addresses the sinner with judgment and the believer with forgiveness who are biographically the same person. The resolution does not come when the believer recognizes he or she now can keep the law, turning God's judgment into just acceptance. The resolution comes when the believer recognizes that he or she cannot keep the law and that the validity of the law-driven, left-hand kingdom is limited. By faith, the believer recognizes that the right-hand kingdom holds the superior verdict, and the verdict of Christ's rule in the right-hand kingdom is gospel. To mar this distinction of law and gospel is to destroy the Christian's awareness of that second, spiritual realm. The goals and ends of the kingdom of Christ remain always. The Christian attempts to actualize them in the kingdom of the world, which cannot become paradise, so he or she must always recognize that the order of God will never come to full fruition in the left-hand realm. If there is but one realm, then the order of God must come to full fruition if his word and promise are true. This cannot be the case. To mix law and gospel makes the gospel what it is not, another scheme of works, and to mix the two kingdoms makes the kingdom of grace what it is not, a plan for utopia. This is what Elert feared, and for him, that fear was very real.

Barth and Barmen: Theological Singularity

Karl Barth, and other Reformed theologians, maintained that the law is "nothing else but the necessary form of the gospel whose content is grace."[44] A presupposition of the singularity of God's Word leads to a coordination, as opposed to a distinction, of law and gospel. That coordination of law and gospel demands a blending of the two kingdoms. If the gospel is not release but covenantal bondage to God's approved forms of life, then the spiritual realm is not a bearer of freedom but a system of ethics. This slippery slope of lost distinction leads to one of

[44] Karl Barth, *Evangelium und Gesetz*, 11, qtd. in Elert, *Christian Ethos*, 302.

two practical disasters. One is a rejection of worldly structures which are not directly governed by God's Word. This is the path of the radical reformers, Anabaptists, and modern-day Jehovah's Witnesses. The other is Christian utopianism, where the worldly kingdom must conform to the holy law of God. Calvin's Geneva strove for this goal, and Calvin's primary tool to do so was a rogue third use of the law. Barth went a step further. He criticized both Lutherans and John Calvin for not laying a "Christological basis" for the state, which he himself attempted to do,[45] but his Christological basis assumed the singularity of God's Word and a mixing of law and gospel.[46]

This rejection of the distinction between law and gospel, and with it the two kingdoms hermeneutic, was the key issue Elert had with the Barmen Declaration of 1934, whose main draft Barth composed. The Barmen Declaration, since its composition, has become a bellwether of 1930s German theology. Those who accepted it in that decade were among those most vehemently opposed to Hitler's regime (e.g. Karl Barth, Dietrich Bonhoeffer, and Martin Niemöller). However, the Barmen Declaration was not an ethical stance toward the injustices of the National Socialist government in Germany. It was a deeply theological document, and theologically it was ecumenical. It created consensus among those with strong opposition to the Nazis, but by way of an awkward amalgamation of Reformed and Lutheran doctrine. Elert's rejection of the Barmen Declaration was not a rejection of resistance to Hitler, but a rejection of the explicit Reformed elements within it.[47] The document articulates a Lutheran understanding of the two realms, which Lutheran theologians added to Barth's draft; but even then, "Elert could

[45] R. E. Hood, "Karl Barth's Christological Basis for the State and Political Praxis," *Scottish Journal of Theology* 33, no. 3 (June 1980): 223–238.

[46] For a post-war expression of this logic, see Hans Tiefel, "The German Lutheran Church and the Rise of National Socialism," *Church History* 41, no. 3 (September 1972), 336.

[47] Yoder, 114.

not support the document because he thought the first two articles[48] were contradicted by the fifth article.[49] For him, Jesus Christ is not the only word of God, and the other word, that of the divine law, is to be sharply distinguished from the promise of the divine gospel."[50] The distinction of law and gospel drives the distinction of the two kingdoms, and Elert, among those especially cautious of the theological and ethical ramifications of mixing either, vehemently maintained both. Because of this theological stance, the Barmen Declaration was unacceptable. Moreover, the Barmen Declaration, which served as the rallying document for the Confessing Church in 1934, divided it a few years later. The contradictions of the document reflected actual theological camps within the Confessing Church who could not reconcile their theological differences.[51]

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[48] Thesis 1: (John 14:6; 10:1,9) Jesus Christus, wie er uns in der Heiligen Schrift bezeugt wird, ist das eine Wort Gottes, das wir zu hören, dem wir im Leben und im Sterben zu vertrauen und zu gehorchen haben.
Wir verwerfen die falsche Lehre, als könne und müsse die Kirche als Quelle ihrer Verkündigung außer und neben diesem einen Worte Gottes auch noch andere Ereignisse und Mächte, Gestalten und Wahrheiten als Gottes Offenbarung anerkennen.

Thesis 2: (1 Corinthians 1:30) Wie Jesus Christus Gottes Zuspruch der Vergebung aller unserer Sünden ist, so und mit gleichem Ernst ist er auch Gottes kräftiger Anspruch auf unser ganzes Leben; durch ihn widerfährt uns frohe Befreiung aus den gottlosen Bindungen dieser Welt zu freiem, dankbarem Dienst an seinen Geschöpfen.
Wir verwerfen die falsche Lehre, als gebe es Bereiche unseres Lebens, in denen wir nicht Jesus Christus, sondern anderen Herren zu eigen wären, Bereiche, in denen wir nicht der Rechtfertigung und Heiligung durch ihn bedürften.

[49] Thesis 5: (1 Peter 2:17) Die Schrift sagt uns, dass der Staat nach göttlicher Anordnung die Aufgabe hat, in der noch nicht erlösten Welt, in der auch die Kirche steht, nach dem Maß menschlicher Einsicht und menschlichen Vermögens unter Androhung und Ausübung von Gewalt für Recht und Frieden zu sorgen. Die Kirche erkennt in Dank und Ehrfurcht gegen Gott die Wohltat dieser seiner Anordnung an. Sie erinnert an Gottes Reich, an Gottes Gebot und Gerechtigkeit und damit an die Verantwortung der Regierenden und Regierten. Sie vertraut und gehorcht der Kraft des Wortes, durch das Gott alle Dinge trägt.

Wir verwerfen die falsche Lehre, als solle und könne der Staat über seinen besonderen Auftrag hinaus die einzige und totale Ordnung menschlichen Lebens werden und also auch die Bestimmung der Kirche erfüllen. Wir verwerfen die falsche Lehre, als solle und könne sich die Kirche über ihren besonderen Auftrag hinaus staatliche Art, staatliche Aufgaben und staatliche Würde aneignen und damit selbst zu einem Organ des Staates werden.

[50] Matthew Becker, "Pericope of the Week: The Theological Declaration of Barmen," *Transverse Markings: One Theologian's Notes* (October 17, 2012), accessed June 18, 2018, http://matthewlbecker.blogspot.com/2012/10/pericope-of-week-theological.html; see also Becker, "Werner Elert," 113.

[51] Green, *Lutherans Against Hitler*, 188. See also Green, *Erlangen Theology*, 245.

Two Kingdoms and Church and State

Another misunderstanding of the two kingdoms paradigm is equating it with the separation in society of church and state. In fact, the relationship between the institution of the church and the institution of the state, or the lack thereof in their separation, involves the worldly realm, not the spiritual. If and how Lutherans are to pursue a separation of church and state is a question which does not invoke the two kingdoms paradigm as much as the three estates, the second axis of the ethical grid. If Lutherans wish to pattern themselves after Luther himself, they would consider the three estates in questions about church and state relations over the two-kingdoms.[52]

Three Estates Doctrine

The three estates form the second axis of the ethical grid. While not completely synonymous with the order of creation (*Schöpfungsordnung*), they are an integral part of it. They are the chief orders or institutions which God established and upon which he places his blessing. They are specific institutions as opposed to the broader order of creation which can refer to the order established between men and women or the natural law in general. They also are functional as opposed to descriptive orders (e.g., gender, race, social class); that is, the orders of the home, church, and state serve divine functions, contain ethical potential, and address all individuals.

Clarification of the Church as an Order

The church as an order of creation refers roughly to the *ecclesia late dicta*, or the institutional church and its members. Risto Saarinen explains, "[W]hen the church is discussed as one of the three orders, it is not a comprehensive ecclesiology that is meant, but rather that *genus vitae* which pertains to the external practise of piety and to the doing of good works in the

[52] Bayer, 129.

church."[53] Elert echoes this point by specifying that in the discussion of the orders of creation, the *status ecclesiasticus* refers to "*der (organisierten) Kirche*."[54] This aspect of the church is the part of the church which resides in the left-hand realm in Figure 1.

In Elert's system, the *status ecclesiasticus* is also a "status" in the English sense of the word, an existential position of a human in relation to the essence of the institution, God and the gospel. Just as a person has his or her position in the *status politicus* as a citizen of a certain country with a certain legal standing, be it good or bad, so also every person has a position in the *status ecclesiasticus*, whether it be a positive position toward God by virtue of faith in Christ or a negative one, ranging from ignorance of revelation to willful rejection of the Gospel. The orders are lasting and immutable because every person is orientated toward each of these three orders in some way.[55] In Luther, this was a departure from the medieval orders, which functioned like social classes or castes in the sense that only those engaged in a certain field of work belonged to that order (e.g. clerics belonged to the *status ecclesiasticus* and rulers belonged to the *status politia*, as opposed to all people having a place in these orders).[56]

Distinctions among Estates

When Elert discusses the orders as such, he does so by identifying their governing principles and functions. They all share God's endorsement and blessing, but they serve different purposes under different parameters.

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[53] Risto Saarinen, "Ethics in Luther's Theology: The Three Orders," *Seminary Ridge Review* 5, no. 2 (Spring 2003), 39.

[54] *ML* 2:64.

[55] Ibid., 2:57. "Schließlich war es auch vollkommen in Luthers Sinne, wenn Hieronymus Weller zum ordo ecclesiasticus nicht nur die episcopi, diaconi, et doctores ecclesiae, sondern auch die auditores verbi divini rechnete. Jeder Mensch gehört so oder so allen drei Ständen an."

[56] See *ML* 2:52–53. For an overview of various interpretations of the three estates before and after Luther, see *ML* 2:53–60.

Oeconomia*: The Home*

The estate which is most basic, in a sense, is the home (*oeconomia*).[57] It is basic and foundational because it encompasses so many areas of human activity and those areas of activity most necessary for life. Its central domains are marriage, family, and the household, the latter of which, though in modern parlance referring only to marriage and family, in classical and early modern usage included many other fields.[58] Among those other fields are agriculture, occupation and livelihood, management, investment, technological development, and, for the continuation of these things, education. According to Elert's presentation of Luther, the essence of the *oeconomia* is not marriage or the household or occupation. Rather, what is common among these three and their derivatives constitutes this one *Ordnung* or *Stand*.[59] That common element is biological need.

Laws of biology govern the home, though in a wider sense than is generally meant with the term "biology." "That husband and wife bind themselves together and raise children is just as much a biological necessity as the production of food and clothing. Luther spoke about the biology of marriage just as seriously and clearly (WA 10 II, 292–304) as about the necessity of work for one's health and, along with that, [he] put the work of the preacher and the schoolmaster right alongside agricultural work."[60]

Another way to describe the goal of the home is personal wellbeing. Education, for example, is not only a means to successful survival and the perpetuation of knowledge; it also

[57] Elert makes this claim with the logical order in mind, not chronological. The church was established first, as Luther notes in his commentary on Genesis 2:16–17 (*LW* 1:103).

[58] *ML* 2:63. "Dem entspricht der spätere Sprachgebrauch z.B. der Predigtliteratur, der zwischen den Ausdrück 'Hausstand' und 'Nährstand' hin und her schwankt."

[59] Ibid.

[60] Ibid.

contributes to one's mental stimulation and wellbeing. A lack of friendship does not put one at risk of physical death, but companionship of many kinds, not only marriage, is necessary to human health. According to Elert, relational interdependence among humans is a natural given and necessary to life.[61] The pursuit of hobbies, humor, and science all, directly or indirectly, pursue ends which contribute to the home.

Politia*: The State*

The order of the state is one which rests, like the home, on divine institution, but unlike the home finds its expression in both biology and human reason. As the basis of any society and government, the home has its basis in natural law and human need. Upon that basis, however, humans construct higher levels of government and administration with greater freedom of decision.[62] God binds the civil estate with the moral law; he gives it the task of upholding it and restraining evil. However, just as each government finds itself acting in a unique political position, in a particular stage of history, over a unique group of people, so its form and positive laws will vary.

Elert finds the division of *oeconomia* and *politia* in that the state is not a product of natural faculties alone, but is a "divine institution with its own worth and ethic."[63] The state goes beyond the biological need which defines and constrains the home. It is therefore malleable by reason and societal need to fill its role in varied circumstances. While no situation can justify a major modification to the form of marriage, circumstances may justify the mutation of a state for the good of its people. Democracy in various forms, monarchy, sortation, oligarchy, and federation may serve the purposes of the state in different places and times.

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[61] Elert, *Christian Ethos*, 51.

[62] *ML* 2:64.

[63] Ibid.

Ecclesia*: The Church*

Because Elert founds the form of these three divine institutions in their divinely given function, the organized church, *status ecclesiasticus*, demands yet another basis for organization:

> The church as an organism in society cannot organize itself according to the laws of biology or those of the state. This is not because they would be to a greater extent '*divine*' principles; they are divine to the same extent as those of the other estates; also not because love takes on a different status in the church than in these others; rather, because its functions have a different significance[64] than those of marriage or of the state. This is how to avoid the error of saying that the functions of the church only involve the pastors![65]

Elert leaves off his discussion of the church there, without clarifying the foundational functions of the church. However, in *Die Lehre des Luthertums im Abriss*, the embryonic precursor to his *Morphologie*, Elert does specify those functions: "preaching, divine service, publicity (*Propaganda*), ecclesiastical instruction, and ecclesiastical supervision (including the office of the keys, Matthew 18:18)."[66] These functions of the church form its organization so that it is a truly evangelical Christian church. They serve the evangel by centering the work of the church in the orderly preaching of the gospel.[67] They cause the invisible faith and gospel to become corporeal in community, gatherings, teaching, and relationships. The dynamic between the spiritual and institutional church is a reflection of its identity as the body of Christ, both eternal and incarnate, both transcendent and discernable.[68] The church "as a societal organism,"[69] then, takes the forms which accomplish those functions.

