

ISSUES

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Religious Expression
in the Public Square

ISSUES

IN CHRISTIAN EDUCATION

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editorials

Religious Expression in the Public Square

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Most battles over religion in the public square deal with the first sort. The major institutions involved are public schools, from kindergarten through post-doctoral; the courts and courthouse walls and lawns; and bits and pieces of artifacts that represent public transactions, such as coins and bills and postage stamps.

Most public space is of the second sort. The lawn in front of my house and thousands of other lawns are part of the public square. I can put crèches and Ten Commandment sculptures, menorahs and posters in such places, limited only by zoning laws about all kinds of displays, religion not excepted but not singled out. Similarly, the worlds of entertainment and advertising, malls and halls, the most noisy, blatant, and obvious instrumentalities for reaching publics, ordinarily can be seen as "private" engagements with "public" space. No one except some customers would protest if Budweiser in its Christmas commercials said "Christ is Born!" Budweiser does not do that, because it does not

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Cooler heads prevailed. The flags were returned to the front of the nave. This was a matter of *adiaphora*, not doctrine, and the uproar subsided. Though minor in comparison to other debates on religious expression in the public square, the congregation's immediate polarity on the location of the flag of our country in its worship space is an example of the passion aroused over matters of the relationship between church and state. It is *not* a neutral matter!

This edition of *Issues* serves as a discussion starter and mind expander on some weighty issues challenging Christians as we seek to live out our lives in the now but not yet of the Kingdom of God.

To that end, Dr. Martin Marty reminds us that Americans have favored a "'messy' arrangement" that often fails to draw hard lines between what belongs to Caesar and what belongs to God. Dr. Russell Moulds helps to clarify "the two kingdoms" through which Lutherans understand appropriately the role of the church and the role of civil authority and then provides some helpful "implications to keep in mind when thinking about God's 'left hand' and 'right hand' in the public square." Dr. David Lumpp provides a historical overview of the role The Lutheran Church—Missouri Synod and its members have played and continue to play in the public square. Finally, Mr. Tim Butz surprises us (perhaps) as he describes numerous ways in which the American Civil Liberties Union has set about to preserve and defend *religious* liberty in the United States.

As each of us continues to "render unto Caesar what is Caesar's and unto God what is God's," may the public square be where we faithfully and constantly proclaim and live out the Good News of the Gospel of Jesus Christ, the Savior and Lord of all.

Brian Friedrich, President

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want to alienate any potential customers or shareholders. It knows something about the taste, diversity, and interests of the "publics" that make up the public, something that agitators for such signage in public schools and public buildings try to obscure.

On one level, it is easy to keep the two spheres within the squares distinct, and to demarcate where religious symbols, prayers, and events are in place and where they are not. In real life, however, it is hard to draw the lines. For the most part, Americans have favored what I call a "messy" arrangement. We do not ordinarily protest if a new religious congregation rents unused space in a public school for Sunday worship, although as Americans get ever more uptight and mistrustful, some have begun to dissent. Most of us do not wake up in the morning disturbed that "In God We Trust" is on our coins, and most of us would get interested if there were formal moves to remove the words. The vast majority of citizens do not protest tax-exemption on church property, and a candidate for Congress threatening to remove such exemption would stand no chance of being elected.

Why are we so jumpy about some public expressions, such as the words "under God" inserted into the Pledge of Allegiance to the flag, compulsorily recited in schools? Why are both sides so angry about the intrusion of sculpted Ten Commandments in courts? For some, the presence of these words and symbols assure that the once-dominant and still-favored religion be officially recognized as the one true civil faith. For others, the same presence says, "We belong and you don't." The issue is especially sensitive for children of parents who are not part of the majority "Jewish" and "Christian" lineage. What does it say to the Hindu child to read the First Commandment, which is against their god(s), or the Buddhist, who is religious in a religion-without-God?

As one who "is religious," whatever that means—it's not a very good Lutheran phrase!—and who celebrates the Holy Trinity and the name of "the human Jesus who is the exalted Lord," I am in the company of those who welcome it when artists in museums express their Christian faith, when musicians play and sing great Christian music. And I am emphatic about the understanding that legally privileged and imposed forms of religion *hurt* religion. They make faith an instrument of national expression and citizen exclusion.

No, there is no reason to insist that the Supreme Court cannot open sessions without a historic shout that God should save the Court. Military chaplains and people in kin professions draw tax funds, but there are ways to justify this.

Where I put energies into what we might call the positive expression of religion in the

public square has to do with drawing the line in schools between educating and worship, or in school concerts between performance and worship. Anything the government does to put its potentially lethal power behind any imposition that this or that God, *Our God*, is the only one, and that the Truth of this God has to be taught as the truth about life for all, strikes me as counterproductive and in the end a sign of a lack of faith in the power, in our case, of the Gospel, freely proclaimed.

So I want to see teaching *about* religion—not a happy phrase but a useful idea—taught in public schools. I welcome teaching about biblical teaching, though one risks bad teaching and must allow for teaching about other religions. How can we be informed world citizens without knowing about why and how people are religious if our schools are dumb, silent, about the subject? As for performance, I love to go to public high school madrigal concerts which include Christian classics from Mozart and Bach and contemporaries, and not leave it all to "Rudolf the red-nosed reindeer." We have to teach publics that such presentations are performances, not acts of worship—though anyone is free to convert the performance to worship in their own minds.

What we need is more patience with each other, more faith in faith freely expressed, more awareness of the sensibilities of religious minorities, and less political distorting from all sides of something so noble and precious as faith.

Dr. Martin E. Marty

Fairfax M. Cone Distinguished Service
Professor Emeritus
University of Chicago

The Church in the Public Square

"God makes a preferential option for the poor." That phrase, commonly used in some Roman Catholic circles, has troubled my students upon first hearing. They perceive it to say that God loves poor people more than the wealthy. For those of us who utilize a two-kingdoms understanding of God's work in the world, a "preferential option for the poor" is not appropriate for God's kingdom of the right hand—God's grace and forgiveness. However, as God's people examine their life in the kingdom of the left hand, the kingdom of power, a "preferential option for the poor" is indeed a sound attitude for analysis and action.

Traditionally, The Lutheran Church—Missouri Synod has been reluctant to involve itself in matters of God's kingdom of the left hand—matters of public policy. Part of that hesitancy was an understandable reac-

tion to liberal, Social Gospel tendencies in Protestantism during the late 1800s and early 1900s which focused the church's message on the "left hand" kingdom. The Missouri Synod spoke more openly on political matters in the 1960s and early 1970s, but later limited its concern to "family-values" issues.

As we address the question of church involvement in the public square, it is vital to emphasize that the kingdom of God's left hand is *God's* kingdom. Scripture reveals the intensity of God's desire for a society reflecting justice and compassion. As God's people, the church ought to take a strong interest in politics and economics.

God provides a clear vision for a healthy society, and it indeed makes a "preferential option for the poor." Old Testament laws stipulate that landowners reserve portions of their harvests for the "widows, orphans, and foreigners" (i.e., the poor and marginalized folks). Israelites were to forgive debts periodically and to return lands to their original owners every fifty years. The Psalms identify God as one "who executes justice for the oppressed; who gives food to the hungry" (146:7). The commendable political leader has compassion on the needy, defends them, and delivers them from oppression (Psalm 72, Jeremiah 22:16). The writer of Proverbs urges God's people to "Speak out for those who cannot speak, for the rights of all the destitute. Speak out, judge righteously, defend the rights of the poor and needy."

God is a passionate partisan of the poor and oppressed. God deeply cares about the welfare of all people during their sojourn on earth. Presbyterian leader George Chauncey states, "... God judges nations by the standard of justice. The divine standard is not the size of a nation's gross national product, the beauty of its places of worship, or the frequency of its prayer breakfasts. The divine standard is justice—which first and foremost means how a nation deals with the weak, the needy, and the vulnerable." The critical question for a society is, according to Chauncey, "What is happening to the poor?"

Our affluent nation has had persistently high poverty rates—over 12 percent of all families in 2003, and over 28 percent of female-headed households. Over 36 million United States citizens experience hunger or are at risk of being hungry. Worldwide over 800 million people are undernourished. The World Bank estimates that about one in five people on our planet lives on less than a dollar a day. In 2000 every fourteen seconds one child became an orphan due to AIDS. God's people, as individuals and as a group, cannot be indifferent to these and other harsh realities in today's world. Instead, God calls us to respond and to act, addressing political and economic issues in the public square.

When the church addresses such questions, it must do so with wisdom and discernment. It cannot presume to possess the correct solution to poverty in terms of public policy. Missouri Synod pastor and hunger advocate, Arthur Simon, cautions that there is an enormous gap between a divinely revealed principle in Scripture and specific ways to implement that in the laws of a nation. The church should approach such issues with humility and with openness to a variety of legislative options. Nevertheless, the church needs to speak to these glaring violations of God's vision for a just and productive society. Otherwise, its silence is complicity.

God's "preferential option for the poor" provides us Christians with a challenging principle as we analyze and assess the society in which we live. It is a call to live responsibly and with integrity as participants in God's kingdom of the left hand.

Dr. Jerrald Pfabe

Professor of History
Concordia University, Nebraska

Defense of the Faith or Engagement with the World: Keeping the Two Kingdoms in Perspective

In 1989, Stanley Hauerwas and William Willimon authored a provocative little book entitled *Resident Aliens: Life in the Christian Colony*. In it they argued that American Christians now live in a post-Christian, post-Constantinian society. The church is no longer able to dominate society as an established and central institution. Rather, the church is to recognize itself as a community of pilgrims in this world, "resident aliens." They encouraged their readers to learn from the example of the 16th century Anabaptists, and their descendants such as the Mennonites, who had developed this perspective on the relationship between church and society. This was the "sect" type of Christian social orientation as discussed by Ernst Troeltsch in his monumental work, *The Social Teachings of The Christian Churches*. He contrasted this "sect" type with the society-embracing "church" type and claimed that both had a basis in New Testament Scripture. He argued that the sect type with its world-rejecting orientation appealed more to the poor and tended doctrinally to be associated with legalism. The church type, on the other hand, relied on the upper classes and inclined toward worldliness.

The nature of the church's relationship with society and the social character of the

church are central questions for The Lutheran Church—Missouri Synod as it wrestles with its identity as a post-immigrant denomination in a post-denominational society. How are we to relate to the world? Are we to retreat from the world and our cultural context in a sectarian way, or are we to engage the world on its own terms? What is the best way to defend the faith and pass it to the next generation? How are we to evangelize in a radically secular multicultural society?

Luther developed his understanding of the two kingdoms in the Sturm und Drang of 16th century Germany. His clear articulation of separate spheres of responsibility between church and state was to some degree fatally compromised by the institution of the state church in Germany and Scandinavia. Rather than being a world-denying sect, Lutheran churches became pillars of the establishment with all the temptations to worldly compromise entailed by that connection. Lutheranism continues to be primarily a church of the middle class, rather than the poor, though there are a few enormous Lutheran churches in Africa that may change that character. Now we stand at a time in history where the establishment has de-established the church. We face the reality of a radically secularized public square and the fact that our members' denominational identity is no longer rooted in community and is therefore no longer firm or lifelong.

The response of the Saxon immigrants to the Prussian Union was to adopt a sectarian response to the world and raise the barriers to keep it out. In many ways, we in the LCMS have benefited from that impulse in the building of our system of Lutheran schools and colleges and our relative success in maintaining an orthodox confession. The danger of worldliness which the sectarian impulse resists is a real one, especially in our secularized society.

Yet, the sectarian impulse also can lead to legalism and a failure to communicate the Gospel message to the world. Somehow we must balance the need to keep ourselves pure and unstained from the world with the need to be "all things to all men so that by all possible means (we) might save some" (1 Corinthians 9:22). A proper understanding of Luther's two kingdoms doctrine can help us maintain that balance.

As Lutherans, we must avoid the extremes of legalism and sectarianism but must maintain a sharp enough boundary between church and world to guard against worldliness and sustain and nurture the faith. The Protestant mainline churches have failed precisely because they have allowed the world to flood into the church, and there is with them no longer a clear distinction between church and world. This danger must be avoided as lethal to the Christian faith. On the other hand, some are tempted to retreat into a rarefied world of liturgy and the theological

treasures of the past. This defensive impulse, taken too far, can quench the missionary impulse which, rather than hunkering behind the barriers of a defensive confessionalism, knows that the best defense of the faith is a good offense.

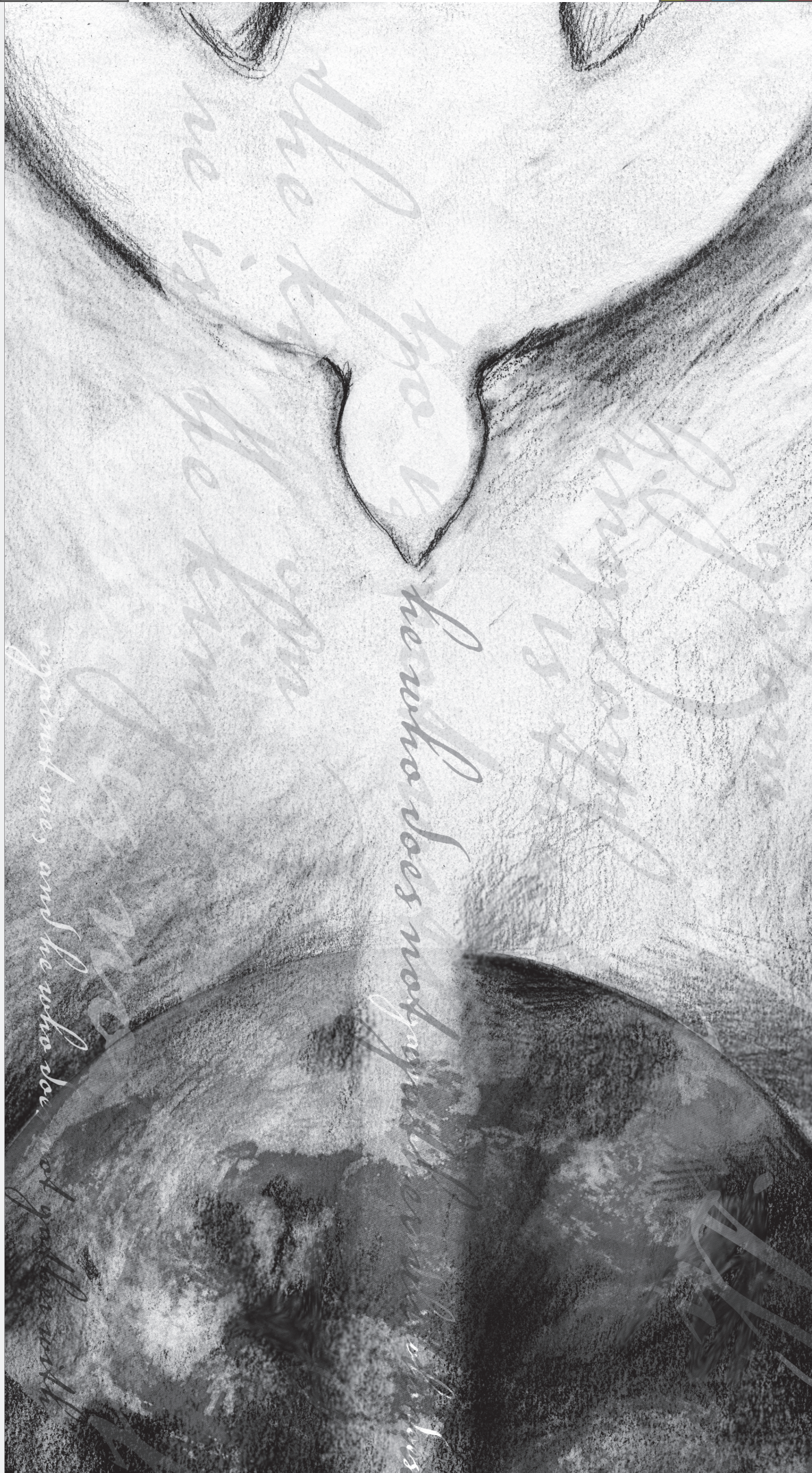
Firm and high barriers alone will not defend our people's faith in a post-denominational world where people frequently change denominations in a lifetime and where family and kinship ties cross denominational lines. What is needed is an aggressive confessionalism rather than a defensive one, one that is willing to take the faith and doctrine into the public square of ideas where secular ideologies, new religions, and multiple Christian perspectives compete. Sectarian opposition to the world must be combined with missionary engagement with the world, carefully avoiding the extremes of legalistic narrowness or undiscerning worldliness.

At times Lutheran understandings of the distinction between the right-hand kingdom and the left-hand kingdom have provided an excuse to retreat from the world or capitulate to the secularizers by allowing them free rein in the public or academic sphere. Niebuhr suggested that this Lutheran "dualism" could be "the refuge of worldly minded persons who wish to make a slight obeisance in the direction of Christ" (Niebuhr, *Christ and Culture*, p. 184). A balanced Lutheran understanding requires that we engage the mind and life of the world. We must sally forth beyond sectarian barriers to "take captive every thought to make it obedient to Christ" (2 Corinthians 10:5).

Engaging the world does not mean compromising with the world's agenda. It does mean clearly confessing biblical truth in ways that cross lines of misunderstanding into other social worlds with their diverse cultures and world views. It means avoiding a ghettoized monocultural understanding of faithfulness to the Lutheran confessions. It cannot mean retreating into an idyllic world of "pure Lutheranism" that does not recognize the contingency and provisional nature of all our human arrangements and traditions. While a proper degree of sectarian opposition to the world is necessary and healthy in the midst of a secular society, a defensive confessionalism that fails to engage our pluralistic society and communicate across the walls of tradition by multiple means and modes is a sectarian retreat that is unsustainable in our world. A winsome and flexible engagement with the world is the best way to win battles for God's truth and souls for His Kingdom.

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so long as the temporal-eternal tension continues and Christians (and non-Christians) subscribe to their different traditions about how heaven and earth relate.

Heaven and Earth

The contrasting biblical themes of conquest and exile account for some of our differences. Christians sometimes emphasize that we are more than conquerors (Romans 8:37) and that the weapons of our warfare are not worldly but have divine power to destroy strongholds (2 Corinthians 10:4). The images of Israel entering Canaan and Christ defeating the dominion of sin provide a powerful root metaphor for relating to the world in terms of conquest. Luther, for example, uses the perspective of *Christus Victor* in his hymn, "A Mighty Fortress."

Christians also sometimes emphasize that we are strangers here, heaven is our home (Hebrews 11:13–16), and that our citizenship is not on earth but in heaven (Philippians 3:20). This biblical theme reminds us that we are exiles like Israel leaving Egypt and Judah in Babylon and must consider ourselves resident aliens in this present world. Luther employs this imagery in the Lord's Prayer that God would deliver us from evil and "take us from the troubles of this world to himself in heaven." Before Constantine became the first Christian emperor of Rome, the early church often emphasized our exile status. The medieval church established Christendom in Europe and emphasized the conqueror theme. Between these two periods, Augustine wrote his *City of God* in which he proposed a dual citizenship for Christians as settlers and occupiers for God's transforming work in the earthly city.¹

These themes of conqueror, exile, and occupier have, along with other theological, social, and political considerations, shaped a collection of orientations to Christ and culture we will examine shortly. But first note that any of the approaches can appeal to Christians today depending on how we perceive the conditions of society and the church. If we believe that society was and is essentially Christian, then we may believe Christians have the obligation as conquerors or occupiers to conserve this social order and repel any forces that threaten it. If, instead, we determine that

society is now far removed from any previous Christian heritage, then the perspective of alien and exile may better inform our relationship with the world. A survey of Christians and politics at any particular time—consider today such groups as the Christian Coalition, Lutherans for Life, and Sojourners (see the review of Jim Wallis's book in this edition)—indicates that people who love Jesus reflect these themes differently and hold rather incompatible ideas about church and world.

Typology

Published fifty years ago, H. Richard Niebuhr's book, *Christ and Culture*, catalogues five different orientations of church and world and remains a common reference for those discussing the church's role in the public square. But these orientations are not templates, for they receive as much critique as they do attention, particularly among Lutherans. Niebuhr's typology has been thoroughly examined many times.² We will only briefly review it as a route to consider some clarifications and suggestions about a Lutheran two kingdom perspective and how better to use this perspective for our ministry to congregations and students.

Niebuhr's first way by which Christians have tried to understand their relationship to the world is called "Christ against culture." The exile theme dominates this orientation, and it tends to absolutize Christ's words, "He who is not with me is against me" (Matthew 12:30). Carried to extreme, this orientation regards culture as evil and dismisses all authority—parents, government, education, science, religious leaders—except Christ. The view is usually associated negatively with sects and cults (we seem to make an exception with the Amish), and though we sometimes hear it proclaimed or pilloried, not many Christians actually subscribe to it.

The next orientation is called "the Christ of culture" and emerged from the theological liberalism of the 19th century. Many churches which began as protesting or separatist movements eventually grew in membership and wider social acceptance. By the 19th and 20th centuries, the sciences and secular politics which these churches had helped engender gained cultural ascendancy. Churches that

began with a "Christ against culture" undertone now sought to remain relevant by accommodating their message to modern times. Niebuhr calls this "the accommodationist view," meaning that Christ works compatibly with and through culture. Today this orientation is often associated with the old "mainline" denominations, though Evangelicalism is now obviously the mainline Christianity. Neither old nor new mainlines are exiles, and many of their members wonder whether they are occupiers or merely occupants.

A much older orientation that Niebuhr names "Christ above culture" prevailed under the Roman church in the middle ages. Christ and the church are "above" the world and culture, not in the sense that heaven and earth are divided but such that Christ through the church reaches down and draws the world to himself. As Jesus says in John 12:32, "When I am lifted up from the earth, I will draw all men to myself," Niebuhr calls this "the synthe-sist view" because, in the theology of Thomas Aquinas, God's grace—particularly the church as his gift—completes what nature cannot do. Christ who is above and beyond culture super-intends both our temporal and eternal good, and so his church, with authority in both realms, ultimately assimilates society into its rule. Since this classic mode of "Christ above culture" no longer applies, the papacies of John XXIII and John Paul II can be interpreted as efforts to adapt it from a "conqueror" to "occupier" image for the present age.

The fourth perspective, "Christ and culture in paradox," is for us Lutherans, though we may not embrace Niebuhr's version. Early in Luther's treatise, *On Secular Authority*, Luther writes, "We must divide all the children of Adam into two classes: the first belongs to the kingdom of God, the second to the kingdom of the world." Though Luther goes on to qualify this distinction in several ways, Niebuhr infers a strict "dualist" view from Luther's initial proposition. As a result, he characterizes Luther's two-kingdoms distinction as a division of the right-hand kingdom of the Gospel from the left-hand kingdom of civil order. Both Christ's kingdom and culture's kingdom are God's kingdoms, but they have nothing to do with each other. Yet Christians must live in

both—hence, the paradox. This view implies Lutheran theology is inevitably a confusion of the conqueror and exile images: Christ has conquered sin in our spiritual lives, but we remain spiritual exiles living chiefly as accommodationists in the kingdom of the world. For several decades Lutheran scholars have examined and challenged this oversimplification, yet popularized treatments among Lutherans have perpetuated it. We'll come back to this.

The last of Niebuhr's orientations is "Christ transforming culture," best represented by John Calvin's adaptation of Augustine's two cities idea. This view does not claim that Christians can bring the New Jerusalem down to earth and inaugurate the end-times kingdom of heaven (though some have pushed it that far). It retains a two-kingdoms perspective but identifies the work of the Holy Spirit as creating union with Christ within the church. By the Spirit's power through the guidance of God's law, Christians can fashion a holy Christian community that actualizes Paul's exhortation to "come out from among them and be separate from them" (2 Corinthians 6:12). This "conversionist" view, attractive to many Christians, combines the exile and conqueror images in a way that seeks to transform society and may fit the Christian Exodus program described at the beginning of this article.

An Alternative View

The conventional Lutheran perspective, however, generally regards this view, such combinations, and related projects and programs as a confusion of the two kingdoms Luther named in his treatise, *On Secular Authority*. I agree. But other Christians usually do not fathom why, and neither do most Lutherans. As a highly regarded colleague trained in isagogics once said to me, "The more I try to get the two-kingdoms doctrine in focus, the more it goes out of focus." His remark is our cue for considering how we may better express this sometimes obvious, sometimes elusive distinction that we call the two-kingdoms, and some clarifications that can help us get a grip on the public square.³ To get at those clarifications, here is what I think is one fairly good synopsis of the two kingdoms doctrine⁴ that begins not with "two-kingdoms" language but with a book title.