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[64] German: *Inhalt*, usually meaning "content," but here probably referring to importance.

[65] *ML* 2:64, emphasis added.

[66] Elert, *Lehre des Luthertums*, 62.

[67] See Theodore G. Tappert, "Werner Elert on Preaching and the Liturgy," *Lutheran Quarterly* 7 (1955): 172–173. In these "extempore remarks" from 1954, Elert lays out the predominance of preaching in the early church and the importance of maintaining that predominance, even as contemporary scholarship was enriching the liturgy.

[68] Elert, *Lehre des Luthertums*, 58.

[69] *ML* 2:64.

Intersection of Two Kingdoms and Three Estates

In the *Morphologie,* Elert distinguishes the three orders in Luther's sense. The church, state, and home all have divine functions and value in their worldly, institutional forms. They all have spiritual import for those participating in them, yet they are all subject to the law of order which God has put upon them. The church is in the kingdom of the left insofar as it is institutional. That proposition is not problematic. Putting the estates of home and state in the kingdom of the right may be. However, conceptualizing the intersection of the two kingdoms and three estates as in Figure 1 above does not mean that participation in the family and state somehow conveys grace. Rather, the three estates as institutions under law are all places where the law condemns us. The Christian realizes that in the institutional church, the home, and the state, his or her honor has not been for God's Word, the governing authorities, and the spouse. Elert writes, "Christ gains his power over men not by commands, compulsion, and condemnation but by helpfulness, by aid in illness, and by salvation."[70] Christ's saving help implies that there must be the trouble, illness, and damnation in the concrete reality of each individual for which Christ is the help, aid, and salvation. If conversion is a killing of the old man in the realm of the left and a birth of a new man in the realm of the right, then the two kingdoms doctrine promotes dualism. If conversion means that the old man is old and sinful *spiritually,* that is, in the kingdom of the right, and therefore is put to death in the kingdom of the right, then salvation is not a denial of the left-hand kingdom in favor of the right. It is an expression of the right-hand kingdom's unique message, the gospel. That the estates stretch into the right-hand kingdom means that they have spiritual import, not that they convey grace through the gospel.

[70] Elert, *Christian Ethos*, 292.

Their function corresponds to the holiness Luther describes when he distinguishes the qualities of being "holy" and "saved":

> Above these three institutions and orders is the common order of Christian love, in which one serves not only the three orders, but also serves every needy person in general with all kinds of benevolent deeds, such as feeding the hungry, giving drink to the thirsty, forgiving enemies, praying for all men on earth, suffering all kinds of evil on earth, etc. Behold, all of these are called good and holy works. However, none of these orders is a means of salvation. There remains only one way above them all, [namely] faith in Jesus Christ.
>
> For to be holy and to be saved are two entirely different things. We are saved through Christ alone; but we become holy both through this faith and through these divine foundations and orders. Even the godless may have much about them that is holy without being saved thereby. For God wishes us to perform such works to his praise and glory. And all who are saved in the faith of Christ surely do these works and maintain these orders.[71]

Even though Elert uses this quote to support his argument that the "kingdom of Christ" is distinct from the three "institutions and orders," he quotes Luther speaking of the estates as "of esteemed holiness and a holy life for God. This is why these three institutions or orders are expounded in God's Word and command. Whatever, then, is expounded in God's Word must be a holy thing, for God's word is holy and makes everything holy that is about it and in it (*an yhm und in yhm*)."[72] Elert then comments, "This specific use of the term 'holy' corresponds exactly to the definition of 'spiritual' (*geistlich*)."[73] Therefore, the holy institutions of the left-hand realm have spiritual significance. Figure 1 is a clean, simple presentation of how the two kingdoms relate to the three estates. That they intersect is a reality because the Christian as a singular person is a reality. How they intersect is the distinction of law and gospel with which all Lutherans grapple; even Elert recognizes difficulty in keeping the kingdoms and estates clearly delineated.

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[71] Luther, "Confession Concerning Christ's Supper," *LW* 37:365; *WA* 26:505, qtd. in part in *ML* 2:55.

[72] *WA* 26:505, qtd. in *ML* 2:54. Translated by the author.

[73] *ML* 2:54.

On the one hand, Elert presents the tension between the two kingdoms simply as that between law and gospel or between "the new and the old nature, between faith and unbelief."[74] On the other hand, Elert admits that the intersection of the two kingdoms evades clear delineation:

> Both divine realms have their inner unity in God who exercises dominion in both. That is our comfort but at the same time our difficulty. It is comforting to know that whatever retribution is effected, be it immediately through God's governing action or mediately through men who administer the law on his behalf, it is the same God who calls us into the kingdom of his grace. Our difficulty lies in the fact that our personal life experiences seem to contradict this comforting knowledge. All human experiences not only end in death but are confirmed by it, and it is difficult to believe in grace as long as this concrete fact intrudes upon us. The ambiguity of the two divine reigns becomes a source of spiritual anguish as surely as the two ways and the two times.[75]

The orders of creation are grounded in law, and because we cannot fully fulfill their ethical demands, they confront us with our sin. They are nomological structures which threaten, and often deliver, retribution. However, being law, they must yield to the gospel in the justification of the sinner in the spiritual realm. Sin as departure from the "holy" order God has established is therefore a "spiritual" matter, even if it condemns us, because the gospel removes that condemnation also.

In the kingdom of the right, the status of the human in relation to the church determines whether the sin he is bearing from the other two orders will condemn him or be released in absolution. Also, because the church's spiritual side, the gospel and forgiveness of Christ, is mediated through Word and sacrament, the unbeliever's rejection of these "institutional" means is also a rejection of the spiritual gift offered. The two kingdoms are distinct, but exist within this one estate. In the kingdom of the left, the church is no more holy than the other orders; it is

[74] Elert, *Christian Ethos*, 291–292.

[75] Elert, *Christian Ethos*, 292.

subject to God's command concerning it just as the home is subject to God's commands of filial honor and marital fidelity. Its law or order is the pure proclamation of law and gospel and a right administration of the sacraments. Mother, child, pastor, and hearer of the Word have holiness, following Luther's distinction, by their work in the estates according to God's established and revealed order. But while the home and state grant their beneficiaries peace and preservation of life, the church grants to its beneficiaries eternal life. This is the sense in which the functions of the church "have a different significance than those of the home or the state."[76]

Because all the orders structure holiness, they are all spiritual estates. Though they consist of institutions and pursue ends in the world (creating family, stabilizing society, preaching and administering sacraments), those ends are endowed with spiritual significance because obeying or disobeying God's law has spiritual implications. That they all fall under the right-hand realm is the comfort of the Christian. There is no part of human life where the gospel cannot forgive, no failure in these worldly orders which cannot find its spiritual solution in the gospel. If the state and home are not put under the right hand kingdom also, it would imply that the law has dominion in a place where the gospel cannot reach.

The orders of creation contain more import as a component of Elert's Lutheran ethics, but no study of orders in Werner Elert can avoid a discussion of their general prominence in early twentieth-century German theology. This was the setting which would put the orders and Elert's idea of them to the test.

[76] *ML* 2:64

CHAPTER THREE

ORDERS OF CREATION IN 1930S GERMAN THEOLOGY

The three estates served as an underlying ethical framework for Lutherans from Luther's time into the nineteenth century. Beginning in the 1830s, German theology saw the first flowering of the Erlangen school and the first specific articulation of the orders as a doctrine of Lutheranism through the work of Adolf Harless.[77] He included among the orders marriage, political bodies, and the church, and used 1 Peter 2:13 as a proof text for the orders of creation, which Elert would also do.[78]

In the time period leading up to the rise of Nazi power in Germany and the Second World War, the orders became an emphasis and hallmark of German Neo-Lutheran thought. Beyond the three estates, theologians articulated additional orders. They considered family and economic issues as two distinct spheres of activity, dividing the home (*status oeconomia*) into two. However, much more significant was their addition of race and people (*Volk*) to the orders of creation.

Aryan Paragraph

These inclusions are significant because the "new" orders appear to have served as theological justification for discriminatory policies in the church. In 1933, the National Socialist government enacted clauses excluding Jews from government service. The Prussian Church, under the control of the German Christians, implemented policies which carried the spirit and effect of the Nazi regulations. The civil statute became the most famous example of an Aryan Paragraph in German-speaking lands. By it the National Socialist government intended to restrict

[77] Green, *Erlangen Theology*, 44.

[78] Green, *Lutherans Against Hitler*, 207.

Jews from participation in civil offices because of the perceived threat the Jewish people posed to German prosperity and solidarity.[79]

To be sure, such Aryan paragraphs (*Arierparagraphen*) were not invented by the National Socialists. The Aryan Paragraph of 1933 represented the climax of anti-Semitism in Germany beginning in the late-nineteenth century. Up until the 1880s, Jews had relatively open access to German society. Assimilation was demanded, and an evangelical-Lutheran baptism sealed the prospect of social integration.[80] After the mid-century wars and German unification in 1871, the success of Jews in business and academia increasingly earned them resentment in German society at large.[81] In 1880, Wilhelm Marr coined the German term *Antisemitismus* (anti-Semitism).[82] Hiking clubs, singing groups, and sport teams began codifying this anti-Semitism in their official policies, forbidding Jews from membership and participation. Aryan Paragraphs also appeared in the statutes of student fraternities. While an Aryan Paragraph was rescinded in a Würzburg fraternity after being passed in 1881, Halle saw the official exclusion of Jews by two fraternities in 1882 and 1890 which remained in effect.[83] In summary, the idea of Jewish exclusion was present in German society long before the 1933 Aryan Paragraph of the Nazis.

Nonetheless, it was this implementation by the Nazis that spurred the widespread adoption of Aryan Paragraphs in organizations and businesses in Germany. The Nazis excluded Jews and other non-Aryans from governmental service, and countless organizations followed

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[79] Lowell C Green, *Lutherans Against Hitler* (St. Louis: Concordia Publishing House, 2007), 129. The specific civil document on which the Prussian Union's Aryan Paragraph was based is entitled *Gesetz zur Wiederherstellung des Berufsbeamtentums*, shortened to *Berufsbeamtengesetz* (*BBG*), "Decree for the Restoration of the Professional Civil Service," enacted on April 7, 1933.

[80] Peter Kaupp, "Burschenschaft und Antisemitismus," *Deutsche Burschenschaft* (2004), 9. Accessed August 22, 2018. http://www.burschenschaftsgeschichte.de/pdf/kaupp_antisemitismus.pdf.

[81] Ibid., 10.

[82] Ibid., 4.

[83] Ibid., 3.

their lead, formally excluding them from participation, patronage, and residence. One of those organizations was the Evangelical Church of the Old Prussian Union, which, though one among many protestant territorial churches in Germany, was the largest state church (*Landeskirche*) in the nation and had over two thirds of the votes in the national church council.[84] It extended the federal ideal to its own policy, forbidding non-Aryan pastors from serving German congregations. In the wake of its acceptance by the church in Prussia, several theological faculties in other territorial churches wrote opinions concerning the Aryan Paragraph. The theological faculty of the University of Erlangen, including Werner Elert, was among them. The Erlangen Opinion on the Aryan Paragraph is one of the most famous writings in which Elert had a role and one of his most public applications of the orders.

Erlangen Opinion to the Aryan Paragraph

The Erlangen theologians recognized a right of the state to exclude a *Volk* from governmental authority if that *Volk* was perceived as a threat to the nation. The Erlangen Opinion reads, "The German *Volk* has recognized the threats placed upon its own life by an emancipated Judaism and arms itself against this danger with legal exclusions. In struggling for the renewal of our *Volk*, the new state has excluded men of Jewish or half-Jewish descent from the leading civil offices. The church must recognize the basic right of the state to take such statutory measures."[85] While running counter to modern pluralistic values, this stance draws on Elert's definition of the political estate. The state is founded in God's command to restrain evil and maintain order and peace, and man's reason is given freedom to shape this estate in varied circumstances for the

[84] Nora Andrea Schulze, ed., *Verantwortung für die Kirche: Stenographische Aufzeichnungen und Mitschriften von landesbischof Hans Meiser 1933–1955*, vol. 3, *1937* (Göttingen: Vandenhoeck & Ruprecht, 2010), 147n69.

[85] "Erlangen Opinion," par. 5, qtd. in Lowell C. Green, *Lutherans Against Hitler*, 137.

pursuit of those ends. The exact form the state should take is open to reasonable debate, and Elert recognizes the state has the right both to conduct that debate and to implement the results of that debate, positive law.

Here, the distinction of the orders serves the question of church and state relations better than the distinction of the kingdoms. The state as an institution and the church as an institution, in fact all the orders of creation, fall into the realm of the left-hand kingdom. However, the church, even in its institutional and, in the European model civil, manifestation, remains distinct from the state as a separate order or estate. Paul Althaus (1888–1966) and Werner Elert, recognized this and defended the right of the church to handle this question of *Volk* on its own terms. Paragraph 7 of the Erlangen Opinion elaborates on this point:

> In particular, it offends the very substance of the pastoral office, ordination and the call, if the church as a general practice should dismiss pastors of Jewish or half-Jewish descent, who have proved themselves in service, merely because of their descent.… The church here cannot merely take over the decisions of the civil statutes, but must follow rules that come out of her essence as the church.[86]

Ultimately, Althaus and Elert considered it unwise for Jewish pastors to serve German congregations.[87] This decision and Elert's later rejection of the Barmen Declaration garnered him and certain aspects of Erlangen Theology vehement criticism in the decades since. In contrast, men of the Confessing Church such as Niemöller and Bonhoeffer, along with Erlangen professor Hermann Sasse, received praise for their resistance.