The title of Heiko Oberman's biography is *Luther: man between God and the devil*. This title captures the larger context of creation, fall, and imprisonment out of which Christ must lead captive humanity (Ephesians 4:8). And this is the context—man between God and the devil—in which Luther always thinks, though any particular Luther document we're reading such as his two kingdoms treatise, *On Secular Authority*, may not explicitly say so.

Scripture informs us of a couple of strategies God is using to free humanity captive to the devil. (God may use more than these but, if so, Scripture doesn't tell us, and so we shouldn't speculate too much.) One strategy is to create some temporal arrangements—Luther cited marriage, civil government, and the church, though not in a rigid, categorical way—generally to do three things: keep the sinful world in check to stave off chaos; promote as much common good and justice as can be had under the circumstances of the fall and the devil's hold on the world; and provide opportunities by which any person, Christian or not, can contribute to promoting that common good and justice. Nothing about this strategy defeats the devil, saves the world, or accomplishes anyone's righteous status before God, not even the church as an institution. Note also that even though these temporal arrangements are man's activities, they are actually all God's short-term good works that he does in his own hidden way. He does these things to sustain that larger context for the time being so he can employ his other strategy to defeat the devil, make us righteous, and redeem creation.

God's other strategy is to propel some additional, peculiar news into our present larger context. The news is that, entirely without our assistance or participation, a carpenter's life, ministry, death, and overcoming death has and continues to come between us and the devil, undo his hold on the world, take us out of that captivity, return us to God, and put things right between heaven and earth. Like many powerful news stories, this news has a power to change people. Its particular power is that of promise and hope, hope boosted by God's own pledge standing behind the promise. God delivers this curious news in his own personal way in Jesus and continues to circulate

it just as personally through Jesus' friends using word-of-mouth plus a few ways to visualize those words. Even though this news flash comes through the likes of us, it is, like the first strategy, also all God's work done in his own hidden way for accomplishing his long-term aim of restoring the world and everything in it to his good graces.

So both strategies are God's strategies. God inducts us very actively into the first, like workers given vocations, and absolutely passively into the second, like babies being born or dead men being raised. God provides us with all the needed resources for the first: food and clothing, home and family, daily work, and all I need from day to day. For the second strategy, God imparts to us his Word from which, like a small child with no initial decision or intention, we learn to speak and then grow to speak with others. And God works both these strategies together in a way that for him is complementary and interactive, though it often doesn't look that way to us. He does all this to bring about his aim of getting us out from between him and the devil and simply with him. And that's the two-kingdoms doctrine. There are other ways to express it and other angles in it to explore, but this is a fair summary, I think.

Notice that while the above synopsis includes some standard religious language, it doesn't say much of "kingdoms" or "government," church-and-state, or even Law and Gospel. A difficulty with the two-kingdoms literature is that it uses a lot of jargon somewhat inconsistently and often without explanation, and it tends to go out of focus as you try to read through it. Which is a shame because Luther's two kingdoms notion is, as David Truemper says, "a helpful and even necessary tool for keeping clear and straight the Gospel by which Christians live ... and one of the most realistic features of his thought."⁵ When you read enough about it, you can begin to infer what the terms mean, provided you don't quit first or oversimplify its highly textured hermeneutic insights. Here, then, are three offers of assistance for making better sense of the two-kingdoms doctrine and using it to get a right-hand (Gospel) perspective and a left-hand (Law) grip on the public square.

Developing Two Kingdoms Views

First, some readings. Rather than churn out one more boiled down oversimplification of an important idea with important consequences for the Christian, the church, and the civil order, it is better to provide some helpful references for apprehending the idea and its consequences. At the close of this article is a manageable selection of essays and books sufficient to give the reader a good working knowledge about the two kingdoms as a Lutheran doctrine. They supply a collection of theologically rich and powerful concepts, far more than can be adequately addressed in this article.

Yet even these readings have some trapdoors and rabbit holes that can trip up the reader. Brent Sockness cautions that "the task of interpreting and evaluating Luther's two kingdoms doctrine . . . is notoriously difficult and controversial."⁶ Or as the quip goes, when it comes to the two kingdoms doctrine, you can't say one thing! Second, then, some clarifications for doing the reading and thinking about the two-kingdoms:

1. "The two kingdoms" is certainly one way to talk about the two strategies God uses in his one campaign for us and against the devil. And though it is biblical (Mark 1:15; John 12:31, 17:14, 18:36; 1 Corinthians 15:28; Romans 13:1) and Luther does use it initially in his treatise, *On Secular Authority*, and elsewhere, it's a confusing expression that doesn't readily work for us today. Many have suggested alternatives including two realms, two spheres, two governments, two swords, two perspectives, two orders, left hand and right hand, and simply justification and sanctification. Each of these can convey some aspect of biblical content and Luther's thought but may tend to remain static and one-dimensional about the dynamic, dialectic interplay of God's activity through world and Word. And each uses a limiting image or metaphor that conjures up geometry, geography, or thrones, just as my synopsis above using "strategy" and "campaign" language has a military cant.

2. The more nuanced writings recognize the two-kingdoms idea as one of the ways Luther and his tradition have developed to talk about Law and Gospel, two distinct Words

of God, both necessary to make sense of Scripture and the human situation and both necessary in God's project of our salvation. This particular way of talking about Law and Gospel gives us insight to how these two Words of God are at work not just making sinful persons into sinner/saints but also at work in the world. God applies his Word of Law through parents, flag persons on road crews, organized office managers, farmers who plow straight rows, the FBI, and all others and their institutions (whether they know it or not) who sustain order and preserve the world by keeping temporal goodness active. The devil, of course, does his damage, but God keeps at least enough temporal goodness in action so that he can proclaim and apply his other Word of Gospel by which he nullifies the ultimate harm of all the devilry (including our own) and reclaims us for himself. Instead of "two kingdoms," this way of talking about what God is doing uses expressions like "God's two perspectives," "God's working two works," "God's two ways of ruling," and the one I like, "God's two-fold strategy."

3. Two kingdoms, works, or strategies rather than one is important. In fact, it's critical because it signals that not both but only the second of these Words or works or strategies can actually restore us to God. The first is indispensable insofar as it maintains the setting or opportunity for the second. (So much for "Christ against culture," Niebuhr's first orientation.) Luther constantly underscored this distinction in a variety of ways (and so should we) to clarify that though God uses our works within his providence to temporarily preserve social orders in the world, he does this so that his second Word can get a hearing. That second Word of Gospel is sheer hope and promise with no conditions attached, conditions such as our status and accomplishments in the social order or projects we may pursue to restore ourselves to God, whether spiritual, moral, or otherwise. This distinction keeps the Gospel non-coercive. That is, it saves us from participating in our own salvation since we could never know if we have done enough or done it rightly. And we never can since, in the larger context of things, we're not initially free and autonomous but captive to the devil.

4. When we select an expression and stick with it, that limited image excludes insights and dimensions that it cannot express. Luther realized this in *On Secular Authority*, his first major writing on how to relate Word and world, which he wrote in 1523 because some secular authorities were banning his books. In this treatise he begins with “kingdom of God and kingdom of the world” language but then switches to behavioral descriptions in which the Christian both suffers injustice done to the self for the sake of the Gospel and fights ferociously in the world against injustice done to the neighbor. He then changes his two-fold language again to God’s rule over the soul and our righteousness of faith through the Gospel and God’s rule over the body and our civic righteousness in obedience to the law.⁷ The point here is that relying on only one expression or dimension of the two kingdoms discussion about Law and Gospel will inevitably distort something about the Word, the world, or both.

5. This distortion can happen, for instance, when we use images like “two spheres” or “two governments” (which Luther sometimes used) and infer a radical, non-intersecting separation of God’s two works as if they have nothing to do with each other. An example comes from JHC Fritz’s once widely used text on pastoral ministry in which he insists that

[A]ny religious exercises (prayers, religious address or sermon, religious hymns) in connection with school commencements, so-called baccalaureate services and the like, or religious exercises of any kind in connection with political meetings, or other meetings of civic bodies, whenever members of different denominations take part, is unionism. In these particular instances such is also the result of a failure to understand the doctrine of the separation of Church and State, not keeping each other in its proper sphere.⁸

Luther does not propose such radical separation in *On Secular Authority* and says instead, for instance, that the prince must receive godly instruction “about what the attitude of his heart and mind must be with respect to the laws” and that “he must picture Christ to himself and

imitate him.” Following the disastrous Peasants’ War and later entanglements with civil authorities, Luther and Melancthon confirmed that radical separation is unrealistic and untenable. They had to craft fluid documents and diplomacies for dealing with the princes now emancipated from Rome. By 1540, they found they needed secular support for promoting true religion and the teaching of it—not a model of practice we can use today, but it is a model of sustaining and not dismissing or collapsing the tension of Word and world that will endure yet change until the close of the age.⁹

6. Luther’s writings and Lutheran theology often describe the institutions of this world as located in either one kingdom—the left-hand kingdom of the world—or the other—the right-hand kingdom of Christ. This sort of strict assignment is expedient when making some particular and important point such as: only the Word of Gospel rules in the church; or, the civil government wields the temporal sword and the church wields the sword of God’s Word. But because God’s two ways of ruling through Word and world are always at work, describing institutions as either “left hand” or “right hand” is sometimes misleading. For instance, the congregation is not strictly “right hand.” The pastor conducting a wedding serves as an agent of the state. The trustees comply with the local health codes. Most church school teachers are certified. What’s more, civil courts of the left hand kingdom can reflect God’s mercy, sometimes surprisingly so. Now, the courts do not and cannot forgive sin. And the church must not coerce belief or behavior. Yet God’s two Words of Law and Gospel are at work across institutional boundaries including marriage (a divine order instituted before the fall), church (congregations obey zoning laws), and government (prisons host chaplains). The church is not the kingdom of Christ, though that kingdom is present there in Word and Sacrament. The Concordia University System is not merely another educational institution, though that is now a growing concern. God’s two Words and their free recourse (2 Timothy 2:8) rightly create tension in our institutions as we consider—or should consider—how these two Words are at work in them.¹⁰

7. So God's two ways of working through Word and world do intersect while remaining distinct. Ultimately, they intersect and completely converge in God, their source and their end (alpha and omega), which is why Paul says that God's plan is to unite all things in Christ, things in heaven and things on earth (Ephesians 1:10). In the meantime, they intersect without converging. Clarifying these intersections will help clarify our ministry of Word and Sacrament and our ministry of Word in the world which we call vocation. This in turn will begin to clarify a range of postures the Christian and the congregation can take toward the public square.

Intersections

God's two ways of working certainly "intersect" in Jesus, an intersection to which the Gospels clearly testify as the Word incarnate whom God sends into the world. For example, though Jesus' ministry is not a political program, he obviously conflicts with and ministers to the political conditions. God's two ways of working intersect in the apostles to whom Jesus says, "As the Father has sent me, even so I send you" (John 20:21). They intersect in Paul and Christian outreach as he declares, "I have become all things to all men that I might by all means save some." (See 1 Corinthians 9:19–23).

And in Luther they conspicuously intersect, for example, in his efforts in education.¹¹ He opened schools at every opportunity to teach heaven's promises and earth's needs. He called for the secular authorities to fund these schools. He demanded secular intervention for compulsory education when parents neglected to send their children. He developed university curricula for educating godly professionals to advise the princes and shape a society amenable to the Gospel. These are not the activities of a quietistic pietist waiting for the end times or a revolutionary fire-brand engineering heaven on earth. These are the activities of an engaged Christian finding and creating intersections of Word and world, crafting his secular situation where the Law presently prevails into a culture where the Gospel can receive a hearing for its eternal purposes. The culture was important not for

its own sake but for the sake of the neighbor whose experiences of both justice and injustice will prepare her for hearing and trusting the Gospel. (Though our situation today is not Luther's, you may want to compare and contrast his efforts to our opening illustration about Christian Exodus.)

Implications

Finally, here are some implications to keep in mind when thinking about God's "left hand" and "right hand" work in the public square. The first is that because God's Word and work of the Gospel has already fully secured our well-being with God, Christians have all the freedom and latitude of Jesus himself to strive for our neighbor's good in any opportunity and circumstance we encounter. Though our efforts will never be entirely effective, and we will miscalculate some efforts, and some efforts will fall flat, through them God works hiddenly with both his Words and works to bring about his purposes anyway (Romans 8:28). Given the aim of God's strategies and campaign, this latitude created by the Gospel is obviously no license for sin. But it does make the Christian simultaneously harmless and dangerous, and this makes some people nervous (like the Herods).¹²

Another implication is that in the divine diversity of God's activity in the world, the square has different sorts of "publics" in which Christians conduct their efforts. Martin Marty distinguishes the public square for which tax and legislative support is in any way involved such as public schools and military chaplains from the public square in which taxes and legislation are not involved such as front yards and businesses. (See his editorial in this edition of *Issues* for his discussion.) David Tracy identifies the three publics of our academic theologians in dialogue, of the community of us believers, and of the "unprotected space" of the civic forum.¹³ (An on-going question about the civic forum is how protected or unprotected religious expression should be, how, and by whom.) David Adams counts four publics: Christians in relation to persons of other religions and no religion; the church in relation to public policy; the church in relation to other church bodies; and the church

in relation to American civil religion.¹⁴ However we count the “publics,” all are eligible for our getting a grip on the public square.

God’s hiddenness has implications especially for Lutheran public speech, and not just in our sermons. Private and public talk about God frequently addresses God’s will in terms of direction and in times of tragedy. The visitors to our offices want to know where God is leading them. They want to know why bad things happen. Presidents give speeches invoking God’s destiny for the country and God’s providence in times of emergency. But we seldom hear a thoughtful articulation of the hidden things belonging to God (Deuteronomy 29:29), which is Luther’s concept of *Deus absconditus*. We often hear that “God has a plan” and “God is in control” with much filling in of blanks as speakers cast visions, condemn others, or reassure listeners that we remain in God’s favor, all without a Word of Law that applies to us or that God does things about which we know nothing. Lutherans can contribute a more modest perspective to temper our own and others’ triumphalist religious talk in the public square, a perspective that can clear some space for the other Word God has spoken clearly to us from the cross.¹⁵

Part of the public square debates has to do with the support of civil religion before it usurps true religion. Nebraska, the state in which I write, has an education code which requires in its preamble to Title 92, Chapter 27, that “The educator shall believe in the worth and dignity of human beings” and “recogniz[e] the supreme importance of the pursuit of truth, the devotion to excellence, and the nurture of democratic citizenship.” Here the two kingdoms imagery serves well to critique this public text. By intoning quasi-religious language (believe, supreme, devotion), the code shifts otherwise worthwhile human virtues of the left-hand kingdom into the faith and belief realm of the right-hand kingdom—and literally turns belief into law.

A further implication, then, for a two kingdoms posture in the public square includes vigilance that the state and other institutions, while penultimately and temporarily essential for the world, do not assume transcendence and ultimacy. The Christian

who is increasingly aware of God’s two Words and works practices a range of responses to the world’s institutions and their activities. The Christian citizen may alternately support, critique, defend, and actively resist them to the point of martyrdom, depending on the institution’s conduct in God’s larger context of world and Word. These responses are not rule guided but exercised through Christian liberty and judgment informed by Scripture and Christian community. As Luther explains in both *On Secular Authority* and *The Freedom of a Christian*, this judgment may lead one sometimes to trust God and suffer injustice to self, sometimes to trust God and actively correct injustice to neighbor, and sometimes to trust God and combine both of these.

One more (but not final) implication particularly for Lutherans in the public square is the two-works opportunities in education. Thoughtful Lutheran essayists sometimes stake out a strong dualistic position arguing that the Gospel unilaterally secures our justification and well-being with God, freeing us for educational pursuits without much reference to God’s eternal aims. Education is about our vocation in this world, and the danger of mixing our efforts into God’s saving Word and work is just too great. This view suggests that it is better to keep the two apart except as they intersect in the justified and sanctified life of the individual Christian.¹⁶

But Christians are an Easter people in a lively end-time community hard at work in the meantime that remains. Our work in this meantime sustains a world that is passing away (1 Corinthians 7:29), generating as much goodness and justice for our neighbor as circumstances allow so that the Gospel can be proclaimed in the world God loves and is redeeming (Romans 8:18). So if the Gospel does free us to take risks for the sake of the world and God’s coming kingdom, education done by Lutherans will look both quite normal but also rather peculiar. My closing observation is that education done by Lutherans actually looks pretty normal without the peculiar.

How normal-plus-peculiar works out in detail needs another article.¹⁷ However, two sample critiques of Lutheran higher education may provoke further discussion. Though

the Concordia University System (pick your campus) has sufficiently good resources, 1) it has never put them together to create a college of political science and public service that embodies both the right hand and left hand Words of God to graduate informed, articulate Christians for involvement in both the politics of the left and the right; and 2) it has never put its resources together to create a college of journalism that investigates both the world's news and God's news and graduates critical yet hopeful Christians to help all people better understand the human story. To this extent, the Concordia University System has failed to integrate Lutheran ethics and education for these spheres of public service.

Education, media, vocations in the public sector, business that can read a balance sheet and a Bible, and, sure, working for the political candidate of your choice, political action committees, lobbying—all these are ways to get a grip on the several public squares. When thinking and acting on these and other ways, Niebuhr's five orientations to Christ and culture help us monitor two temptations. One is to isolate God's two works from each other. The other is to conflate his two works into each other. The first dismisses the Gospel as merely otherworldly. The second mutates the Gospel into Law. Both collapse the tension between God's two works or "kingdoms," the tension needed to sustain a fallen world while keeping the Gospel in but not of that world so it can do its unique, saving work.

Readings Treating Luther's Two Kingdoms Perspective

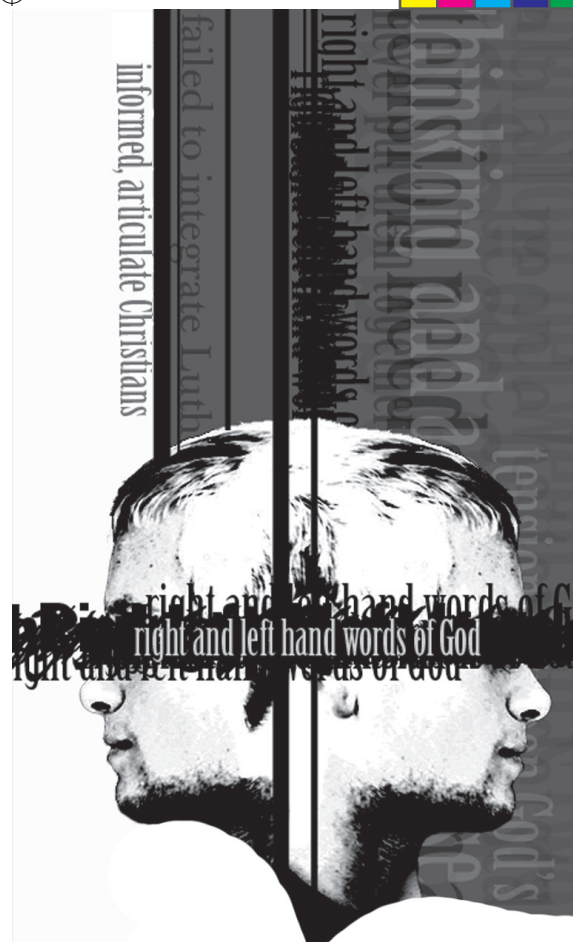
The following readings are well-written general treatments of Luther's two-kingdoms perspective available through the usual sources and academic data bases.

From Luther:

On Secular Authority (LW 45:88-91); *The Babylonian Captivity of the Church* (LW 36:3-126); and "Commentary on Ps. 101" (LW 13:166-201). The first two are included in Dillenberger, John, *Martin Luther: selections from his writings* (Doubleday Anchor, 1962).

Essays:

Heinitz, Kenneth. "Luther's Two Kingdoms." *Lutheran Education Journal*, Sept./Oct. 1990.



Jess Kuhl

Kolb, Robert. "Niebuhr's 'Christ and Culture in Paradox' Revisited: the Christian life, simultaneous in both dimensions" in *Christ and Culture in Dialogue*, A. Menuge, ed. (Concordia Publishing House, 1999).

Menuge, Angus. "Niebuhr's *Christ and Culture* Reexamined" in *Christ and Culture in Dialogue*, A. Menuge, ed. (Concordia Publishing House, 1999).

Nestingen, James. "The Two Kingdoms Distinction: an analysis with suggestion." *Word and World*, Summer 1999.

"Render Unto Caesar . . . and Unto God: a Lutheran view of church and state." Commission on Theology and Church Relations, The Lutheran Church—Missouri Synod, September 1995.

Truemper, David. "God's Two-Handed Rule: Luther on the Christian in the World." *The Cresset*, Sept. 1983.

Veith, Gene. "Living in Two Kingdoms: the sacred and the secular" in *The Spirituality of the Cross*, Gene Veith (Concordia Publishing House, 1999).

Books:

Benne, Robert. *The Paradoxical Vision: a public theology for the twenty-first century* (Fortress Press, 1995).

Dillenberger, John. *Martin Luther: selections from his writings* (Doubleday Anchor, 1962).



End Notes

- 1 See William Schumacher's discussion in "Civic Participation by Churches and Pastors: an essay on two kinds of righteousness," *Concordia Journal*, July 2004.
- 2 For example, A. Menuge, ed., *Christ and Culture in Dialogue* (Concordia Publishing House, 1999) and Stassen, G., Yeager, D. M., and Yoder, J. H., eds., *Authentic Transformation: a new vision of Christ and culture* (Abingdon Press, 1996).
- 3 Carl Braaten commented in 1988 that Lutheranism still has no consensus on the right interpretation or application of the two kingdom doctrine. See Braaten, C., "The Doctrine of the Two Kingdoms Reexamined" in *Currents in Theology and Mission*, December 1988.
- 4 Compare my version with those in the suggested articles in the reading box.
- 5 Truemper, David. "God's Two-Handed Rule: Luther on the Christian in the World." *The Cresset*, September 1983.
- 6 Sockness, Brent W., "Luther's Two Kingdoms Revisited: a response to Reinhold Niebuhr's criticism of Luther," *Journal of Religious Ethics*, Spring 1992.
- 7 *Ibid.* Sockness analyzes Luther's treatise, *On Secular Authority*, "to highlight the complexity of Luther's argument [regarding the two kingdoms] in a single treatise."
- 8 The Fritz quotation is cited in Schumacher, *Concordia Journal*, 2004. Samuel Nafzger, in his article, "Syncretism and Unionism," *Concordia Journal*, July 2003, states, "Not every occasion where worship takes place is a manifestation of church fellowship (e.g., joint prayers; participation in civic events, including offering prayers, speaking, and reading Scripture) and participation in 'once-in-a-lifetime' situations where joint worship takes place with Christians not in doctrinal agreement do not necessarily constitute syncretism or unionism [Nafzger's italics]."
- 9 Estes, James E., "The Role of Godly Magistrates in the Church: Melancthon as Luther's Interpreter and Collaborator," *Church History*, September 1998.
- 10 Derek Davis argues that "the American system must be understood as embracing three distinct, yet interrelated sets of rules: *separation* of church and state, *integration* of religion and politics, and *accommodation* of civil religion [Davis's italics]." See Davis, Derek H., "Separation, Integration, and Accommodation: religion and state in America in a nutshell," *Journal of Church and State*, Winter 2001.
- 11 See Harran, Marilyn J., *Martin Luther: learning for life* (Concordia Publishing House, 1997).
- 12 The seminal source for this discussion is Luther's essay, "The Freedom of a Christian," which can be found in John Dillenberger, *Martin Luther: selections from his writings* (Doubleday Anchor, 1962) or in *Luther's Works*, 31:297-306.
- 13 For a review of the public character of theology see Ziegler, Philip, "God and Some Recent Public Theologies," *International Journal of Systematic Theology*, July 2002.
- 14 Adams, David, "The Church in the Public Square in a Pluralistic Society," *Concordia Journal*, October 2002.
- 15 Timothy Saleska comments on referring to God's hiddenness in our speech in the public square. See Saleska, Timothy E., "The Meaning of Participation: a case for speaking in the public square," *Concordia Journal*, January 2003.
- 16 See for example Truemper, David G., "The Gospel, the World, and the Classroom: pedagogical reflections on the two-kingdoms notion," *Lutheran Education Journal*, January/February 1991.
- 17 Stephen Schmidt, for example, proposes the idea that Lutheran education should find ways to educate the public about Christianity in his article, "Toward a Strategy for Public Christian Education," *Religious Education*, Summer 1987





Nicholas Suing

DAVID A. LUMPP

The Missouri Synod in the Public Square: Some Historical Perspectives

The topic of this article, the role of The Lutheran Church—Missouri Synod in the public realm, might elicit a raised eyebrow or two. More skeptical readers might ask, "What role?" Indeed, the Missouri Synod has long been known for its doctrinal convictions, the passion with which it holds them, and for its insistence that the mission of the church is above all to communicate the biblical Gospel to a world in bondage to sin. Communicating this Gospel to those inside and outside of its fold would seemingly leave little time or energy for the often vast, complicated, and messy work of engaging the "public square."