Erlangen Opinion in Context

After World War II, attacks against Lutheran theologians of this period and their order of creation doctrine (*Schöpfungsordnungslehre*) came too often from a context which was

[86] Green, *Lutherans Against Hitler*, 139.

[87] Tafilowski, "Reappraisal of the Orders," 293–295.

politically and theologically easier than the prewar and interwar years.[88] These criticisms judged Elert and others not in the theological context of the 1930s, but in the context of postwar hindsight.[89] Because the ethical failure of the Nazis have implicated the idea of the orders in the minds of many, it is necessary to address criticisms of the orders in order to justify creative work with them.

The Orders among Theological Factions

First, Lowell Green records the ubiquity of the Erlangen Opinion's point of view among confessional Lutherans in 1933. Recognition and consideration of the orders in theological questions spanned from the faculties of state universities to the members of the underground Confessing Church (*Bekennende Kirche*).

The actual judgment of the Erlangen Opinion comes close to statements made by theologians whom postwar historians have found much more palatable. It reads:

> [The Church] knows itself in the present situation to be called to a new consideration of its task to be the *Volk*-church of the Germans. To this belongs the need to establish the basis of the ethnic [*völkisch*] bond of the pastor with his congregation and to apply this also to Christians of Jewish descent. For the position of the church in the life of the *Volk* and for the fulfilling of its task, it would place a serious burden and hindrance under the present situation to use men of Jewish stem to fill its pastoral offices. Therefore, the church must ask for Jews to refrain from the offices. Their full membership in the German Evangelical Church is not thereby denied or limited any more than that of other members of our church who in some way or other do not fulfill the requirements for admission to the vocational offices of the church.[90]

Compare this to the words of Martin Niemöller, a member of the Confessing Church and therefore also a supporter of the Barmen Declaration of 1934, in a written statement on November 2, 1933:

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[88] Green, *Lutherans Against Hitler*, 11, 30–32.

[89] Ibid., 32.

[90] Ibid., 137.

> We can expect of ministers of Jewish descent in the church, that, on the basis of 1 Cor. 8:13, they exercise the requisite holding back, for the sake of the predominantly "weak" in the church. It will not be good if today a pastor of non-Aryan descent assumes an office in church government or a particularly prominent position in the folk-mission. But one cannot make a law of this because such action means a voluntary sacrifice of a person's Christian liberty, a matter which can never be regulated by law but only out of love.[91]

Even those opposed to Hitler from the beginning recognized the complexity of the situation in Germany. They considered it a loving restriction of Christian freedom for Jews and other non-Aryans to refrain from serving in pastoral roles in the German churches, yet Niemöller, in similar language to the Erlangen Opinion, "expects" it.

Interpretations of the Erlangen Opinion

The discussion continues as to how one should read the Erlangen Opinion. At best, the Opinion expresses a concern for offense in the German state churches. At worst, it promotes a "christianized social Darwinism" which sees the conflict between ethnic groups to be inevitable and insurmountable, even with the gospel.[92]

Seeing the Opinion as a concern for offense subsumes the *Volk* as a secondary order of creation under the order of the church, a distinction Elert later makes in *The Christian Ethos* (1949).[93] Contemporaries of Elert recognized that offense was a key issue informing the Erlangen Opinion, and even modern critics of the Opinion acknowledge the "nuance" of the document.[94]

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[91] Green, *Erlangen Theology*, 248–9.

[92] Tafilowski, "Orders of Creation," 292.

[93] Elert, *Christian Ethos*, 78.

[94] Tafilowski, "Inclusive Quarantine," 28.

Two of Elert's colleagues in the Bavarian Lutheran Church specifically weighed in on this issue. One was Hermann Strathmann, who distanced himself from the Opinion.[95] Strathmann's main qualm with the document was a lack of precision. However, he agreed with the Opinion that the ability of a pastor to garner the trust of his congregation was the deciding factor in deciding whether to retain or replace Jewish clergy.[96] Hans Meiser, Bishop of the Evangelical Lutheran Church in Bavaria 1933–1955, held the position that races ought not to mix in order to preserve the distinctive characteristics God had given to each one.[97] This position is untenable today. At the same time, he strove to distinguish between the idea of race in a material sense, which stood behind the notion of racial superiority, and race in a biological or genetic sense.[98] He believed that the bare acceptance of Aryan Paragraph statutes, regardless of motive, had become a "*status confessionis*" for many people. For him, it implied concurrence with a materialistic conception of race and, therefore, the racial superiority blatant in Nazi ideology.[99] He, in agreement with the Opinion, recognized the state's right to deal with the

[95] Axel Töllner, *Eine Frage der Rasse?: die Evangelisch-Lutherische Kirche in Bayern, der Arierparagraf und die bayrischen Pfarrfamilien mit jüdischen Vorfahren im „Dritten Reich"* (Stuttgart: Verlag W. Kohlhammer, 2007), 67.

[96] Ibid.

[97] Ibid., 69.

[98] Ibid. Scientists have adopted different terms than Meiser to discuss this question, but his concept of race in a biological sense remains a viable one. Until the middle of the twentieth century, people considered race a biological reality. Since then, preference has grown to see race as a socially constructed category. The debate between these two definitions continues to the present, and what Meiser is referring to probably falls somewhere in between. Robin O. Andreasen makes the case for a mediating definition, one which accounts for the genetic (and therefore biological) correlation among a group of people which causes the group to be construed socially as a distinct racial entity. Meiser favors this classification, which he sees as inseparable from values, customs, language, and culture in general. At any rate, he wants to distinguish this concept of racial distinction from a material difference between races. That material distinction gave rise to hierarchies of races and the racism associated with them (Robin O. Andreasen, "Race: Biological Reality or Social Construct?", *Philosophy of Science* 67, supplement, *Proceedings of the 1998 Biennial Meetings of the Philosophy of Science Association: Part III; Symposia Papers* (September 2000): S653–S666).

[99] Töllner, 70.

difficult issues of racial tension in a society.[100] However, he wished for a stronger clarification that the decision of the Erlangen faculty did not, in fact, also imply acceptance of the material concept of racial distinction.[101] Variation existed among Bavarian Lutherans in their reaction to the Erlangen Opinion, but by the focus of their reactions, one can see that the main issue within the Opinion was pastoral care in a context of social upheaval and inflamed racial tensions.

Others hold that the Erlangen Opinion was a theological application of ethnic *Konfliktgesetz*.[102] The exclusion of Jewish pastors or pastors with Jewish wives from serving in German churches was a crass application to the church of a racially discriminatory policy enacted by the German state. In this case, the needs of the German *Volk* surpassed the demands God places on his Church, namely, unity around confession. The proper systematic principle in the situation was this: The order of the church does not obliterate the order of *Volk*, but does surpass it. According to this interpretation, the Erlangen Opinion deviated from that principle, allowing the *Volk* to surpass the church in importance. The Opinion does reference the task of the state churches to be the "*Volk*-church of the Germans."[103]

Understanding the Erlangen Opinion as a surrender to an immutable, racial *Konfliktgesetz* would indeed call the theological integrity of Elert into question. It would convict Elert and his colleagues of allowing the ethics of the *Volk* to supersede the ethical demands which govern the church as an institution. However, the conflict between ethnic groups is not the same as the existence of ethnic groups themselves; and the existence of various ethnic or cultural groups does not make them mutually hostile entities. Danger arises if ethnic connections become ethically

[100] Töllner, 69.

[101] Ibid., 70.

[102] Tafilowski, "Orders of Creation," 292.

[103] Green, *Lutherans Against Hitler*, 137.

determinative, but Elert, Althaus, and Bonhoeffer would all speak of the power and immutability of national and ethnic bonds.[104] There is also a difference between the Lutheran Church being the *Volk*-church of the Germans and the German *Volk* being the *Volk* of the Lutheran Church. Finally, the Erlangen Opinion takes a rather progressive view of race and nationality, one which perhaps surpasses that of Bishop Meiser. Meiser's view of race as a biological reality was and is a valid concept. However, the Erlangen Opinion recognizes that biological or racial commonality is not the only factor that defines a people (*Volk*).

The Opinion points out that the Aryan Paragraph had to admit that the line between the Jews and the Germans, or the line between any two peoples, is "not rigid but flexible."[105] This first touches on the difficulty of capturing the sense of *Volk* with one English word.[106] The German term can refer strictly to an ethnic group or more broadly to "the masses" or to a group of people bound by something other than ethnicity. Luther gives insight into the expansive use of the word when he translates 1 Peter 2:9–10.[107] The Opinion also illustrates the wider domain of *Volk* beyond ethnicity. It states, "The Church itself knows that [the line between Jews and Germans is flexible] also and that, especially in the genuine conversion to Jesus Christ, a Jew, by taking root in the church, can be led from a foreign status into membership in the German *Volk*."[108] Jews, whether ethnic Jews or religious Jews, do not lack the possibility of inclusion.

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[104] Bonhoeffer underwent a shift in this area as well. See Ilse Tödt, Heinz Eduard Tödt, Ernst Feil, and Clifford Green, "Editors' Afterword to the German Edition," in Dietrich Bonhoeffer, *Dietrich Bonhoeffer Works*, ed. Wayne Whitson Floyd Jr., vol. 6, *Ethics*, ed. Clifford J. Green, trans. Reinhard Krauss, Charles C. West, and Douglas W. Stott (Minneapolis: Fortress Press, 2005), 410.

[105] Green, *Lutherans Against Hitler*, 138.

[106] Yoder, 69.

[107] Ihr aber seid das auserwählte Geschlecht, das königliche Priestertum, das heilige Volk, das Volk des Eigentums, dass ihr verkündigen sollt die Tugenden des, der euch berufen hat von der Finsternis zu seinem wunderbaren Licht; die ihr weiland nicht ein Volk waret, nun aber Gottes Volk seid, und weiland nicht in Gnaden waret, nun aber in Gnaden seid.

[108] Green, *Lutherans Against Hitler*, 138.

The ethnic and cultural Jew in relation to the ethnic and cultural German are not mutually exclusive. The two categories, though distinct, have soft boundaries and areas of mixture. This is clear from the relative ease with which Jews assimilated into German society in the nineteenth century and the existence of *Mischungen* (lit. "mixtures"; people with mixed German and Jewish ancestry) during the Third Reich. Religious Jews gained entrance into German society in the nineteenth century through conversion and baptism. This is the same process by which Elert and Althaus see integration taking place.

To emphasize the caution with which they are proceeding, the Erlangen theologians recognize that not even their recommendation concerning Jewish pastors is absolute, "In accordance with all this, the church in its order explicitly leaves a place for the exception, so that Christians of Jewish or partly Jewish origin shall be admitted to its offices. The filling of church offices by those of Jewish descent has always been a rarity and it should remain an exception in the future; but as such it must remain possible in special circumstances."[109]

An interpretation of the Erlangen Opinion focusing on the concern for pastoral care holds that Elert and others recognized the powerful influence ethnic identity wielded, especially in this context. With that understanding, they took steps to ensure that the order of the church was not hindered by the *völkisch* issues at play in society. By addressing the racial tensions of society, they diffused them. At the same time, they recognized the limited scope of the issue[110] as well as the opportunity for exceptions to their recommendation.

[109] Green, *Lutherans Against Hitler*, 138.

[110] "For all the hysteria in the Prussian Union, this was an almost moot problem. In 1933 there were barely two dozen pastors of Jewish descent in all Germany. In the Lutheran Church of Hanover, one of the largest Lutheran churches in Germany, their number increased from three to four . . . when Hanover annexed the small territorial church of Schaumburg-Lippe in 1938" (Green, *Lutherans Against Hitler*, 139).

Ansbach Memorandum

Beside the Erlangen Opinion stands another document crucial to understanding the legacy of German Lutheran theology in the 1930s, the Ansbach Memorandum (*Ansbacher Ratschlag*) of 1934. The document, written by Lutheran theologians and endorsed by Werner Elert, expresses an explicitly positive attitude toward the ruling capabilities of Hitler and his National Socialists. For that reason, it has become infamous as the link connecting Lutheran theology to German National Socialism.

The Ansbach Memorandum set out to provide a Lutheran corrective to the Confessing Church's Barmen Declaration. Not only had Barth stymied ethics in his own theology by excluding it from systematics, the document he produced was further rendered impotent because of its theological contradictions.[111] This was a key issue for the confessional Lutherans because their real enemy was not the Confessing Church. The real enemy was the powerful faction of German Christians threatening to take over the state churches. The Lutherans attacked Barmen because it was theologically incoherent and Reformed, and they attacked it as vehemently as they did because its incoherence made it a poor defense against the German Christians. To correct the errors of Barmen, the Ansbach Memorandum lays out law and gospel, the two kingdoms, and the orders of creation as integral and inseparable aspects of theology. The troubling passage comes in the fifth paragraph. There, the writer endorses Hitler as a "pious and faithful ruler" whom God gifted to the German people.[112] Written to illustrate that the state is a good and God-pleasing order, this statement has caused controversy since its publication.

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[111] Green, *Lutherans Against Hitler*, 240;

[112] "Der 'Ansbacher Ratschlag' zu der Barmer 'Theologischen Erklärung,'" in *Die Bekenntnisse und grundsätzlichen Äußerungen zur Kirchenfrage*, ed. Kurt Dietrich Schmidt, vol. 2, *Das Jahr 1934* (Göttingen: Vandenhoeck & Ruprecht, 1935), 103.

As far as Elert is concerned, there has been discussion concerning his involvement in the production of the document. Since the war, some have claimed he was one of its primary authors alongside Althaus.[113] Many accept that Hans Sommerer wrote the document, with Elert and Althaus recommending revisions and subscribing to that revised version.[114]

Read with post-war hindsight, subscription to the Ansbach Memorandum is condemning; and indeed, protests occurred when it was being produced, some led by a newly-doctored Helmut Thielicke.[115] Thielicke regarded the whole Ansbach Commission to be a dogmatic perversion aimed at accommodating Nazi ideas. However, Dr. Nathan Howard Yoder contextualizes the Memorandum, and in doing so also indirectly addresses criticisms of the Erlangen Opinion:

> Thielicke's pronouncement is an oversimplification. Hindsight reveals *any* endorsement of Hitler and the Third Reich to be categorically erroneous. Nevertheless, the initial years of Hitler's term as chancellor are better characterized as a nationalistic state than as a totalitarian regime, and the "Führer" did not outwardly present in 1934 the pathology he would subsequently reveal.[116]

Elert first found the Nazis distasteful in the early 1920s, when the Munich Putsch of 1923 coincided with Elert's arrival in Erlangen.[117] In October 1934, the same year as the completion of the Ansbach Memorandum, a string of events strained relations between the new government and Elert's theological world. The Lutheran bishop of Bavaria, Hans Meiser, was put under house arrest, the territorial church offices were taken over by the Nazis, and Elert later recounted that his uncertainty about the Hitler government was dispelled.[118] The point at which Elert definitively acknowledged the pathology of what was happening in Germany was *Kristallnacht*,

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[113] Green, *Lutheran Against Hitler*, 240; Yoder, 113.

[114] Green, *Lutheran Against Hitler*, 240; Becker, "Werner Elert," 113n60.

[115] Yoder, 113.

[116] Ibid.

[117] Ibid., 112.

[118] Ibid.

November 9–10, 1938, which consisted of a violent, pan-Germanic pogrom against Jewish businesses and synagogues. This event, in his mind, destroyed the credibility of the National Socialists. Elert, and for that matter Althaus,[119] ceased all public support of the regime from 1937–38 onward.[120]

While Elert could have misapplied otherwise correct theological concepts, the examination of this episode in his career demonstrates two things. First, it demonstrates that the orders of creation present an effective paradigm with which to analyze practical decisions of the church. There was no conflation of church and state, or church and *Volk*, in this situation. Whether one agrees with Elert's ecclesial decisions is another matter. The fact that he and others sought to make them ecclesial, not political, decisions is thanks to the orders. Second, it demonstrates that Elert was a discerning theologian. The carefully worded Opinion, along with his objections to the Barmen Declaration, are not only deeply theological, but deeply aware of the social situation in Germany. In a sense, Elert was not responding to the position of the Nazis and the German Christians. The sophistication of Elert's thought with regard to the Aryan Paragraph reveals that this declaration by the Prussian Church was merely the catalyst which required Elert and his colleagues to address what were broader and more complex issues in German society. If Elert were responding to the ecclesial equivalent of Nazi propaganda, and indeed concurring with it, there would have been little need for serious theological backing. Any justification, which the German Christians and many other Germans were able to sustain in their minds and church documents, would have sufficed. In a way, it was circumstantial that Elert's views were known through the Erlangen Opinion in response to a policy originating in the

[119] Robert P. Ericksen, *Theologians under Hitler: Gerhard Kittel, Paul Althaus, and Emanuel Hirsch* (New Haven: Yale University Press, 1985), 116.

[120] Green, *Lutherans Against Hitler,* 146.

National Socialist government. The Nazis were applying their ideology to the underlying social issues brewing in Germany, as were the members of the Confessing Church. Elert and the Erlangen professors, by their Opinion and their reactions to the Barmen Declaration, were not so much responding to the other voices as adding another voice to that same broader discussion.

CHAPTER FOUR

THE CORRUPTIBILITY OF THE ORDERS

Recently, Philip Jenkins published a review of Brian Stanley's *Christianity in the Twentieth Century: A World History*. Prominent among the main points of the book is how Christian leaders and communities responded to the tumultuous social and political events of that century. Quoted at length is one paragraph of the review which raises a widespread criticism of Christians in the midst of totalitarian rule. It is pertinent to this study because it shows the contemporaneity of criticism against the orders and their proponents:

> Beyond offering comparisons, [Brian] Stanley seeks to draw lessons of wider application, and in most cases, his conclusions are perceptive and useful. In neither Germany nor Rwanda, for instance, were churches directly responsible for undertaking genocide or stirring hatred, but in both cases, it is difficult to imagine that the mass slaughter could have occurred without their actions, either positive or negative. He makes the alarming but justified suggestion that in both cases, what cursed the churches was not ignoring the cause of justice or the prophetic Christian message but drawing precisely on that rhetoric to justify outrageous acts of criminality. Without a powerful sense of the presence of sin in society, calls for justice and liberation are all too likely to lead to demands for "justice" as envisioned by my particular community, my tribe, my race.[121]

The criticism above has become the focal point for judging the German theologians in the Third Reich, and it shows no sign of passing away. Regarding Lutherans, the orders of creation themselves are identified as a pernicious teaching which accomplished what Stanley describes: a "Christian" justification of criminal, and sinful, acts in the name of divine sanction of the state. Theologians accuse them not only of presenting a law of conflict (*Konfliktgesetz*) among groups an inevitable reality, but also of promoting the church's involvement in those conflicts. This chapter will demonstrate it is not so important *that* theologians included the orders in Lutheran ethics, as even Bonhoeffer and Niemöller did, but precisely *how* theologians incorporated them.

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[121] Philip Jenkins, review of *Christianity in the Twentieth Century: A World History*, by Brian Stanley, *Christianity Today* 62, no. 5 (June 2018), 72.

Lutheran Factions under the Third Reich

German Lutheran theologians of the 1930s and 1940s fit into roughly three camps. On the one side were the resistant, ecumenical pastors of the Confessing Church (*Bekennende Kirche*), including Dietrich Bonhoeffer, Martin Niemöller, and Hermann Sasse. This body consisted of Lutheran pastors alongside Reformed and Union pastors. Some of those in the Confessing Church remained officially active in the evangelical state churches; others withdrew and conducted their work underground. On the other side were the German Christians, members of the German evangelical churches united on a pro-Nazi, nationalist, racist, and anti-Semitic platform. Beginning with the Evangelical Church of the Old Prussian Union, the German Christians formed factions that vied for power in the various territorial churches. The third group includes the Erlangen theologians and other confessional Lutherans who were opposed to both the un-Christian elements of the German Christians (racism, nationalism, abuse of Scripture by removing Jewish elements[122]) and the unionistic elements of the Confessing Church. With reference to Paul Althaus, Ryan Tafilowski acknowledges the existence of this third group, "[Althaus'] mediatory theological approach makes him difficult to locate within the German Christian / Confessing Church matrix. Indeed, Althaus quarreled with both sides, though on different grounds."[123] Some of these theologians in the third group worked within the Confessing Church until it became impossible for confessional Lutherans to remain in that body. Most continued to function within the state churches even after the German Christians began to exercise influence. They, like some Confessing Church pastors, remained in their pre-Nazi-era

[122] In 1938, Elert attended a meeting of the theological deans of Germany at which a passionate attempt was put forward, founded in the anti-Semitic principles of the German Christians, to remove Hebrew study from the theological curriculum. Elert insisted on its retention, delivering a half-hour address to that effect, and swayed the direction of the meeting (Green, *Lutherans Against Hitler*, 343). Other acts of his active resistance, especially as dean of the theological faculty (1935–1943), are documented in Green, *Lutherans Against Hitler*, 333–344.

[123] Tafilowski, "Inclusive Quarantine," 2.

positions if the Nazis allowed them and supported anti-German Christian factions within the state churches. Elert was one of these theologians. After the German Christians won majorities in many of the state churches, they attempted to unify all the German protestant churches into one body. The Evangelical Church of Württemberg and the Evangelical Lutheran Church of Bavaria, representing Erlangen, resisted and were able to stave off the union, which had ulterior motives for desiring central control. The ecclesiastical resistance of theologians such as Werner Elert had its basis in theological grievances, among them a misunderstanding of the orders.

In that regard, a representative thinker in the Lutheran tradition who associated himself with the German Christians was Wilhelm Stapel (1882–1954). His statements give a clear picture of the way the German Christians failed to distinguish the limitations of certain orders. In 1933 Stapel wrote, "The state has the right to take over the entire moral upbringing of the *Volk*. Therefore, it also has the right to keep watch over the church, that no unseemly morality is taught in it that would be raised politically in its workings against the state and its power."[124] This statement is reflective of two directions of influence. Explicitly, Stapel is advocating for state control of the order of the church. Already in 1937, the National Socialists tried to take over theological examinations by administrating them through the state universities. Elert persuaded a gathering of faculty leaders against such a move, recognizing the "hidden purpose" of letting the state vet pastoral candidates.[125] Implicitly in Stapel is also the idea that the morality of the state, which is the morality of the *Volk*, is determinative for the morality of the church. The ethic or law of the *Volk*, then, is the proof of the establishment of God's law. The German Christians

[124] Wilhelm Stapel, *Die Kirche Christi und der Staat Hitlers* (Hamburg, 1933), 64, qtd. in Johann Baptist Müller, "Martin Luther als Anwalt des Liberalismus?" in *Zeitschrift für Religions- und Geistesgeschichte* 42, no. 3 (1990), 226.

[125] Green, *Lutherans Against Hitler,* 343.

followed suit. They rescinded the right of the church to take a stand in ethical matters when they submitted all three estates to the orders of race and *Volk*, meaning cultural ideas were no longer subject to scriptural and confessional scrutiny, but Scripture and confession were to be harnessed in support of the *Zeitgeist*.

In opposition, Elert falls back on the example of Luther not only to construct a hierarchy among the orders, but also to establish the proper relationship between nationality or ethnicity (and all the loyalty and culture those imply) and the organized church. He acknowledges that the church in Lutheran territories of Germany was a strong force for cultural development. But similar to the work of monastic orders after the fall of Rome, cultural flowering was a byproduct, not the goal, of church activity:

> This was a side benefit of ecclesiastical decisions. For the church authorities, and above all for Luther, the matter was completely different. The adaptation of the church as such to the specific people was to serve the gospel — not the other way around. As important as his Bible translation, the introduction of the German language into the service, and the creation of the German chorale were for Germanic identity, their direct intention was not of an ethnic or national (*völkisch*) variety. All of this was much more an application of two specific ecclesiastical motives: the emphasis on evangelical proclamation as the central function of the church and the idea of the congregation as the local concretizing of [that function].[126]

This elevation of *Volk* to an order of creation is part of what Brian Stanley sees Christians doing "to justify outrageous acts of criminality."[127] However, the Lutherans who resisted the German Christians maintained a distinction which was lost on such men as Stapel. Bonhoeffer himself, who would later veer away from the Erlangen theologians by joining the Confessing Church under the banner of the Barmen Declaration, responded to the Aryan Paragraph with these words: "Race and blood are one among the orders in which the church enters, but they dare never

[126] *ML* 2:126–7.

[127] Philip Jenkins, review of *Christianity in the Twentieth Century*, 72.

become the criterion for belonging to the church: that is only the Word of God and faith."[128] Elert, similarly, states, "This order…consists therein, that I am a concrete man of the blood relationship of my *Volk* and that I am assigned a place in its living space."[129] The fact that a person is always living in a society among others with whom one relates establishes the immutability of the order of *Volk*. Elert even recognizes that a person can destroy one's connection to the *Volk* by emigration, with the implied understanding that those inhabiting the place to which one emigrates becomes the new *Volk*.[130] Moreover, "These [orders] are subordinated also to the revealed will of God, which is spoken to us here in the Word and is therefore law. Through the revealed law, the natural orders are expressly placed under the guarantee of God."[131] In Elert's perspective, God governs all the orders with his law and thereby gives them his "guarantee" or endorsement.

Elert places the orders under God's guarantee and endorsement, but this does not mean the orders can be abused and remain under that endorsement. The question for Elert is not precisely, "Are these civil leaders commanding me to do good or evil?" but rather, "Are these civil authorities legitimately functioning in the civil order or not?" By commanding sin, the political authority "commands something that conflicts with the civil order from which it derives its right for obedience."[132] In such cases, "one is to disobey."[133] Thus, the Lutherans could concede that the orders are not mutable — one will always be in a society, under a government,

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[128] Dietrich Bonhoeffer, *Dietrich Bonhoeffer Werke*, ed. Eberhard Bethge et al. (München: Chr. Kaiser Verlag, 1997), 12:410, qtd. in Green, *Lutherans Against Hitler*, 205.

[129] Elert, *Bekenntnis, Blut, und Boden*, 26, qtd. in Green, *Lutherans Against Hitler*, 214.

[130] Green, *Lutherans Against Hitler,* 214.

[131] Ibid.

[132] Ibid., 215.

[133] Ibid.

bound by family ties, and in some relationship with the gospel, be it one of belief or unbelief — but they are most definitely corruptible in any concrete manifestation they happen to take. God governs the orders through law and reason, so corrupt rulers, heretical pastors, and abusive family members can forfeit God's endorsement of their work by forsaking the parameters of their authority.