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The foregoing, of course, is a caricature, perhaps even bordering on cynicism. The Lutheran Church—Missouri Synod and its members have long played and continue to play a role in the public sphere. Yet these roles have been deliberate extensions and expressions of the Synod's theological orientation. They are not "exceptions" or appendices to it. Therefore, it is impossible in a short essay of this sort simply to chronicle the instances of Missouri's social engagement and perhaps assess whether or not these forays into the public realm have been "successful." In other words, some theological connections first have to be established.

The Lutheran Church—Missouri Synod's insistence on the centrality of the Gospel of Jesus Christ—confessionally expressed in the formula of justification by grace for Christ's sake



through faith—is followed organically by a doctrine of sanctification rooted in precisely this unconditional announcement of the forgiveness of sins. Forgiven people spontaneously respond to God's mercy with acts of love and thankfulness. These expressions of faith ("faith active in love," Galatians 5:6) take place in the contexts in which God has placed his children, specifically, in one's family and household, in the local congregation, and in the larger economic and political "marketplace" (i.e., appropriately reflecting the Lutheran doctrine of vocation). Moreover, the "role of the Missouri Synod in the public square" can properly pertain both to what is sometimes called "social ministry" and to areas pertaining to "social ethics" (both admittedly very imperfect designations).

Hence, redeemed men and women engage in works of mercy in their more private contexts. But they also find themselves inextricably enmeshed in and challenged by their responsibilities in the larger society. It is usually in this latter setting that Christian men and women are constrained to make distinctions, often implicitly perhaps, between Law and Gospel ("which applies where, and how does it apply?"), civil and spiritual righteousness ("in which context and/or kingdom do I find myself?"), faith and reason ("should revelation or sanctified reason inform my actions?"), and the relationship between priorities and "program" ("what if anything should we say and/or do, and how?").

If that were not challenging enough, Christians do not act only as individuals. Christian people serve each other in their families, and they move from there into the settings of their local congregations. There they gather around Gospel and sacraments as the source and sustenance of their lives with God. In other words, the triune God brings his children together as a corporate community (at several levels), and from there they venture forth into the world God has made and for which his Son died. This leads to another assortment of questions: When and how does this community, which by definition is in but not of the world (John 15:19; 17:14), speak to the society of which it is a part? Who actually speaks for the community? On what basis and with what rationale does it do so?

The above paragraphs constitute an exceedingly oversimplified but nonetheless necessary prolegomena to an exploration of the role of the LCMS in the public realm. Throughout its history, for better and perhaps occasionally for worse, the Missouri Synod has sought to incarnate its theological convictions both in the way it has instructed its members and in its mode of corporate social expression. Theology and practice can never be separated—and they certainly have not been separate when it comes to this topic in the Missouri Synod since 1847. However, only comparatively recently has the Synod endeavored to spell out a more consistent rationale for its periodic forays into the public arena. In fact, the dissemination of this rationale is itself an important aspect of the Synod's work in the public sphere.

This essay will present a selective digest of instances of public involvement by The Lutheran Church—Missouri Synod. In the process, one discerns a working "theology of public expression" that has with some consistency informed these endeavors.

Through the Gospel We Are Free to Serve our Neighbors

The Lutheran theological tradition has always held that the person and work of Jesus Christ puts all human working into perspective. The Son of God's assuming and conquering human sins is the foundation for one's life from and with the triune God. The Gospel and sacraments that bring the transforming message of Christ's reconciliation to God's creatures are the marks or signs of the church, through which this message is extended to all of fallen humanity.

The Lutheran Church—Missouri Synod, working from this point of departure, has consistently maintained that this Gospel the church speaks is not a blueprint for the transformation of society. But by transforming the people in society, it has the potential to do precisely that! This paradox is at the heart of Martin Luther's insight from his "Treatise on Christian Liberty" of 1520: "A Christian is a perfectly free lord of all, subject to none. A Christian is a perfectly dutiful servant of all, subject to all."¹ This has been the point

of departure for the men and women of the Missouri Synod as they have identified and cared for their neighbors.

The issue has been more complicated when such care has been expressed corporately.² From the earliest days, the Synod itself made provisions to meet the needs of German Lutheran immigrants. Nine years after the Synod's formation, Rev. Johann Friedrich Buenger founded St. Louis Lutheran Hospital, thereby extending the reach of the Synod's care. The first orphanage in the Synod appeared a decade later. Soon city missionaries appeared, first to reach out to St. Louis area Lutherans who were institutionalized or imprisoned and then to all those who were in need. The challenges of these ministries prompted the leaders of this movement³ to organize the Associated Lutheran Charities, whose annual conference would come to include workers from various institutional settings (e.g., those serving among the hearing and visually impaired, among the developmentally disabled, and in convalescent homes). Along similar lines, the "Board of Relief" began in 1884 with a charge to care for the families of sainted church workers.⁴ Soon it was providing assistance to disaster victims in the United States and elsewhere. (These tasks were eventually divided in 1917.)

By the middle of the 20th century, the explicit theological foundations were being laid for corporate expressions of Christian care.⁵ It was coming to be recognized that "ministry" in the New Testament entailed more than an exclusive orientation to the proclamation of the Gospel and the administration of the sacraments. Indeed, not only could "ministry" be associated with the amelioration of human need (Acts 6:2; II:29; Romans 15:31; 2 Corinthians 9:1), but it also was connected to the church's collective task (2 Corinthians 8:4). While distinctions were surely in order, any "dualism" of proclamation over against human care was rejected.⁶

As part and consequence of this theological maturation, beginning in 1947, the LCMS decided actually to study social welfare as a church body and to consider the staffing needs of such ministries. These corporate

deliberations resulted in the organization of the Board of Social Welfare in 1951, with Rev. Henry F. Wind serving as its first executive secretary. The unprecedented occasions of human need both in Europe and North America during and after World War II had been the catalyst for synodical President John Behnken's Advisory Emergency Planning Council of 1942. This council eventually became Synod's own Board of World Relief in 1953. Further developments and consolidations resulted in the Board for Social Ministry Services in 1981 and, currently, "LCMS World Relief and Human Care." Such agencies have been able to coordinate and streamline work on behalf of victims of the tsunami in Southeast Asia in 2004 and Hurricane Katrina on the North American Gulf Coast in 2005.

All the while, theology sought to keep pace with accompanying practice and ever-increasing need. The "Social Ministry Affirmations" from 1971 were clarified over the years, resulting in a "Social Ministry Blueprint" finally being presented to the Synod in 1989.⁷ At the core of this public theological work was the realization that just as Jesus' messianic ministry was directed to the needs of the whole person, so the contemporary church dare not neglect any dimension of human beings' existence.

Stated most simply, social ministry is the love of God reaching out through His people, the Church, ministering compassionately to the entire spectrum of human need, e.g., the spiritual, physical, emotional, social and economic. It is loving care for people on the part of those who by faith have received the saving and enabling care of a loving God Social ministry is the companion of and complement to the verbal communication of Christ. It may not be regarded as an optional or marginal activity of the church."⁸

By the turn of the 21st century, more developed theologies of human care were being forged, with the place of human care among the intentional tasks of the community of faith now being secure.⁹

The above represents the barest skeleton of an institutional and documentary history. Yet it does describe a crucial dimension of The Lutheran Church—Missouri Synod in the public realm. However, every bit as important as this complicated institutional and documentary account is how the Synod and its members were *acting* on these theological foundations. What were the Missouri Synod and its members *doing* in the public realm?¹⁰

Among other things, the 1970s and early 1980s saw "Project Compassion" train over 40,000 in personal visitation to those in need. Time-honored ministry to immigrants has today come to include work with refugees from all over the world (particularly from Southeast Asia and sub-Saharan Africa). The Missouri Synod has been actively involved in coordinated efforts to alleviate world hunger. The Synod has for four decades worked to address low-income housing shortages in urban North America (e.g., through resolutions on fair, open housing and open employment; and such endeavors as Project Nehemiah in New York in the 1980s). In some ways this has been part of the Synod's efforts to right old wrongs in connection with undeniable racial discrimination (see the brief discussion below). In addition, rural ministries have sought to ameliorate the consequences of demographic shifts and the financial difficulties attending small farmers.¹¹

Concerning the substance of the foregoing there has been little controversy. By and large, few disputed whether any of these activities were worthy and laudable pursuits. What debate there was had centered around who should engage in such work and the extent to which these activities fall properly speaking under the umbrella of the church's mission and ministry. At the present time, there seems to be emerging consensus that these more "First Article" or "left-hand kingdom" considerations are one aspect of the Synod's mission, even if they do not constitute *the* mission in the more traditional "proclaiming the Gospel and administering the sacraments" sense of the term. In other words, something can be part of God's good and important work without being equated with the kingdom of God as such.

Through the Gospel We Are Free to Speak Publicly to and on Behalf of Our Neighbors

The material agreement noted above has sometimes been more difficult to attain when the issues have extended beyond human care and have related instead to personal and/or public morals, or to national policy and law. Indeed, some of these latter questions have called for a greater measure of theological and moral discernment—and with such discernment carefully nuanced expression.

This work has transpired in several contexts. Pastors and synodical officials going back to C F W Walther have spoken out on public issues on an *ad hoc* basis, their counsel often appearing in the official periodicals of the Synod (e.g., *Lehre und Wehre*, *Der Lutheraner*, and *The Lutheran Witness*). Theologians and theological faculties have likewise spoken as need has arisen. Since 1962, the Commission on Theology and Church Relations has also provided many resources to assist the Synod and its members to deal with public questions from the perspective of an evangelical, biblical, and confessionally normed theology. Sometimes these efforts have converged in the form of a resolution adopted at a synodical convention, the body that expresses the corporate mind of the Synod as to the teaching of Holy Scripture and the *Book of Concord* on a particular issue.

In general, The Lutheran Church—Missouri Synod has been willing to enter the fray of public debate on the basis of two interrelated criteria. First, the Synod has spoken publicly on a controverted issue only when it has ascertained Holy Scripture speaking clearly to the issue at hand.¹² Second, the debated points have ordinarily touched on the “common good” and potentially even impinged upon “civic order.”¹³ With these two criteria in mind, one can discern both a confidence and a reticence to venture into and speak as a church body in the public square—the former when both criteria have been met, the latter when they have not.

There have been instances where the Missouri Synod has taken an unequivocal, public, consistent, and very corporate stand.¹⁴

The most obvious recent examples of such issues are probably abortion and euthanasia. With respect to abortion, the practice has been condemned in official publications, in two CTCR documents, and in synodical convention resolutions. This is even an area where the Synod has gone so far as to endorse a “human life amendment.”¹⁵ (Such an action is significant, because as a general rule the Missouri Synod declines to endorse specific means or measures by which a moral goal is to be achieved.)¹⁶ With respect to both abortion and euthanasia, in the express judgment of the Synod, the Word of God is clear and the stakes to society are enormous.

At other times, the Missouri Synod has spoken to the morality of an issue while refraining from taking a position on proposed legal or constitutional “remedies.” So, the Synod has steadfastly asserted that marriage is divinely intended to be a life-long union of one man and one woman, and the appropriate context for human procreation.¹⁷ However, it has stopped short of endorsing or opposing specific *legislation* in matters relating to this moral affirmation (e.g., homosexual behavior, or matters pertaining to some human “reproductive technologies”).

A corollary to speaking when the Word of God speaks is holding one’s institutional tongue when that Word is silent, or when the biblical data are insufficient to yield an unambiguous position on an issue. There have been areas where the Missouri Synod has discerned no definitive “thus says the Lord.” On some such issues, the common good may still be very much up for debate (cf. the second criterion noted above), but in the absence of any clear Word of God the church body can at most offer counsel and identify the potential implications of the positions being taken in the “public square.” Here, for instance, Convention Resolution 3-06 from 1983 is instructive: “Resolved, That The Lutheran Church—Missouri Synod *in principle* oppose the adoption of conscience-binding pronouncements which are not based on the clear teachings of Holy Scripture” (emphasis added).

In fact, many issues have fallen into this third area. The proposed Equal Rights Amendment in the 1970s, nuclear arms in the

1980s, and more recently, gambling, women in combat, school vouchers, or tuition tax credits are among the subjects on which the Synod or one of its agencies has been invited to take a position. In these cases, the typical pattern of response has been to state what the Scriptures do and do not say about the topic itself as well as the concomitant issues (e.g., the brief CTCR study paper on gambling has a helpful discussion of the meaning of "work" from a Christian perspective),¹⁸ but to refrain from offering a definitive conclusion or "position" when one is not exegetically or theologically warranted.

Historically, such reticence has been shown on some exceedingly controversial topics.¹⁹ During the era of the Vietnam War, the Synod refrained from endorsing or condemning the conflict as such. At the same time and in largely the same context, it approved conscientious objection to military service, but only after carefully circumscribing the conditions under which the objection would be permissible. However one might regard such positions in retrospect, the Synod was convinced that it was speaking responsibly and was not guilty of theological or moral abdication (much less partisan politics). In the process of arriving at its conclusions on these highly charged issues—the only conclusions the Synod felt were genuinely *necessitated* by the Word of God—the Synod was able to rearticulate and develop such important matters as the doctrine of the "two kingdoms," the role of the Christian citizen, the propriety and conduct of civil disobedience, and the meaning and implications of the just war theory.²⁰ It is vitally important to recognize that such counsel is not "less than" a public pronouncement, but rather counsel of a different sort.

Indeed, in contexts such as the foregoing, the CTCR has explicitly endorsed the oft-repeated advice of Richard John Neuhaus: "When it is not necessary for the church to speak, it is necessary for the church not to speak."²¹ Perhaps most important in today's often polarized and acrimonious public realm is the CTCR's further observation in 1995: "Theological solidarity is not necessarily inconsistent with political diversity, nor do disagreements concerning specific political issues necessarily imply theological disagreements."²²

Both sections of this article have been necessarily selective. However, one important issue, which could be included in either section, must still be addressed in any essay of this sort. That issue is the Missouri Synod's public position and record in the area of race relations, particularly vis-à-vis the African American community. Fourteen years after the Synod's founding, the nation was torn asunder by the Civil War, which was fought over the issue of slavery and political considerations directly related to it. The complicated attitudes of the Missouri Synod's founders toward the issues and the conflict itself would be a volume in its own right.²³ On the specific issue of racial equality, however, the Synod's public pronouncements were doubtless tardy but nonetheless unequivocal. Twelve years after the Civil War, the Synodical Conference commissioned missionary work among African Americans. In 1903, the school that would become Concordia College in Selma, Alabama, began as Immanuel Lutheran College and Seminary. In 1947, the Synod officially adopted a policy of integrating the African American congregations and their ministerium into the Missouri Synod. This process was completed in 1961. Since at least 1956, the Missouri Synod has consistently sought ways to combat the "evil of racism" (e.g., conferences; structures, policies, and commissions; and many, many convention resolutions)—both in the United States and across the world.²⁴

These measures were predicated on the unimpeachable theological truth that all of humanity has been created in the image of the triune God and has been redeemed by the same atoning blood of Jesus Christ, whose forgiveness extends to all people without preference or discrimination. In the kingdom of God—anticipated here and now first in the waters of baptism—the sinful divisions that have such tragic consequences in the fallen world no longer exist.

Sadly, this is one area where practice has lagged behind theory.²⁵ Walther's ambivalent stands on slavery in his own era can possibly be attributed to a failure to recognize the overtly racial (better, racist) character of slavery in North America. On other related

issues, a theology of integration did not give rise to prompt or effective practice at the congregational, district, and Synod-wide levels. Ironically, one all too modest sign of hope may be that this is one area about which the Missouri Synod has been willing to be publicly self-critical.²⁶ The stream of resolutions, the variety of resources invested, and the corrective measures undertaken at all levels will, with the help of God, make the next chapter in this story a more positive one.

Epilogue

Whether "doing it unto the least of these" (Matthew 25:40) or balancing the twin imperatives of submitting to the governing authority (Romans 13:1–5) while obeying God rather than God's human and often sinful agents (Acts 5:29), The Lutheran Church—Missouri Synod has sought to instantiate the Word of God in a fallen but redeemed world. When necessary, in the interests of justice it has spoken the moral law in the civil realm, where governments sometimes forget their own provisional status under God. When possible, it has sought to bring the eschatological values of the new creation to suffering men, women, and children in physical as well as spiritual ways. It has not been an unbroken success story. But at its best it has been energized by the promises of God in Jesus Christ, promises that overcome false starts, missteps, and failures of spiritual and theological nerve. In these promises, the *shalom* of a new Eden—where God and God's creatures live in harmony and enjoy the other's company—is no longer a wistful memory but an expectation whose certainty is grounded in the empty tomb of the risen Jesus.

End Notes

- 1 See "The Freedom of a Christian," trans. and ed. Harold J. Grimm, in *Career of the Reformer—I, 1517–1520*, in *Luther's Works*, American Edition (Philadelphia: Fortress Press, 1957), 31:344.
- 2 A straightforward narrative of this work appears in George J. Gude, "The Church in Society," *Heritage in Motion Readings in the History of The Lutheran Church—Missouri Synod, 1962–1995*, ed. August R. Suelflow (St. Louis: Concordia Publishing House, 1998), pp. 237–240, 251–258. The extended account of this specific work is F. Dean Lueking, *A Century of Caring, 1868–1968: The Welfare Ministry Among Missouri Synod Lutherans* (St. Louis: Board of Social Ministry, The Lutheran Church—Missouri Synod, 1968).

- 3 Specifically, Revs. Frederick William Herzberger, Frederick Ruhland, and August Schlechte. Two key leaders of this entire movement were Henry Wind and E. Buckley Glabe, who together initiated greater cooperation among agencies, government, and Lutheran church bodies.
- 4 Gude, p. 252.
- 5 The LCMS Commission on Theology and Church Relations has identified the work of Professor Richard R. Caemmerer from 1938 in *Render Unto Caesar... and Unto God: A Lutheran View of Church and State* (September 1995), p. 48; see also Lueking, p. 56. See also the essay of Martin H. Scharlemann in *Healing and Redemption* (St. Louis: Concordia Publishing House, 1965).
- 6 See, for example, *Faith Active in Love: Human Care in the Church's Life*, A Report of the CTCR (February 1999), p. 6.
- 7 See the relevant texts in Gude, pp. 246–250.
- 8 p. 249
- 9 See, for example, the tract "Theology for Mercy," regarding 2004 Convention Resolution 6–01, issued by LCMS World Relief and Human Care, Rev. Matthew C. Harrison, Executive Director; also Robert Rosin and Charles P. Arand, eds., *A Cup of Cold Water: A Look at Biblical Charity* (St. Louis: Concordia Seminary Publications, 1996).
- 10 See Gude, pp. 251–258.
- 11 This list mentions only those activities conducted under official auspices and not the countless efforts taken more spontaneously at more regional levels.
- 12 This criterion is evident in many places, and it is probably most explicitly spelled out and developed in *Render Unto Caesar*, especially p. 51.
- 13 This is perhaps most succinctly expressed in *Abortion in Perspective*, A Report of the CTCR, as prepared by its Social Concerns Committee (May 1984), p. 42.
- 14 Summarized by Gude, pp. 277–280.
- 15 See 1979 Synodical Convention Resolution 3–02A.
- 16 See *Render Unto Caesar*, p. 69.
- 17 This is repeated often in various contexts. It is largely the thesis of *Christians and Procreative Choices: How Do God's Chosen Choose?* A Report of the CTCR (September 1996), especially pp. 36–37.
- 18 See *Gambling*, A Report of the CTCR (February 1996), p. 9.
- 19 See Gude, pp. 277–278, 280–287.
- 20 See, for example, the CTCR pamphlets, "Civil Obedience and Disobedience" (1967) and "Guidelines for Crucial Issues in Christian Citizenship" (1968). In some of these materials, including the selections offered by Gude, one discerns the influence of such major foundational texts as Albert G. Huegli, ed., *Church and State Under God* (St. Louis: Concordia Publishing House, 1964).
- 21 *Render Unto Caesar*, p. 65.
- 22 *Ibid.*, p. 76.
- 23 See the carefully circumscribed remarks of Carl S. Meyer, "Early Growth of the Missouri Synod," in *Moving Frontiers: Readings in the History of The Lutheran Church—Missouri Synod* (St. Louis: Concordia Publishing House, 1964), pp. 234–238.
- 24 The foregoing is summarized in *Racism and the Church*, A Report of the CTCR (February 1994), pp. 25, 27–28; and Gude, pp. 254–255, 265–268. Note the condemnation of apartheid in 1986 Convention Resolution 7–08A, quoted in *Render Unto Caesar*, p. 82.
- 25 This is readily conceded by Gude and by the CTCR in *Racism and the Church*.
- 26 For example, the 1997 public relations video commemorating the 150th anniversary of the founding of the Synod, "Sent Forth by God's Blessing."





Derik Ledesma

24



ISSUES



Jess Kuhl

TIM BUTZ

How the ACLU Views Religious Expression in the Public Square

Current public opinion polls are clear. The majority of Americans see little harm in some form of government endorsement of religious beliefs such as displays of Ten Commandment monuments on government property. A CNN-Gallup poll conducted during the week of November 7, 2003, found that 76 percent of those polled objected to a court order to move a Ten Commandments monument from the Alabama Supreme Court building.¹ Why then do organizations such as the American Civil Liberties Union (ACLU) continue to buck popular sentiment? Why do they oppose the Ten Commandment displays on government land or prayer in public schools?

The ACLU is known as the group that defended John Scopes in the country's first challenge to laws prohibiting the teaching of evolution. It has also litigated to remove prayers from public schools and to remove Ten Commandment displays from town squares.

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The Alliance Defense Fund, which sometimes opposes the ACLU in court on such matters, has accused the ACLU of ongoing hostility towards religion, saying that "the ACLU and its allies have sought to limit the spread and influence of the Gospel in the United States."²

The ACLU: Purpose and Organization

The ACLU was founded as and continues to be an organization concerned with preserving civil liberties, the individual freedoms that are enshrined in the Bill of Rights. Civil liberties are rooted in the United States Constitution while civil rights are rooted in laws passed by Congress and the states. Since the U. S. Constitution requires the government to afford equal protection of the law, civil rights can be seen as an area of civil liberties.³

The rights of the majority are normally secure from adverse action by the government. Civil liberties problems usually occur when the government targets someone who lacks power or political support. Those who find themselves in the minorities, be they

political, racial, sexual, or religious minorities, are more likely than others to have problems caused by the government abridging their constitutional rights.

A barometer of this can be seen in issues that the ACLU considers important enough to make part of its work. Currently, the ACLU is working in more than twenty areas of civil liberties concerns, and religious liberty is just one of those issues. It also works on pressing civil liberties issues as immigrant rights, free speech, reproductive freedom, gay and lesbian rights, the abolition of capital punishment, privacy and technology, national security, racial justice, and women's rights.⁴

The ACLU is a national organization with almost 500,000 members; it has affiliate offices and paid staff working in every state, the District of Columbia, and Puerto Rico.⁵ It is governed by an elected national board of directors who guide the organization. ACLU state affiliates generally follow guidance from the national office, but any affiliate is free to take stands contrary to the national organization if it does not significantly impair the work of the national organization.⁶

The national ACLU does not require affiliates to obtain permission to initiate litigation, nor does it maintain a consolidated listing of litigation undertaken by its affiliates.⁷ Because there is no central listing of litigation, it is difficult to count the cases where the ACLU has challenged government activities that it sees as violating the First Amendment. However, one scholar has estimated that 80 percent of all ACLU litigation is undertaken by the state affiliate offices. The ACLU has attorneys on staff in almost all of its state offices, and maintains relationships with thousands of attorneys who are willing to assist with its cases.⁸

The ACLU sees its work on issues of government and religion as one of maintaining religious liberty. Unlike groups such as Americans United for Separation of Church and State or American Atheists, the ACLU's work encompasses work on both the Free Exercise Clause and the Establishment Clause of the First Amendment.