Description and Prescription of the Orders

Philip Jenkins' caution not only aims itself at the recognition of orders under law, which is descriptive, but also at the ethical prescription which finds its basis in them. Elert himself struggled with the distinction between the orders as prescriptive and descriptive, especially in his earlier writings. He recognized that natural law could not replace revealed law as far as definitiveness was concerned. He had "a healthy respect for the difference between 'being' and 'ought,' the recognition that the *Stände* (estates) and orders of life are marred with evil and thus not categorically morally reliable."[134] At the same time, in Elert's thinking "*Seinsgefüge* (state of being) wins over *Sollsgefüge* (state of how things should be)."[135]

He seems to gain clarity in this distinction in his later work (1949) on ethics. There he differentiates between three kinds of order. One is order as a fact of existence, in the sense that a space can be "in good order" or that a person is in the order of *Volk* or home or state. The second kind is order as process, when things happen in a certain order, such as intercourse producing children or baptism initiating Christians; this is order as in "the way things work." The third kind is order as command: "This order is a 'must' configuration."[136] Elert explains why this three-part distinction is necessary:

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[134] Yoder, 160.

[135] Ibid.

[136] Elert, *Christian Ethos*, 77.

> Critics of the theory of the creative order [of creation] seem to labor under the ineradicable misapprehension that the creative order is to be understood in the third sense, as a form of compulsion….Order as a 'must,' as the embodiment of precepts, can only be the object of divine legislation in the exact meaning of that word as we discussed it in connection with the Decalogue.[137]

This distinction helps Elert clear the orders from determining morality. They do not have that role. Divine revelation sets the boundaries of God's will for human relationships, but the orders embody God's creative establishment and preservation of those relationships. The sixth commandment, for example, "is not a demand but a prohibition and merely forbids us to break an existing marriage bond. The practice of human marriage is already presupposed."[138] The revealed law is the determinant for right and wrong. The orders, on the other hand, give shape to the relationships which the revealed law addresses.[139] They occupy the lower levels of order, describing how things are and how they work. Belonging to a particular people (*Volk*) gives shape to one's relationships, but that descriptive category defers to the higher order of revealed law to govern those relationships. The *Volk* does not determine the morality of Christians. In fact, the church does not even determine the morality of Christians. The church assumes the revealed moral law, but it does not determine it or amend it to match the moral direction of a society. This area of natural theology, which Lutherans maintained against Barthian theology, has its limits, and the mature Elert moves toward defining them.

[137] Ibid., 77–78.

[138] Ibid., 78

[139] Ibid., 79.

CHAPTER FIVE

ORDERS AND THEIR AUTONOMY IN LUTHERAN ETHICS

Another criticism of the orders strikes at their autonomous (*eigengesetzlich*) nature. Autonomy of the orders seems to allow for the acceptance of a double (or triple) morality, by which the Christian can condemn a certain action according to the principles of the *status ecclesiasticus* but condone it according to the principles of the *status politia*. Jenkins warns that Christian theology must retain a strong sense of sin in order to distinguish between what impulses of man are useful for maintaining creation and what impulses are seeking to establish some form of utopia along ethnic or national lines. This chapter will examine how Elert's ethics avoids utopian goals and a weak view of sin through insights from Luther's ethics, as well as what it means for the orders to have *Eigengesetzlichkeit*.

Aversion to Weak Sin and Utopia

Weak Sin

First, Elert acknowledges the potential of sin to mar the effectiveness of the orders to the point of corruption. He writes, "Even the laws of life can be disregarded. As a result, marriage and economics are also ethical matters, and they become 'Christian' ethics when they are done 'out of faith' [*aus Glauben*]. Therefore, it is fitting that one recognizes them as divine institution, status, and order."[140] The singular law of God governs the home as much as it does the church. As an example, Elert cites Luther accusing the Carthusians of suicide through their extreme fasting and lack of productive labor. Therefore, even the natural, biological principles that drive people to produce food, enter into marriage, and raise families in non-Christian societies can be ignored and overridden through sin. Elert covers this point rather briefly and readers accept it

[140] *ML* 2:63.

rather easily because sin, in confessional Lutheran theology, is stated in as strong of terms as possible without marring the goodness of God's creation.[141]

Utopia and Melanchthonian Ethics

Second, Elert dismisses the orders as a means to utopian society. In the early chapters of his *Morphologie*, volume two, he examines and distinguishes the ethical frameworks of Melanchthon and Luther, revealing the place the orders have in a truly Lutheran ethics based upon Christian freedom, love, and the orders.

Melanchthon, and the later dogmaticians, largely framed ethics around the divine command or law and human obedience to it. Elert explains the connection between Melanchthon's ethics and a third use of the law:

> According to this, ethics finds its firm and clear starting point in the correlation of law and obedience. The Law presents what God demands of the human. The human either does not want to fulfill it, or if he does, he is not able to. The regenerate, in contrast, has learned what it is to obey through faith. He wants what God wants, and by the power of the divine Spirit he is able to do what he wants. He can obey, and the law tells him where and how he should and wants to obey. Indeed, this is how the later dogmaticians argued, and Melanchthon, at the very least, encouraged this theoretical foundation [for ethics].[142]

Elert does not argue with grounding ethical standards in the divine will, "for God is the ultimate norm of everything ethical."[143] For him, Melanchthon and the dogmaticians centered ethics in the given law, primarily the Decalogue, and necessitated a third use of the law because the Christian must be obedient to the same law which before absolution condemned him. To a certain extent, Elert commends them for this explanation: "One can also reproach neither Melanchthon nor the later dogmaticians for a renunciation of the *evangelisher Ansatz*. On the

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[141] The assumed knowledge of Article 1 of the Formula of Concord is specifically what enables Elert to dispatch so handily the criticism that the orders are above corruption. As institutions, they lie in the left-hand realm and are governed by law. As such, they participate in the corruption of sin from which the entire creation suffers.

[142] *ML* 2:27.

[143] Ibid.

contrary, they knew through the Melanchthonian phrase of 'perpetual judgment'[144] of the law to maintain the gospel with all earnestness also for the believer."[145]

However, Elert criticizes this ethical foundation for its lack of a "motive," or its assumption of one where one does not exist.[146] This entire ethical presentation misses the object of ethics. It "awakens the false idea that ethics only has to do with the fact that God definitely commanded something which the human is supposed to obey, but not with the thing itself that God commanded."[147] The example of Abraham and his near sacrifice of Isaac, in this ethical style, is a record of the patriarch's moral victory in his obedience to God's command. Elert argues that two aspects of this account are atypical for Christian ethics: first, Abraham's ethical act is framed as obedience to God, not as a concrete serving of others; second, God's concrete command to Abraham is presented as paradigmatic, which it is not. Ethics consists of concrete commands, or demands placed upon the Christian, and concrete obedience in the context of relationships. However, only a select few have received these commands through immediate revelation, and the Christian is unable to find such concrete commands for specific situations in the Decalogue. At this point, Elert sees a divergence between Melanchthon and Luther in where they find the concrete command for the Christian in the thousands of unique ethical situations the Christian encounters.

Melanchthon's entire ethics, Elert maintains, flows from one sentence: God wants there to be society (*Vult Deus esse consociationem*).[148] He bases his concrete ethics in the abstract

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[144] Modern discussions of law generally refer to another Melanchthonian phrase, *Lex semper accusat*, which amounts to the same idea as "perpetual judgment."

[145] *ML* 2:27–28.

[146] Ibid., 2:27.

[147] Ibid., 2:28.

[148] *Corpus Reformatorum* 25:152, qtd. in *ML* 2:29.

ideal of a "well organized, peaceful society that is given to true divine service."[149] This ideal society and all its components direct concrete ethical action as the final goal of that ethical action. Natural law reveals the proper ordering of society, which is present within humans. Though it is marred by sin and must be "constantly impressed anew into humans by God, for example, through the Decalogue or through the paraenesis in the Pauline epistles,"[150] the unbeliever has this abstract ideal in part through natural law, as can be seen by the ancient philosophers and the relative morality of non-Christian societies. The gospel brings harmony between God and an individual; ethically that person is not seen as an individual, but "as a type, as society."[151] The Christian achieves ethical victory insofar as he approaches his portion of forming the ideal society. The particulars of Melanchthon's ideal society "[are] fleshed out by the inherent faculties of the human spirit."[152] Elert attempts to reach the logical end of Melanchthon's system:

> According to this logic, Melanchthon's ethics is fundamental utopianism. It receives its specific contents out of the idea of the well-ordered society, which is thought out of the inherent faculties of the human spirit. If the optimism of progress which is characteristic of all utopias does not come up in him, or is not fully expressed, then the reason is that there is a conflict in which the philosopher Melanchthon and the Theologian Melanchthon finds himself. The effect of sin in the world would present no insurmountable difficulties for him. Fichte and Hegel deal with obstructions also. Melanchthon sees it as the task of the gospel and the church to remove them. The real reason why utopian optimism is untenable in his mind is his eschatology. That is the tragedy of the philosopher Melanchthon and the rescue of the theologian.[153]

The goal of an ideal, abstract society grounds ethics completely in *Sollsgefüge*, what should be, and not in *Seinsgefüge*, what actually is. This removes the ethical deliberation from the present

[149] *ML* 2:29.

[150] Ibid., 2:30.

[151] Ibid., 2:31.

[152] Ibid.

[153] Ibid.

situation and ignores the variation which exists among the thousands of ethical moments which arise each day. In Elert's analysis, harmony with God and the striving for an ideal society are the two components of Melanchthon's ethics.

Luther's Ethics

In contrast, Elert categorizes Luther's ethics with this sentence: God wants there to be distinctions of orders (*Vult Deus esse discrimina ordinum*).[154] He lays this position alongside Melanchthon's, "Both [systems] bind the ethical person to the will of God. But Melanchthon hears the will of God in an inborn, abstract ideal for society, Luther in the concrete demands, which our position (*Stand*) places upon us."[155] Melanchthon bases the ethical system in law and gospel-enabled obedience, Luther in bondage and freedom. Melanchthon's obedience looks to the model society for direction, which Elert has shown to be problematic. On the other hand, he recognizes that Luther's Christian freedom seems to contain no inherent ethical framework, and seems to endanger the ethical imperative altogether. The solution to this potential chaos in Luther's ethics is the concrete estate or order (*Stand*) in which an ethical situation occurs.

Freedom, to be sure, is not technically ethics. Freedom is the base and enabler of ethics but does not constitute or direct it. The Christian is free from sin through trust in God as the merciful God in Christ. The saint within has gotten off the law-obedience treadmill. Now, "[t]he only obedience occurring toward God is knowing that we are free from condemnation before him." Justification is not ethics, but what Elert describes as "willingness" or "readiness,"[156] "laden with ethical potentiality."[157] Those who would charge Elert with antinomianism find a

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[154] *WA* 44:440, 25; 49:613, 1ff.; 31 I:399, 26ff.

[155] *ML* 2:51. For a simple expression of this in Luther, see LC I.143ff., in Kolb and Wengert, 406ff.

[156] *ML* 2:33.

[157] Ibid., 2:34.

hard case to make with his comments here. "'Christian freedom,'" he writes, "insofar as it is identified with the justification of God, is at any rate only receiving, but also truly receiving, that is, conceiving, which cannot remain without fruit."[158]

The framework for Luther's Christian freedom is not found in the Melanchthonian ideal of a moral and God-fearing society, but in the very *Schöpfungsordnungen* or *Stände* into which God has placed each person.[159] To say that the order of creation is God's law acting in a third-use fashion is merely saying that the regenerate, in the narrow sense, naturally acts in accord with this order. And though it serves to form the ethics of a believer, the order of creation, which becomes a plurality of orders in the estates, remains law which confronts the human with ethical demands. It continues to meet man with threats of retribution and death. Insofar as the Christian and non-Christian alike pursue civil righteousness according to the order of creation, that order provides security in earthly life;[160] but insofar as the regenerate human also has the unregenerate sinner in him, that order continues to threaten with destruction and death. Civil righteousness cannot mute this threat. The Christian struggles with the unresolvable tension between "the two ways, the two kinds of time, the two realms."[161] Elert maintains that this "double 'insofar' marks the line of combat to which we are called by the divergence of law and gospel. The battle must be sustained without armistice or compromise. It is identical with the conflict between the two realms."[162] The orders provide the situations in which ethics occurs. This is their positive

[158] *ML* 2:24.

[159] "We are not concerned with what God creates, preserves, and rules *should* be, but with what it *is*" (Werner Elert, *Christian Ethos*, 78); emphasis original.

[160] Elert, *Christian Ethos*, 52.

[161] Ibid., 300.

[162] Ibid., 303.

function in Luther's ethics. They are also part of the general order of creation, God's law (*nomos*) which permeates creation.

The order of creation does not only assume that God has created the world and all humans as they are (laws of biology, male and female designations), but that his order extends to what is right and wrong in man-to-man relationships. The orders "are not a 'must' situation but a creative and administrative actuality."[163] Put practically, a child is to love her parents, not all parents as parents; and people are to obey the authorities which have jurisdiction over them, not all authorities.[164] This is a reinforcement of Luther's insight into Christian vocation. Abraham's obedience was to a direct command given to him by immediate divine revelation in reference to a specific time, place, and situation. Abraham never again considered that command binding or relevant to his ethical action. Also, his ethical orientation toward God alone, not to service of the neighbor, was exceptional. Christian ethics does not normally work that way. Ethics, for Luther, drives one into the divinely instituted and personally situated orders. There a Christian finds God's order directing service to the other.

Application of Divine Law to the Individual in Melanchthon and Luther

"What does God want me to do?" Melanchthon seems to find the answer to that question in the Decalogue and biblical laws which, if followed, will result in a well-ordered society. The weakness of his approach lies in the danger of legalism. True legalism, however, takes more than one form. It not only arises when adiaphora are arbitrarily made into laws. Legalism also comes about when laws given by divine revelation which are not meant for a particular individual are applied to that individual anyway because they are divine law. What Elert identifies in

[163] Elert, *Christian Ethos*, 79.