The Free Exercise Clause prohibits the government from interfering with religious practices. The Establishment Clause prohibits

government action that would lead to endorsing one religion over any other, or even religion over non-religion.⁹

Two Hoaxes

The ACLU is best judged by what it has done and what it continues to do. But misinformation about the ACLU is plentiful and can create an impression that the ACLU is instinctively hostile towards religion. The facts do not support such a view. While the ACLU is vigorous about taking action when it believes the Establishment Clause has been violated, it is also energetic in defending the rights arising from the Free Exercise Clause.

However, the ACLU has been the target of two widely disseminated hoaxes designed to portray it as inherently hostile towards religion. The first hoax involves allegations that the ACLU wants to remove crosses from federal cemeteries. This hoax incorporates a photograph of a World War II veterans' cemetery in Europe, challenging the ACLU to remove the crosses.

The second prominent hoax shows a photo of U. S. Marines bowing their heads at a ceremony recognizing the founding of the Marine Corps. Accompanying the photo is a claim that the ACLU has objected to the practice and that a spokesman for the Marine Commandant replied to the ACLU's criticism with an expletive.

As the hoax-busting Web site Snopes.com found, these allegations are simply not true. Snopes.com calls the hoaxes "another example of one group exaggerating their opponent's position in order to mobilize support through political outrage."¹⁰ However, these hoaxes have become so widely disseminated that the ACLU includes a denial of them in the Frequently Asked Questions section of its national Web site.¹¹

If these Internet fables about the work of the ACLU are not true, what is the truth about it?

Defense of Religious Liberty

The ACLU's early work on religious liberty issues shows how it has defended both of the First Amendment clauses regarding religion. In 1925, just five years after its founding, the ACLU offered to defend any Tennessee teacher who violated a state law prohibiting the teaching of any theory of creation that conflicted with

the Bible. The offer led to the ACLU defending John Scopes in the famous Scopes-Monkey Trial prosecuted by William Jennings Bryan.¹²

The second major ACLU religious liberty case occurred in 1938, when it challenged a Georgia ordinance prohibiting the distribution of literature without a city permit. The ACLU represented Jehovah's Witnesses who were barred from distributing religious tracts without the permit. The Supreme Court ruled in favor of the ACLU's clients and struck down the law.¹³

The next significant ACLU litigation on religious liberty came in 1943, when it went to court on behalf of Jehovah's Witness students who were compelled to salute the American flag in violation of their religious beliefs. The Supreme Court held that the school could not invoke sanctions against the students for their refusal.¹⁴

As important as these Supreme Court cases may be, there is a significant amount of work that never reaches that level. An informal survey conducted on the ACLU's internal legal listserv identified numerous instances during 2001-04 where the ACLU was defending people who were denied the freedom to act on their religious beliefs. Among the work conducted by ACLU affiliates were these cases.¹⁵

- The Washington affiliate defended a Baptist minister charged with illegally distributing material without a city permit.
- The Indiana and Nevada affiliates defended the rights of Christian ministers to preach on the public sidewalks.
- The Rhode Island affiliate won a victory for carolers who wanted to sing to the inmates of a women's prison on Christmas Eve.
- The Nebraska affiliate successfully represented a Presbyterian church that was facing an order to vacate their rented church site because it was not zoned for churches.
- The Pennsylvania affiliate represented a Baptist church denied a zoning permit to open a church.
- The Massachusetts affiliate defended high school students facing punishment for distributing candy canes with religious messages. It also supported the right of a church to place advertisements in a subway system criticizing the secularization of Christmas and promoting Christianity as the "one true religion."

- The Iowa affiliate won the right for Christian students to distribute literature at school during non-instructional time.
- The Utah affiliate won a reversal of a decision denying evangelical Christians the right to have a booth at the state fair.

The Nebraska affiliate also filed a friend of the court brief with the Nebraska Supreme Court that attacked the Nebraska Liquor Control Commission definition of a church. The definition became an issue in a case where the Commission granted a liquor license to a convenience store over the objection of the City of Omaha. The store was less than 200 feet from the House of Faith, a small, poor church operating from a rented storefront. Nebraska law sets a 200 feet buffer between schools and churches and establishments selling alcohol. The House of Faith had been in the same location for ten years, conducting Wednesday Bible studies and Sunday services. Because its congregation was made up of the working poor, it had never bothered to incorporate or seek tax-exempt status from the IRS.

The Commission refused to recognize the House of Faith as one entitled to the zoning buffer, and granted a liquor license. The Commission justified its action based on their rule defining a church according to a three-pronged test. The church had to be incorporated, have tax-exempt status and own its church building in order to be recognized as a church. The City of Omaha appealed the Commission's decision and asked the ACLU for assistance.

The ACLU argued that the Commission's rule violated both the Free Exercise Clause and the Establishment Clause because it placed an unnecessary burden on churches and their members and gave government preference to churches that were able to meet the requirements.

In its brief to the Nebraska Supreme Court, the ACLU argued that the proper test was a functional one focusing on the question of whether the entity operated as church, and that under such a test the license could not be issued because the House of Faith would have been found to be a church. The Nebraska Supreme Court agreed and threw out the Commission's definition of a church as violating the First Amendment.¹⁶

Establishment Clause Cases

The ACLU's work on Free Exercise claims usually does not attract the public attention that is given to its work on Establishment Clause claims. An ACLU publication distributed in 2000 lists seven major Supreme Court cases it either litigated or appeared as *amicus curiae* involving the Establishment Clause. These cases involved issues of public school Bible reading, school prayer, moment of silence requirements in schools, the teaching of "creation science," and public school graduation prayers. In each of the cases, the Supreme Court struck down practices that the ACLU argued violated the Establishment Clause.¹⁷

The first post World War II case brought by the ACLU as an Establishment Clause case involved the practice of reimbursing the parents of parochial school students for the cost of transporting their children to school.¹⁸ The Supreme Court eventually ruled that the New Jersey law allowing the payments violated the First Amendment. Walker notes that this decision opened the door for decades of subsequent litigation.¹⁹

Sixteen years passed before the Supreme Court directly addressed the practice of prayer and Bible reading in public schools. The Court had consolidated two cases dealing with these issues and released a decision on June 17, 1963. The first case, *Murray v. Curlett*, challenged the practice of school prayer in the Baltimore public schools. The related case, *Abington School District v. Schempp*, was filed by the ACLU and challenged the practice of daily Bible reading and prayer in Pennsylvania public schools. The Supreme Court, with only one dissenting vote, ruled that school organized or led prayer and Bible reading violated the Establishment Clause.²⁰

Such actions suggest that it is not a surprise that the ACLU has opposed the use of government land for activities that create an appearance of government endorsement of a religious belief. The ACLU has litigated against displays of the Ten Commandments on government property in at least seven states (Alabama, Georgia, Kentucky, Nebraska, Virginia, Washington, and Minnesota). Two such cases from Kentucky were heard by the

U. S. Supreme Court in its last term. The Court used the Kentucky cases, which had led to court orders to remove Ten Commandment displays from courthouses, and one from Texas to address the issue of whether such displays violate the Establishment Clause.²¹

In Kentucky, the ACLU challenged two counties that had ordered the Ten Commandments to be posted in a prominent location in their courthouses. After the ACLU of Kentucky sued, the counties modified their order to include additional displays, stating that the Commandments were the underlying principles behind Kentucky's legal code. The counties justified the displays by referring back to a Kentucky legislative resolution identifying Christ as the "Prince of Ethics." All the additional documents were religious in nature.

Following an adverse preliminary decision by the federal District Court, the counties again changed their displays by adding the Star Spangled Banner, the Declaration of Independence and an explanation of how they influenced Western legal thought.

In Texas, the state government erected a Ten Commandments monument given to it by the Fraternal Order of Eagles. The monument was placed on display on the capitol grounds, where it was surrounded by twenty-one historical markers and seventeen monuments. The monument was on display for approximately thirty years before it was challenged by an attorney who frequented the capitol grounds.

The two cases contained dissimilar facts. This set the stage for the Court to rule differently on the cases, disallowing the Kentucky displays while upholding the Texas display.

In ruling on the Kentucky cases, the Court found that the explicit religious intent manifested by the counties in creating the displays was clear from their legislative history, and therefore they violated the Establishment Clause.

In upholding the display on the Texas capitol grounds, the Court stated that while the Ten Commandments are religious in their tone, they were also historical, and that the monument had the secular purpose of recognizing the work of the Fraternal Order of Eagles in combating juvenile delinquency.

As a result, the lower courts have been left with great discretion in deciding such cases. Since McCreary County and Van Orden were released by the Supreme Court in late June, two courts have used the Van Order decision to allow the continued displays of Ten Commandments monuments in Nebraska and Washington.²²

What's Ahead?

Where does this leave the ACLU? Clearly, the Court has drawn a line in the sand, and those displays that have histories clearly linking them to religious purposes remain vulnerable to challenges. On the other hand, with Van Orden, the Court has seemingly created a grandfather clause allowing the older displays with less religious provenance to remain in the town square.

The ACLU will continue to do what it always has done—defend individual rights. Since the Ten Commandments decision, it has entered a case alleging that a New Jersey school violated the Free Exercise Clause when it prohibited a second grade girl from singing “Awesome God” at an after-school talent show.²³

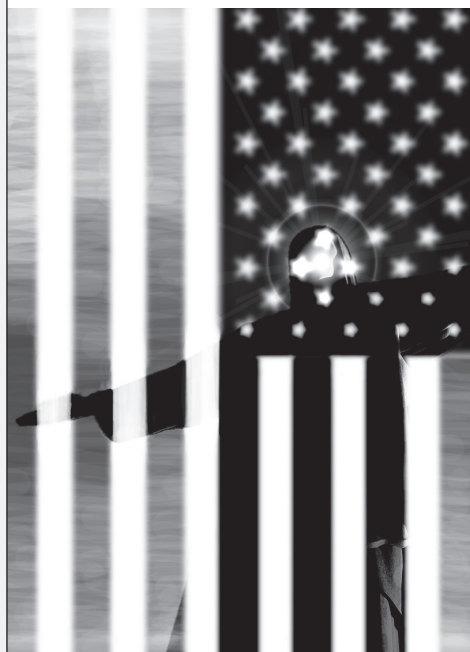
It has also gone to court on behalf of parents of Dover, Pennsylvania, public school students who object to the introduction of intelligent design instruction into 9th grade biology classes. The parents object to intelligent design on both Free Exercise and Establishment Clause grounds. They allege that intelligent design is inherently religious in its construction and violates the Establishment Clause. The parents who have challenged the schools include some who have expressed their concern that intelligent design infringes on their rights as parents to provide the religious instruction of their children.²⁴

Some may think that the ACLU is talking out of both sides of its mouth or being disingenuous by such actions, but civil libertarians continue to see them as logical. When the government talks like a preacher instead of a civil servant, something is wrong. When the government tries to silence a preacher, or a second-grader, something is wrong. Two wrongs fail to make anything right. And in the end, the ACLU will continue to look to the Constitution and not the polls to decide when it must act.