[164] Ibid.

distinction to Melanchthon is Luther's hermeneutic expounded in "How Christians Should Regard Moses."[165] In this sermon, Luther points out the approach one ought to apply to Moses' law specifically and all Scripture in general, and it sheds light on the way revealed law functions for ethical decision making.

Luther first dispatches the Jewish ceremonial and civil law meant only for the Jews. The Old Testament laws which can be applied to all people are those which concur with natural law. Second, he establishes as vital the ability to distinguish between the word which applies to an individual and that which does not. Elert was not pulling examples out of thin air when he brought up the example of Abraham. Luther says in this sermon, "God commanded Abraham to kill his son [Gen. 22:2], but that does not make me Abraham such that I should kill my son."[166] Echoing the claim above concerning legalism, Luther continues, "The word in Scripture is of two kinds: the first does not pertain or apply to me, the second does apply to me …. The false prophets come along and say, 'Dear people, this is the word of God.' That is true; we cannot deny it. But we are not the people. God did not tell *us* to do that."[167] In contrast to laws which these false shepherds place upon people, Luther wishes Christians to draw from Moses the promises of Christ. Those promises *do* apply to every person. The third point Luther makes is that the figures of Scripture provide us examples of faith, love, cross-bearing, and also doubt and sin.

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[165] Martin Luther, "How Christians Should Regard Moses," trans. and ann. Brooks Schramm, in *The Annotated Luther*, ed. Hans J. Hillerbrand, Kirsi I. Stjerna, and Timothy J. Wengert, vol. 2, *Word and Faith*, ed. Kirsi I. Stjerna (Minneapolis: Fortress Press, 2015), 127–151.

[166] Ibid., 146.

[167] Ibid.

For a discussion of ethics, Luther's second point is most salient. Luther was hesitant to endorse unreservedly the category of "third use of the law."[168] He recognizes that God's standards direct the Christian life, but he also sees the Decalogue extending beyond the Ten Commandments. The prophets, Paul, and Christ himself expand upon the Decalogue to create "new Decalogues," with "new insights and new powers."[169] Luther's explanations of commandments in his catechisms do the same thing. They identify the will of God in the commandments, which were not given to sixteenth-century Germans, in order to provide ethical directives which touch more closely to the situations of those people. However, even these deepening extensions of the Decalogue and natural law in the prophets, gospels, and epistles are urging one to self-sacrificing love. The concrete application of the law to individual situations does not come from even these new Decalogues, in Elert's system, but from the orders.

Klaus Nürmberger describes the relation of the Christian to the law thus: "participating in the authority of Christ as the representative of God, we are no longer under the law; the law is under us. That means that we are responsible for the formulation of the law."[170] When the seat of ethical directive moves from commands of God (which, in the case of the Decalogue are mainly prohibitive, not positive) to the orders, relativism becomes a real and frightening danger. Luther himself held that "[o]nly through the power of the Spirit can 'new decalogues' be written; only then can the principle of the 'old Decalogue' be properly understood, developed and applied to

[168] Philip Turner, "The Ten Commandments in the Church in a Postmodern World," in *I Am the Lord Your God: Christian Reflections on the Ten Commandments*, ed. Carl E. Braaten and Christopher R. Seitz (Grand Rapids: William B. Eerdmans Publishing Co., 2005), 8.

[169] Ibid.

[170] Klaus Nürmberger, *Martin Luther's message for us today: A perspective from the South* (Pietermaritzburg: Cluster Publications, 2005), 114–115.

the particular circumstances under which Christians find themselves."[171] Elert writes, "Luther would, in spite of everything, have been just as sad a theologian as the critics of his 'social ethics' if he had believed that the ethics of the Christian could be deduced from the principles of freedom, love, and the neighbor."[172] In fact, Elert began the discussion of ethics with this condition, "Evangelical repentance, which is not a prerequisite of faith but rather includes it, is the affirmation of the divine court and therefore also recognition of the ethical demand. Repentance will, thereafter, accompany the entire ethos of the believer, be it good or bad, as a corrective."[173] Elert addresses the issue later in relation to the three estates, "People today understand the term 'relativism' to mean the possibility of taking various viewpoints regarding a single issue or person or task. Luther's ethic knows nothing of this possibility. It is not the variability of the viewpoint that matters, but [the variability] of one's position [*Stand*]."[174] The estates of home, state, and church are established by God in the Scriptures, and they are continually endorsed there also.[175] However, Elert recognizes that Luther's primary concern is not defining the specific results of Christian ethics, since a Spirit-led Christian will remain in the instituted orders and will execute his freedom in service to others. Melanchthon, with his ideal society as the goal of ethics, is concerned with the specific results, the actual manifestation of a Christian community. Luther is concerned, rather, with the motivation of love in a Christian's ethical acts.[176] How that love manifests itself Luther leaves to the orders.

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[171] Andries Raath, "Writing 'new' decalogues: Martin Luther's development of the Pauline-Augustinian tradition of natural law," *Koers: Bulletin for Christian Scholarship* 70, no. 3 (2005), 450.

[172] *ML* 2:37.

[173] Ibid., 2:23.

[174] Ibid., 2:50.

[175] See Luther, "Confession Concerning Christ's Supper," *LW* 37:365; *WA* 26:505.

[176] *ML* 2:39.

The orders exist to direct holiness in the concrete situations Christians find themselves, as varied as those situations may be. The orders are where a father, a ruler, and a pastor become a living law (*viva lex*). They have authority to perpetuate God's nomological order with sensitivity to their time, place, and estate. They may construct, if not a Decalogue, a table of duties where they put ethical demands on those under their care.[177] Conversely, those under the care of authorities in home, state, and church are bound to the "living law" of those authorities. God nowhere reveals that a Christian must pay such and such a fine for a parking infraction, but the *politia* binds his spiritual exercise to the paying of that fine. As said before, if such obedience demands sin, then those demanding sin have removed themselves from their position of authority in the *status politia* (or the other estates) by contradicting the essence of God's institution. Such people are not to be disobeyed because they are part of a corrupt government, but because they are part of no legitimate government at all.

Autonomy

Critics of the two-kingdoms doctrine often object to the autonomous rule[178] of the orders of creation or claim that the idea of autonomy came from the Enlightenment, not Luther.[179] They argue that mutual autonomy of the three orders validates all laws and policies the individual orders formulate, even if they oppose the ethics of Scripture and the church. Autonomy goes awry particularly when the state's positive law contradicts moral law. Opposed by Karl Barth, and to a lesser extent by his Lutheran counterparts in the Confessing Church, the two-kingdoms

[177] *ML* 2:35.

[178] German: *Eigengesetzlichkeit*.

[179] Martin Honecker, "Das Problem der Eigengesetzlichkeit," *Zeitschrift für Theologie und Kirche* 73, no. 1 (1976), 105; for a general critique, see Ahti Hakamies, *Eigengesetzlichkeit der natürlichen Ordnungen als Grundproblem der neueren Lutherdeutung: Studien zur Geschichte und Problematik der Zwei-Reiche-Lehre Luthers* (Witten: Luther Verlag, 1971).

paradigm as a whole seemed to promulgate such an autonomous status of the state.[180] Even those who discard the two kingdoms and the orders as unhelpful, however, admit that the perverted application of these paradigms in the 1930s and 40s came about at the hands of the Nazis and German Christians. These groups did not appropriate Lutheran principles, but "compromised Luther's ideas to support their nationalist, racist political ideology."[181] William Wright explains this distinction:

> To put it another way, however dichotomous and different from the original Lutheran teaching the trend of the late nineteenth and early twentieth centuries had been, the two-spheres concept did not automatically lead to Nazism. But this is not surprising to anyone who is familiar with Luther's actual teaching, which held that the natural law that governs the state and the whole world was Christ's law.[182]

This is a key insight. Barth's rejection of the two kingdoms, and the orders of creation, traces back to his fundamental rejections of both the law-gospel paradigm and natural law.[183] Elert, on the other hand, can articulate the order of the *oeconomia* as divinely governed because it is held to biology, i.e. natural law, which, in spite of sin, is able to communicate the moral law of God and holds the order accountable to it. In addition, the purpose of the orders' autonomy is not that the *völkisch* will becomes the moral law of Christianity, per Stapel, but that the *völkisch* will, which does have a right to express itself in the political organization of a given society,[184] does not impede on the unchanging moral law which the church upholds.

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[180] William J. Wright, *Martin Luther's Understanding of God's Two Kingdoms: A Response to the Challenge of Skepticism* (Grand Rapids: Baker Academic, 2010), 33.

[181] Ibid., 32.

[182] Ibid., 33.

[183] Ibid., 34.

[184] Man kann also den formalin Unterschied zwischen *oeconomia* und *politia* dahin bestimmen, dass bei dieser der menschlichen Willkür oder Nützlichkeitserwägungen ein größerer Spielraum gegeben ist als bei jener (*ML* II:64).

In fact, this autonomy of the orders from each other accomplishes the purpose which many ascribe to the two-kingdoms paradigm. The concept of the two realms is vital to Lutheran theology and social thought, but its direct identification as a distinct teaching is nowhere in the Lutheran Confessions.[185] The articles dealing with the relation of temporal and ecclesial authority illustrate its basic premise[186] with their references to "both authorities" and "the difference between spiritual and secular power, sword, and authority."[187] However, it is not the exclusive paradigm for separating ecclesial and temporal authority. Elert states that the autonomy of the orders not only can be traced to Luther, but "is the true center of his teaching on the three estates."[188] Some see the idea of autonomous orders as a tool created by neo-Lutheran theologians so that they could baptize brutal and racist political policies. If that is the case, Elert is no different in his theological integration of the term from the average German Christian, supporting the idea that the onus for German National Socialism rightly belongs upon Luther. However, the theological matter of civil and ecclesial power is no minor point in this discussion. Elert introduces and defends the idea of autonomy as a vital component of Luther's ecclesial framework. "Upon [Luther's teaching of the orders' autonomy] — and not upon the two-spheres-theory explained above — is based the demand, which was essential for the entire Lutheran Reformation, that the state's power and the church's power be separated."[189] The separation of church and state assumes a distinction between the two realms, but the real foundation of that separation lies in the distinction of the three estates.

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[185] Günther Gassmann and Scott Hendrix, *Fortress Introduction to the Lutheran Confessions* (Minneapolis: Fortress Press, 1999), 141.

[186] AC XVI, XXVIII; Apol XVI; SC Table of Duties; LC I.103–178.

[187] AC XXVIII.4 in Kolb and Wengert, 92.

[188] *ML* 2:62.

[189] Ibid., 2:64. See also Bayer, 129.

As Wright concludes, it was the National Socialists and their German Christian allies who must bear the guilt of Christianizing sin, not Luther or the neo-Lutherans. The National Socialists and German Christians relativized the orders and inverted their moral relationship with the revealed law. While Elert was less clear on the order's subjection to the revealed law early on, he gained clarity on this point in *The Christian Ethos*. What happened in the 1930s between the German Christians and the National Socialists was the uniting of wills between a mother, an influential church, and a father, a corrupt regime. This union led to the father imposing his will upon the mother and producing a monster, which true autonomy of the orders would have prevented.

CHAPTER SIX

SCHICKSAL

In addition to *Eigengesetzlichkeit*, another component necessary to understand Elert's view of the orders is the notion of *Schicksal*. Wisely left untranslated in some analyses of Elert's theology,[190] the term becomes a technical one in the context of neo-Lutheran theology. In the preface to a 1978 reprint of Elert's *Die Lehre des Luthertums im Abriss*, Gerhard Müller writes concerning the work:

> Werner Elert established his method as inductive: he did not want to proceed from an existing Christian tradition and write a church dogmatics, as Karl Barth later would do, but rather to make the questions and needs of his day the starting point of his discussion.
>
> Therefore it was necessary to make use of phrases which people understood. So he spoke of *Schicksal* and *Empörerblut*, of *Bluts-*, *Rechts-*, *Empfindungs-*, *Erkenntnis-*, or *Betriebsgemeinschaft*. These are words we either understand differently today than the people of the 1920s, or they have become distant from us through the experiences we have had in the intervening time.[191]

Later, Müller wonders if Elert is truly presenting the teaching of Lutheranism as an objective school or his own variation of it, and that question is raised by the presence of such ideas as *Schicksal*, which are quite characteristic of Elert.[192] While Elert was not unique in his use and development of *Schicksal*,[193] he did use it creatively to express his theological system,[194] and it especially helps one understand the orders.

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[190] Matthew Becker, "Werner Elert," 99n18.

[191] Gerhard Müller, "Gleitwort," in Elert, *Lehre des Luthertums*, vii.

[192] Ibid., viii.

[193] Becker, "Werner Elert," 99n19.

[194] Ibid., 99.

Definition

While the most basic definition of the German term *Schicksal* is "fate" or "destiny," the *Schicksal* of the Christian, for Elert, is less deterministic.[195] In his early *Abriss*, published first in 1924 with a second edition in 1926, he wishes to differentiate the sense in which he is using the term from the "purely subjective" sense of all experience which one has; he denotes that sense with the term *Geschick*.[196] Instead, Elert defines *Schicksal* in his system as "the result of all the factors which shape our lives (*Lebendigkeit*) apart from our free will."[197] One's connections to others through various ties, one's power and abilities, place and time of existence, and situation within a family and society all join inseparably to hem in free will.

One's life is not boundless, but has been bounded by factors which are not only out of one's control, but out of one's choice. These factors cannot be isolated. They influence the individual together in the single reality of that person's subjective experience. However, these factors are not subjective, but "transsubjective, a unified power which is independent of us and over us."[198] *Schicksal* has sovereignty, a kind of cosmic creativity, since it confronts individuals with ever new combinations of these factors. The sovereignty of *Schicksal* can best be understood, says Elert, in "the impossibility of recreating the past; its freedom most powerfully [understood] in the mysteriousness of the future."[199] *Schicksal* is the sum total of the "givens" in one's life, and those "givens" control the individual's sphere of activity.

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[195] Becker, "Werner Elert," 99n18.

[196] Elert, *Lehre des Luthertums*, 7.

[197] Ibid., 4.

[198] Ibid., 6.

[199] Ibid., 7.

Purpose in Lutheran Theology

Schicksal, in Elert's theology, first serves to confront man with the incomprehensibleness and hostility between himself and God. Man must confront his own *Schicksal*, his own givens, and why they are different from another. He must confront those incontrollable factors which bring him pain and suffering and disadvantage. *Schicksal*, by itself, addresses man with the hidden God on whom he is dependent but whom he cannot understand without revelation. At last, *Schicksal* presents him with a death which he must bear but over which he has little control.

Schicksal again appears on the other side of justification, where it enters into the discussion of ethics. Early on in his *Abriss*, Elert writes, "The factors above the influence of our free will which shape our lives do not only act as hindrances. They simultaneously present to us the situation in which, the sphere upon which, and the powers with which our lives are active."[200] Later he expands upon the importance of this aspect of *Schicksal* for the Christian. *Schicksal* first sheds the "hostile character" it previously had for the unbeliever.[201] The regenerate person understands the love of God as a merciful Father and therefore cannot be shaken from the conviction that God will bless even in the midst of suffering and disappointment which results from *Schicksal.*[202] Second, *Schicksal* incarnates the abstract orders of creation (*oeconomia, politia, ecclesia*) in the life of the believer. This establishes the field wherein the Christian's freedom may freely serve. *Schicksal* is the element which connects the believer to the concrete works which God has laid out to be done (Ephesians 2:10).

It also accompanies Luther's ethical catchphrase: God wants there to be distinctions of orders. An innocuous example involves two independent states. One government mandates

[200] Elert, *Lehre des Luthertums,* 5.

[201] Ibid., 71.

[202] Ibid., 73.

driving on the right-hand side of the road, another on the left-hand side. The unbeliever follows the law because it serves his self-preservation. The Christian who comes of driving-age in the first country implicitly recognizes that he must drive on the right-hand side. Why he must obey the government is answered by a scriptural principle (Titus 3:1, et al.). Why he must obey *this* government is answered by *Schicksal*.

CHAPTER SEVEN

CRITICISMS AND CORRECTIONS TO ELERT'S THOUGHT

What was said at the beginning of the paper is worth repeating: the circumstances acting upon Elert and Althaus contained some of the most powerful forces in the twentieth century. Both Althaus and Elert were born in the German Empire under a semi-constitutional monarchy, whose motto was "*Gott mit uns*." Both men were involved in World War I: Althaus was pastor in Lodz, Poland during the war and Elert was chaplain on both fronts.[203] Those experiences colored both of them; it had to.[204] In the 1920s, Berlin gained a reputation for decadence and immorality. The Weimar Republic proved inept to deal with the Great Depression. The old order was slipping, and the drastic cultural swing to the left seemed to necessitate a hard correction.

Hitler's rise, therefore, was at least in part reactionary. His ideology was one variation of the extremist political wings which arose in the Weimar years, on both the left and the right. Many decent people supported him because they saw in him a force strong enough to turn the tide of modernism and Western decadence. They desired a government which would restore order and morality. When the Erlangen theologians took up the orders and expanded them, part of their motivation to do so was that the orders codified as God's will the very morals they saw disappearing from Germany, among others, "[D]iscipline, obedience to authority, [and] national pride and unity."[205] By connecting the orders to conservative values, they could "place God's imprimatur on the sense of order and the form of German life" which they had known and

[203] Robert P. Ericksen, *Theologians under Hitler* (New Haven: Yale University Press, 1985), 83; Becker, "Werner Elert," 98.

[204] Ericksen, 115.

[205] Ibid., 115–116.

wanted to maintain.[206] For Althaus, Elert's close colleague, the orders and their basis in law had concrete political implications:

> [The orders] focused [Althaus'] attention on morality, order and stability and allowed him to view the Weimar Republic as a breakdown of God's intended order. By equating the traditional, pre-Weimar order of society with God's will, Althaus opposed progressive and revolutionary ideologies of the left which hoped to remake society in a new and better form, and he affirmed the authoritarian and paternalistic emphases of National Socialism."[207]

Elert seems to have had similar inclinations. Born in Saxony, he grew up and studied in Schleswig-Holstein and Silesia, both areas which were on the fringes of the German empire and contested at various times between Germany and its neighbors. Someone born eighty years before Elert would have seen a rise in German unity and power, culminating in German unification in 1871. Elert's generation saw the unraveling of that prominence as World War I, the Weimar Republic, and World War II reduced Germany's size and brought dramatic shifts in German social life in the span of little more than thirty years. With the loss of stability in any country comes an almost inevitable disappearance of daily bread. Elert and Althaus knew this and pursued stability, not realizing early enough what a relative stability under National Socialism would cost them.

Distinctions of Orders and Their Functions

The most relevant criticism of Elert and his Erlangen colleagues does not attack their actions during the 1930s. Whatever warning signs they ignored or personal compromises with the idea of National Socialist rule they made, their root mistake was not in casuistry. Yoder criticizes Elert for failing to clarify the distinction between those orders which are biblical and

[206] Ericksen, 116.

[207] Ibid., 119.

those which are not.[208] In his *Morphologie* and other early writings, Elert did not use the orders to allow for genocide in Christian ethics. What he did do was struggle to discern the weight of *völkisch* loyalties in relation to the ethical demands of biblical orders, the three estates.

God does not endorse *Volk* and race as ethical forces. The New Testament recognizes that even when two peoples cannot co-exist under politics or culture, they can both inhabit the sphere of Christianity. The church should be one as all people should be one, and the Church *is* one, yet the church as an organization exists in the left-hand realm of the world and must navigate the conflicts that arise from diversity among humans. Just as little as one expects all people to exist under one government, so little should one expect all people to exist under one organized church. Even if all Christians were agreed in doctrine, it would be ludicrous to unite all Christians under one organization, under the same outward manifestation of the *status ecclesiasticus*. This is part of the reason why the Lutheran Church has recognized the primacy of the local congregation as the fullest seat of churchly activity and considered local concerns as valid concerns for the church.[209] The flexibility of the orders does not make them divisive, but relevant and useful.

The three estates are special because the Scriptures institute them under divine command and place ethical boundaries around them. Volk and race are still part of the "creative and administrative actuality," but they do not carry ethical weight. The church, state, and home

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[208] Yoder, 160.

[209] If one thinks that Elert's ecclesiology ties the ethics of the church too closely to the social forces of a specific people, nation, place, time, etc., notice that the vast majority of churches, even when independent of the government, organize themselves along national lines. Church leaders seldom present these arrangements as more than administrative simplicity. Nevertheless, race, culture, and values play into these arrangements. In some cases, two church bodies in full fellowship exist in the same country. In places like India and Africa, these divisions can have more of a racial and ethnic tone than Americans would like to admit. One issue that draws American Christians into this question is the well-documented racial and political divide between black and white Protestants: See A. G. Miller, "Black and White Race in American Denominations: A Glance Back at the History That Separated Us," *Evangelicals*, Spring/Summer 2016, 18–19; Seth Dowland, "The politics of whiteness: The racial basis of American evangelicalism," *Christian Century*, July 4, 2018, 26–31; Alberto L. García and John Nunes, *Wittenberg Meets the World: Reimagining the Reformation at the Margins* (Grand Rapids: William B. Eerdmans Publishing, 2017).

provide direction in practical decisions (whom shall I marry, how shall we organize our church, for whom shall I vote) and universal ethical demands laid out in the Word (you shall not commit adultery; you shall not despise the teaching of God's Word). They operate both in the realms of practical social life and ethical responsibility. For Elert, they categorize aspects of a person's "existential situation" shaped by *Schicksal*, they direct sanctification, and they are subject to "divine legislation."[210] Through them, the laws of right and wrong leave the realm of abstract ideals and become principles which apply to the individual's situation. The estates do not direct toward utopia, where one should be, but toward personal sanctification, godliness where one is.

Volk and race contain no such commands and prohibitions. They are a guide for practical creativity, not for ethical creativity. In many European nations where ethnic minorities exist, special governmental agencies exist to serve those minorities. That is practical creativity. The reason of man produces such arrangements, and the only ethical demand made on the citizen by that arrangement is a biblically founded one related not to race but to the state as an order. One has an ethical duty to obey the governing authorities, and because that arrangement of the state does not violate other revealed laws, the citizen is bound to operate within it. To marry a spouse of the same race, culture, and language is practical creativity, not discrimination; to label interracial marriage as sin is racism, ethical creativity, which Scripture does not give the orders of *Volk* and race to exercise. They are categories of description. They can inform structures of society and life insofar as they do not conflict with the revealed law of God. But their usefulness is distinct in nature from the three estates. Elert clarifies this point in *The Christian Ethos*.[211]

[210] Elert, *Christian Ethos*, 78.

[211] Ibid.

Experience Theology and Elert's Self-Correction

Yoder also makes the criticism that for Elert, "*Seinsgefüge* [What is] wins out over *Sollsgefüge* [what should be]."[212] This is one danger of experience theology, a characteristic element of the Erlangen school. Using human experience as a starting point for the orientation of theology can give one the impression that everything which exists has its endorsement in the will of God. At its worst, this experiential aspect of theology can undermine the confessional principle of Scripture as the sole norm for faith and life.[213] Taken to this extreme, it opens the door for cultural norms to be indiscriminately codified as divine law.

Evil and sin can corrupt God's orders, as Elert articulated later in his career. Becker writes, "Elert's allowance for the serious corruption of the orders [in *The Christian Ethos*], especially of the state, marks an important shift from his earlier understanding. 'Every good order of God stands in danger of demonization' (Elert, *Christian Ethos,* 114)."[214]

At the same time, experience is necessary to conduct subjective theology.[215] The dogma of the church does not change, but the circumstances of human life do, from time to time and from person to person. Elert finds balance between *Seinsgefüge* and *Sollsgefüge* when he affirms both the unchanging, divinely revealed will of God and the variation of human circumstance in the orders.

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[212] Yoder, 160; *Gefüge* means "structure," so especially in mind is the distinction between the forms of the orders which one finds in the world and the ideal forms of the orders in the abstract.

[213] Yoder, 160. See also Franz Pieper, *Christian Dogmatics* (St. Louis: Concordia Publishing House, 1950), 1:98.

[214] Becker, "Werner Elert," 122.

[215] Objective theology consists of formulating the biblical dogma of the church. Subjective theology consists of the application of dogma in individual times, places, and situations.

CHAPTER EIGHT

ELERT'S EVANGELICAL DESCRIPTION OF THE ORDER OF THE CHURCH

Understanding Elert's maturing view of the orders is vital for understanding his theological moves in the 1930s, but the orders did not dominate his theology. In fact, Elert's own declaration, made before he published the *Morphologie* in 1931, makes ethics a secondary element of Christian theology:

> But this last vestige [of Lutheranism] that is still alive among us is the recognition that we cannot stand before God with our ethos, but only in faith. This is because God speaks in the gospel of Jesus Christ to us, forgives us our sins for his sake, forgives not only us, but all those who are willing to hear the gospel. Productive ethics also can be found in Confucianism, hierarchy can also be found with the Dalai Lama, scientific theology also in the synagogue, the battle against alcohol also among the Turks, youth movements in Moscow – but forgiveness of sins only with Jesus Christ. To know this and to live by this faith, that is Lutheranism.[216]

Elert coined a technical term for the central impetus of Lutheranism, and it has nothing to do with law. It is the *evangelischer Ansatz*.

Der evangelische Ansatz is notorious among English-speaking readers because it is a difficult concept to explain and translate. In the first volume of *The Structure of Lutheranism* (*Morphologie des Luthertums*), Walter Hansen translated *evangelischer Ansatz* as "impact of the gospel." He discusses the term in his introduction to the volume and admits that his translation is not ideal. Theodore Engelder equated Elert's concept with justification.[217] In 2011, the American Lutheran journal *Logia* published a conference paper of Elert's in which an editor offered this explanation:

> The editor believes that the term *evangelische* [sic] *Ansatz* is Elert's own unique use of the late nineteenth-century German notion of the *historische Idee*. Such a *historische Idee* is not only the "beginning" (German *Ansatz*) for a historical moment or institution, but also its perennial center, the justification for its existence and activities, and the source for

[216] Werner Elert, "Ecclesia Militans: Three Chapters on the Church and Its Constitution," trans. Karl Böhmer, *Logia* 20, no. 4 (Reformation 2011), 37–38.

[217] Ibid., 38n9.

> new ideas and developments. If Elert's *Morphologie* is read by its English audience with the term "gospel nucleus" in place of "impact of the Gospel," it makes eminently more sense, and will take its rightful place among the significant contributions to Lutheran dogmatics in the twentieth century, along with the works of Hermann Sasse.[218]

Elert wrote extensively on law, the orders, and ethics because he recognized the need to enshrine that "gospel nucleus" in a safe position within Christian thought. He had a keen awareness of the effects of Pietism and Rationalism on the Lutheran churches in Germany.[219] Through his work he set out to give that awareness to others and to provide correctives to contemporary Lutheranism.

Background of "Ecclesia Militans"

This paper will conclude by examining one ecclesiological writing from early in Elert's career which shows his integration of the *evangelischer Ansatz* and the ethical grid introduced at the beginning of the paper (the three estates existing in two kingdoms). On September 20, 1927, Elert delivered an essay at the General Evangelical Lutheran Conference in Marburg, Germany. A major current in twentieth-century Protestantism was union, and the conference at which he delivered the paper had as its goal the union of German Lutheran churches. However, he reminded the conference attendees that they gathered for unity "around an explicitly confessional agenda."[220] His essay, "Ecclesia Militans," addresses union by addressing the confessional Lutheran conception of the church.

Analysis of AC VII

Article VII of the Augsburg Confession states, "It is also taught that at all times there must be and remain one holy, Christian church. It is the assembly of all believers among whom

[218] Elert, "Ecclesia Militans," 38n9.

[219] Becker, "Werner Elert," 107.

[220] Ibid., 31.

the gospel is purely preached and the holy sacraments are administered according to the gospel."[221] Elert comments on this succinct definition by clarifying what it does not say.

"First, nothing is mentioned about a visible and invisible church."[222] Luther and others called the church "the congregation of the elect" to refute ecclesiology rooted in external hierarchy. But Elert recognizes that Lutheranism centers all doctrine in salvation; salvation is rooted in the merciful God of revelation; and the merciful God is revealed through the gospel, which the church proclaims. The elect do not look to election alone, which resides in the hidden will of God. The elect recognize their election only through their calling in the means of grace. The believer looks to the pure proclamation of Christ, which is visible, for assurance of membership in the true church. A side argument of Elert's is that predestination, while a comfort, does not "contain a positive correlation to the center of [Luther's] doctrine of salvation, as Martin Chemnitz proved in his *Loci*."[223] He holds that the Reformed necessitate a paradigm which distinguishes the visible and invisible church because they base membership in the church wholly on predestination. The Lutheran Church can say that the church consists of the elect, but the mediating fact left unsaid is that God uses the Word and sacraments exclusively to bring the elect to faith. Therefore, God's revealed will to work through the Word and sacraments is more assuring than eternal election, found in God's hidden will. Elert uses this clarification to spring into a discussion of the church:

> Thus the chief thing here is not the believers or the elect, whose addition yields the church, but rather the church is the chief thing, whose proclamation creates believers.
>
> In that case, the proposition that the invisibility of the true church belongs to its essence becomes meaningless. On the contrary, everything depends on the true church's making itself as recognizable as possible. The true church does this, as our article says, through the functions of the proclamation of the word and the administration of the

[221] AC VII in Kolb and Wengert, 42.

[222] Elert, "Ecclesia Militans," 33.

[223] Ibid., 34.

> sacraments. If it is the pure proclamation of the word and the rightful administration of the sacraments, then this is a sure criterion that we have the true church before us, the essential church, the body of Christ, the temple of God, the only holy catholic church, that will always be and will remain…. If one wishes to take into account the fact that, as it says in Article VIII of the Augsburg Confession, "in this life many false Christians, hypocrites, and even public sinners remain among the righteous" (AC VIII [German text] in Kolb and Wengert, 42), then one may distinguish between the church in the wide and narrow sense, as the Apology also does. But to relocate the church in the narrow sense into the kingdom of invisibility — that would reverse a decisive attribute of AC VII and turn it into its opposite. It would also be irreconcilable with the overall New Testament conception of the church. It is by no means the question of who the other people are that also belong to the church that leads us to the church. If we come to the church, if we seek the church, if we believe the church, then we do so because we ourselves desire from it word and sacrament, which we also receive.[224]

Elert continues, "The second thing that our article [AC VII] does not speak of is the differentiation between church and congregation."[225] Elert is addressing the essence of the church as distinguished from the outward characteristics its members contstruct *de iure humano*. The essence of the church is the gospel.[226] Elert calls it the "constitutive principle, which builds from above and is simply universal."[227] This undergirds his bold claim that where one sees pure proclamation and right administration, there one sees "the *essential* church, the body of Christ, the temple of God, the only holy catholic church."[228] The gospel, not association, constitutes the church. He clarifies, "How this one, single, catholic people of God now organizes itself to hear the word — that is a practical question that has no direct bearing on the *essence* of the church."[229] The order of the church is a creative and administrative actuality in its organization. Its essence is determined by God and is the gospel. In the left hand realm, it must proclaim the word and

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[224] Elert, "Ecclesia Militans," 34.

[225] Ibid.

[226] "It is not the believers who form the *Substanz* of the church; it is the Gospel. The Gospel is the real organizing principle of the church. It begets the believers, gathers them, and combines them into a supraindividual unity" (Elert, *Structure of Lutheranism*, 259).

[227] Elert, "Ecclesia Militans," 35.

[228] Ibid., 34; emphasis added.

[229] Ibid., 35; emphasis original.

administer the sacraments, and it has freedom to do so in a sensitive, circumstance-laden[230] way. In the right hand realm, the church is the gospel and all the gospel creates by way of faith and believers.

Elert's reference to American Lutheran synods illustrates his point. Though the local congregation is the primary setting in which Word and sacrament are distributed, the congregation cannot be the "constitutive element" which belongs to the essence of the church.[231] If the congregation is the exclusive form of the church, then any association of congregations is not ecclesial in essence, but administrative. The essence of an administrative bond alone is mutual association and consent, not the unity of the gospel. Wherever the gospel creates unity, that unity is real, regardless of the administrative form that unity takes. Local congregations will always exist in some form, served by men who fulfill the qualifications of the New Testament for overseers. That is not in dispute. What Elert takes issue with is dogmatizing the idea that the congregation is the only true organization which can be considered essentially church. Such a claim misses the point that the gospel, not some form of church government, is the visible marker of the true church:

> Those congregations [in America] then joined to form a number of miniature synods. But the insight has become more and more prevalent over there that the commonality of the pure proclamation of the word and administration of the sacrament engenders not only an invisible, but a very concrete solidarity for the greater church that transcends individual congregations.[232]

In his argument, Elert moves from a narrower application of the principle to a wider one. If the pure gospel gathers individual Christians together around its manifestations in Word and

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[230] German: *Schicksalhaft*, a term Elert commonly uses to describe the flexibility of the orders.

[231] Elert, "Ecclesia Militans," 37.

[232] Ibid.

sacrament, then why would it not also gather congregations in unity?[233] Moreover, if unity among congregations must be spiritual and not merely administrative, then administrative unity should not exist without spiritual unity. If the congregation constitutes the church, then administrative unity beyond the congregational level need not necessarily include spiritual unity.

Elert continues:

> The third thing that our article does not speak of is ethos. To accent this does not mean that the Lutheran Church is indifferent to the ethos of its members…. The question is rather whether the ethical activity of the church belongs to its *essence*, and whether the ethos of its members is an essential prerequisite for belonging to it, which amounts to the same thing…. [T]he church's relationship to ethos is a mediated one. The church firmly clings to its members by engendering their faith through the word. Once it has achieved this, its task as a church is complete. It is then the concern of the *members* to let the obedience, which has been established along with faith, turn into action."[234]

Adhering to a moral code does not create membership in the church, but hearing the gospel and receiving its benefits through faith.

Fellowship and Union

From this assumption that the gospel is the constitutive element of the church from which all church existence and activity flow, Elert draws three conclusions about how the *status ecclesiasticus* must look. First, the church is "to affirm the historic fellowship and to repair it where it has been destroyed."[235] Fellowship with the historic church means to agree in doctrine with the true Christians of the past, to believe the holy gospel of Christ which has been believed since the inception of the church. Historic fellowship is where Lutherans find true apostolic succession, which is to preach the gospel and administer the sacraments as the apostles did. This

[233] Elert uses the same direction of argument to advocate for liturgical uniformity among congregations in a church body. He claims "it is impossible to understand why what was demanded of the individual in relationship to his local congregation – namely, voluntary submission to order [in the service] – should not be true in the same degree of an individual congregation in relationship to a larger whole" (Elert, *Structure of Lutheranism*, 333).

[234] Elert, "Ecclesia Militans," 35–36.

[235] Ibid., 38.

fellowship is of more importance than what Elert calls "ahistorc" fellowship, fellowship created through union. Elert is unwilling to have the church achieve ahistoric fellowship if in doing so it forfeits the historic fellowship. Second, the church must remain confessional.[236] If confessions are an anthology of individual teachings, they deny the essence of doctrine as a unified body. A true confession is a unified teaching. To deny one part of a confession is to deny it in its entirety. Union among conflicting confessions is incompatible with the true church gathered around the Word preached in its *purity* because it calls on church bodies to deny their confessions for the sake of union. This prizes ahistoric fellowship over historic fellowship; it severs fellowship with the past for the sake of administrative unity in the present. Third, the only thing which establishes union for the church is agreement in doctrine. This, Elert says, "is the contribution that Lutheranism is able to make towards the establishment of the ahistoric fellowship."[237] Ahistoric fellowship is fellowship created among Christians where fellowship has not existed in the past. Elert points out that Lutheranism provides a path to this kind of fellowship, but it is difficult and has no guarantee of success. When Lutherans corresponded with Orthodox patriarchs, with whom they as Western Christians had not had fellowship for half a millennium, their discussions ended when they determined that there was not agreement in doctrine. Administrative union and union in ceremonies, which the Lutheran Confessions do not even demand from the true church, are not the essence of true union. Elert says that to be ecumenical and pursue union is "to take seriously again the questions of doctrine, or rather, the question of truth,"[238] "[to] demand answers to the

[236] Elert, "Ecclesia Militans," 38.

[237] Ibid., 39.

[238] Ibid.

same questions that our Confession is concerned with, the questions of law and gospel, of judgment and grace, of church and the word of God."[239]

Elert maintains that the gospel is the constitutive element and the substance of the church. The gospel nucleus (*der evangelische Ansatz*) creates the church and informs everything it does. The order of the church (*status ecclesiasticus*, *der organisierten Kirche*), including the congregation, operates as an institution in the left-hand kingdom and does not constitute the essence of the church. However, because the Lutheran Confessions bind recognition of the church to Word and sacraments, the true church makes itself known to the world by displaying these marks through its left-hand institutions. The church must maintain historic fellowship through adherence to its confessions and can only achieve genuine ahistoric fellowship, or union, through doctrinal unity.

[239] Ibid.

CHAPTER NINE

CONCLUSION

The freedom of the Christian is not freedom to sin, but freedom from the bondage of sin. The gospel is release. It releases from materialism and binds one to the material means of grace. It confronts Moral Therapeutic Deism (MTD) head on and calls it what it is, a religion of law, not of freedom. If there is a spirituality prone to totalitarian corruption, it is this one, for when my fulfillment conflicts with another's, MTD gives no answer. It is an ethical spirituality, demanding a façade of good works, and its ethic places moral worth on selfishness.

Instead, the Christian's freedom expresses itself in scriptural orders. Elert sees in the orders of creation a framework for godly living. They do not pull the believer toward utopia, nor toward lawless self-gratification. They push the believer into vocation and concrete service of the neighbor.

The order of the church exists in both realms. In the realm of the world, it is governed by the command of God to preach the gospel and administer the sacraments.[240] In that realm it is the seat of various vocations (church member, elder, pastor). The church's essence in the spiritual realm, however, is the gospel. God creates the church with that gospel in Word and sacrament, and the institutional church has true unity only when it has unity in doctrine, in agreement on the entire content of the Christian faith. The creativity the church has as an order does not give it license to engage in unionism or to adopt the ethics of a society as its own. Its creativity frees it to be an incarnational institution delivering the means of grace to sinners in all times and all places. Elert saw ecclesial confusion in every age: in the early church, the Reformation, and twentieth-century Germany. He does not point to ethics or to the orders as the primary solution. The

[240] "Word and Sacrament are the objective ethos of the church" (Elert, *Structure of Lutheranism*, 344).

orderliness of the church depends on something else. “The only thing that helps is the pure proclamation of the gospel.”[241]

Additional work in this area could include comparative readings of second-generation Erlangen theologians and Emil Brunner. Brunner was a contemporary of the twentieth century who also used the orders in a positive way, much more so than Barth did. Elert’s ecclesiology is another topic which would build on the orders and incorporate Elert’s patristic research and interest in the themes of catholicity and ecumenism. Someone ought to translate the second volume of *Morphologie des Luthertums*, and he or she may want to re-translate the first volume for continuity. If interest in Erlangen theology continues to increase among American Lutherans, Elert would also deserve a biography in English. Finally, the study of Elert in other areas of his theology could shed further light on the current debates surrounding law and atonement in American Lutheranism; his skepticism of the church appropriating cultural (i.e. *völkisch*) morals is immediately relevant.

This paper has attempted to summarize how Elert’s theology and life expressed his understanding of law, the orders, and ethics. However, it must conclude with the thesis that Elert wrote about these topics in order to preserve the gospel. Elert had concerns about a pure third use of the law because he feared it would upset the distinction of law and gospel, marring the gospel in the process. He wrote his tome on Christian ethos for clarity in that same distinction.[242] He elevated the orders because he and Luther both feared the kind of legalism that applies divine words to those for whom God did not intend them. He recognized that the orders are integral to Luther’s ethics and that they complement the distinctions of law and gospel and the two kingdoms. In short, he maintained them because they were, and are, Lutheran. Between 1931 and

[241] Elert, “Ecclesia Militans,” 39.

[242] Elert, *Christian Ethos*, vii.

1949, the years in which he published *Morphologie des Luthertums* and *The Christian Ethos*, respectively; Elert's experiences refined his idea of the orders. After seeing their corruption by the National Socialists and the German Christians, Elert clarified his presentation of the orders as tools of ethics before his death in 1954. Because Elert confronted the extremes of both fascist government and social decadence, his later writings are especially balanced in the area of the orders and valuable to present-day Christians. They offer a biblical framework for carrying out vocation and for addressing current social issues which revolve around a theology of creation. In the church, they inform discussions about unity and confessional Lutheran identity. The Erlangen school method of theology forced his confessional Lutheranism to reckon with his time and place. Touches of that Erlangen experience theology may have caused him to support Hitler for longer than he should have.[243] However, after the war this same method allowed Elert to incorporate insights from his experience to resolve ambiguities in his earlier formulations.

[243] Ericksen, 119.

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