End Notes

- 1 www.cnn.com/2003/LAW/08/27/ten.commandments accessed August 30, 2005. This number held at 75 percent in a poll conducted by ABC News on June 24–26, 2005. The ABC poll was conducted just before the U.S. Supreme Court ruled on two cases challenging the placement of Ten Commandment monuments on government property.
- 2 www.alliancedefensefund.org/issues/religiousfreedom/Default.aspx, accessed September 1, 2005.
- 3 *Civil Liberties in America*, Samuel Walker, ABC Clio, Santa Barbara, 2004, 3–4.
- 4 A complete list can be found at www.aclu.org, accessed July 15, 2005.
- 5 General information on the ACLU’s history and structure can be found on its Web site, www.aclu.org, accessed July 15, 2005.
- 6 Minutes of the ACLU National Board meeting, December 9–10, 1972.
- 7 Minutes of the ACLU National Board meeting, February 14–15, 1970.
- 8 In *Defense of American Liberties*, Walker, Samuel, Southern Illinois University Press, 2nd edition, 1999, p. 4.
- 9 The First Amendment states that “Congress shall make no law respecting an establishment of religion or prohibiting the exercise thereof; . . .” With the passage of the 14th Amendment, these obligations were passed on to the state and local levels of government.
- 10 www.snopes.com/politics/religion/cemetery.asp, accessed September 2, 2005.
- 11 www.aclu.org/info/info.cfm?ID=14684&c=248, accessed September 2, 2005.
- 12 Walker, *supra*, pp. 72–73.
- 13 *Lovell v. City of Griffin*, Georgia, 303 U.S. 444, 1938.
- 14 *West Virginia State Board of Education v. Barnette*, 319 U.S. 624, 1943.
- 15 E-mail, Chris Hampton to ACLU Legal Listserv, February 5, 2005.
- 16 *City of Omaha v. Kum & Go*, 263, Neb. 724, 2002.
- 17 “ACLU 100 Greatest Hits” American Civil Liberties Union, 2000. In addition to *Everson*, the ACLU was involved in the following cases: *Engel v. Vitale* 1962 (“nondenominational” school prayer); *Abingdon School District v. Schempp* 1963 (Bible reading in public schools); *Epperson v. Arkansas*, 1968 (ban on teaching evolution); *Wallace v. Jafree*, 1985 (moment of silence); *Edward v. Aguillard* (mandate to teach “creation science”); *Lee v. Wiseman* 1992 (high school graduation prayer).
- 18 *Everson v. Board of Education of Ewing Township*, 330 U.S. 1, (1947).
- 19 Walker, *supra*, at 169.
- 20 The consolidated opinion is found as *Abingdon School District v. Schempp*, 374 U.S. 203, 1963.
- 21 *McCreary County, Kentucky, et al v. ACLU of Kentucky, et al*, U.S., Docket No. 03-1693 and *Van Orden v. Perry, et al*, Docket No. 03-1500, both argued March 2, 2005, and decided June 27, 2005.
- 22 *Doe v. City of Plattsmouth*, F2nd, Court of Appeals for the Eighth Circuit, opinion dated August 19, 2005; *Card v. City of Everett*, U.S. District Court for the Western District of Washington, Docket No. C-03-2385L, opinion dated September 13, 2005.
- 23 www.aclu.org/ReligiousLiberty/ReligiousLiberty.cfm?ID=19116&c=139 accessed September 20, 2005.
- 24 www.aclu.org/evolution/legal/complaint.pdf and www.aclu.org/evolution/parents.html accessed September 9, 2005.

book reviews



The Anonymous God: the church confronts civil religion and American society

Edited by David L. Adams and Ken Schurb
St. Louis: Concordia Publishing House, 2004

Real-live Christians need help understanding the two realms of God's rule. This book of ten essays provides some assistance. While consistent in quality, like many essay collections it varies in rigor: some elementary, some reflective and informative, and a few over-long. The reader unfamiliar with two-kingdom doctrine will find valuable background and perspectives but will be puzzled about some everyday issues not addressed. The reader acquainted with the church-and-state conversations will gain some updates about America's version of civil religion while reviewing familiar territory.

As described on the back cover, "the contributors reflect on the importance of knowing and worshiping the triune God without confusing Him with the state and its rule of law." The authors directly or indirectly use two points of departure for their comments. One is 9/11. The other is a highly regarded essay called "Civil Religion in America" written by Robert Bellah (best known for the book, *Habits of the Heart*).

Bellah's 1967 essay became the accelerant for decades of discussion about civil religion which essayist Alvin Schmidt defines as

the deeply held beliefs regarding American values and practices pertaining to freedom, democracy, equality, opportunity, toleration, and pluralism. These beliefs are portrayed by patriotic symbols in gatherings where they are publicly revered as sacred because they represent God. God, however, remains undefined in these gatherings, but this god has chosen the United States to play a special, salutary role in human history.

The concern is that this civil religion is an idolatry to which Christians and non-Christians are highly susceptible, especially in times of national crisis. Thus 9/11, the other touchstone, serves as an emotionally powerful reference for invoking the god and socially pragmatic values of our civil religion. To the editors' credit, the essays rarely refer to the Prayer for America event at Yankee Stadium and never to David Benke, focusing instead on historical and biblical content.

By way of strengths, the essays examine in several ways what co-editor David Adams calls Christianity's scandal of particularity. Civil religion must leave its god unspecified and allow today's polytheistic participants to fill in the blank. Christians are seen to commit the cardinal sin against pluralism by naming Jesus as the way, the truth, and the life.

To lend perspective to the issues and problems of civil religion, the book also offers several historical treatments of such figures as the second century church father, Athenagoras, America's founding fathers, C.F.W. Walther, and the 20th century work of Martin Marty and Sidney Mead. The influences of deism and freemasonry as taproots for America's "public religion" (Benjamin Franklin's term and goal) are featured along the way.

As a reader for book groups or classes, *The Anonymous God* may be most valuable for the questions it prompts but does not address. The Afterword, written by Adams, acknowledges that despite its idolatry, civil religion does serve important functions in a democracy, such as sustaining religious discourse in the public square. The readings do not explore the ways state Christianity in Europe has degenerated to secularism while, comparatively, the Gospel thrives alongside America's anonymous deity.

More practically for most readers, the book does not consider the Christian pastor's or layperson's involvement in our usual intersections with civil religion, including weddings, funerals, boy scouts and girl scouts, baccalaureates, team prayers at the local high school, "See You at the Pole" prayer gatherings for high school students, and local civic celebrations. (Seward, Nebraska, begins its nationally recognized Fourth of July celebration each year with a public prayer service at the courthouse.

Tune in on Good Morning, America as, by yearly turns, each of the local pastors ... well, never mind.)

Adams does offer some principles that may help devise responses to such situations, and the collected writings recognize that answers may not be transparent. They recommend both due diligence regarding our involvement in civil religion and forgiveness for those with whom we disagree. The role of either forgiveness or forbearance in circumstances of *adiaphora* or about which informed Christians may disagree is itself a matter for further discussion that the book does not examine but that readers can.

Chapter eight, "The Church in the Public Square in a Pluralistic Society," tries an interesting thought experiment by adding a third realm to the usual Lutheran two-realm perspective. As a device for assessing participation in activities that may compromise our witness to the Gospel, the author proposes "an additional realm that is at the same time *civil* (or *civic*) and *religious*." Events in this domain seek to advance the public good by practicing overt discourse about god or gods. We Christians, otherwise free to participate in activities that are conspicuous either in the right-hand or left-hand realm, would need to decide whether our involvement in this civil religious realm would advance or confuse our witness. This thought experiment is not entirely successful—civil religion is certainly a feature of the left-hand kingdom where God's rule of law prevails and the Gospel does not, and is not its own realm—but the notion does prompt further inquiry into the two-kingdom doctrine.

Real-live Christians do need additional assistance and Christian education about the two realms. Perhaps some who read these essays will be motivated to write a sequel that devotes one chapter to this volume's chief insights about civil religion and then examines the two realms of God's rule not just in terms of church and state but in the multifaceted ways that Law and Gospel inform the entire vocation of the Christian.

Russ Moulds

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God's Politics: Why the Right Gets It Wrong and the Left Doesn't Get It

Jim Wallis

San Francisco: Harper, 2005

Jim Wallis, an evangelical social activist, is the leading voice of the progressive Christian movement. In *God's Politics*, Wallis exposes what he sees as the flaws of the current use of religion

in politics and presents his overarching goal to transform America into a truth-telling, peace-seeking, poverty-busting nation.

The current problem with religion and politics, according to Wallis, is that neither party uses religion correctly. Democrats refuse to allow religious faith a public role, relegating it to the private sphere. Wallis rejects a solely private faith, arguing that this tactic leaves the country without a moral guide. The Republicans, on the other hand, have limited the scope of Christianity. To them, Christians should be concerned only about keeping the Ten Commandments in front of courthouses, gay marriage and abortion. By focusing solely on these issues, Republicans miss what Wallis considers the crux of biblical teachings: to promote social justice and peace throughout the world.

Wallis's answer to the current ideological standoff between Democrats and Republicans is to forge a new grassroots option, which he labels "prophetic politics." Prophetic politics, based upon the words of Christ and the various prophets of the Old Testament, would create solutions by using the best techniques of both parties. Prophetic politics would also create a seamless garment of life, in which every life would be valuable, including the unborn, the elderly, the poor, and the oppressed. While Wallis's vision of prophetic politics is powerful, he fails to explain how a grassroots movement could not only break down each party's ideological barriers, but also financially compete with the special interest groups lobbying candidates.

Wallis then explains how prophetic politics would address two important issues: terrorism and poverty. Wallis presents strong arguments dealing with the issue of poverty. Using numerous examples from the prophets and Christ's own words, he condemns current American economic practices. He also urges third-world debt cancellation, fair-trade practices, and bipartisan solution to poverty at home using both government and private groups. Wallis's position on terrorism is not as strong. He fails to scripturally support many of his claims and fails to counter the arguments based on Romans 13 that the state has the power to bear the sword. The war on terrorism transforms into a war on poverty, with Wallis asserting that the elimination of poverty would diminish the allure of terrorist organizations.

Wallis's vision for America is a compelling one: a nation in which poverty is eliminated, every life is valued, working together with other nations to establish a more just world. However, Wallis seems to forget that we live in a sinful world. The civil government operates within the kingdom of the world, and sin can thwart even the most powerful prophetic

politics. Perhaps that is the irony of politics based on the prophets; while the message is correct, the prophets were ignored by Israel until it was too late. Nevertheless, *God's Politics* is a thought-provoking book, and while the reader may or may not agree with Wallis's conclusions, his arguments are worth pondering before the next trip to the ballot box.

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So Help Me God: The Ten Commandments, Judicial Tyranny, and the Battle for Religious Freedom

Roy Moore

Nashville: Broadman & Holman, 2005

On June 27, 2005, four days before she announced her retirement this past summer, Supreme Court Justice Sandra Day O'Connor highlighted the role and importance of the First Amendment in protecting the free exercise of religion:

At a time when we see around the world the violent consequences of the assumption of religious authority by government, Americans may count themselves fortunate: Our regard for constitutional boundaries has protected us from similar travails, while allowing private religious exercise to flourish. . . . Given the history of this particular display of the Ten Commandments, the Court correctly finds an Establishment Clause violation. . . . The purpose behind the counties' display is relevant because it conveys an unmistakable message of endorsement to the reasonable observer. [*McCreary County v. American Civil Liberties Union of Kentucky*, 125 S. Ct. 2722, 2746 (2005).]

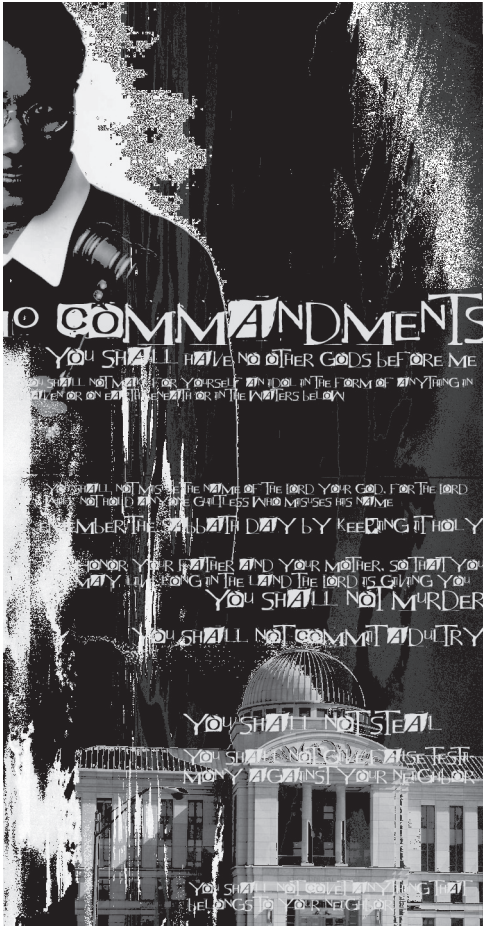
In *So Help Me God: The Ten Commandments, Judicial Tyranny, and the Battle for Religious Freedom*, former Alabama Supreme Court Justice Roy Moore describes his personal and professional journey to acknowledge God from the bench of the Alabama Supreme Court by creating and displaying a two-and-a-half ton granite monument engraved with the Ten Commandments and other references to God in the rotunda of the Alabama State Judicial Building. Moore's story begins with his childhood in Etowah County, Alabama, and ends with his removal from his position as Chief Justice of the Alabama Supreme Court by a state ethics panel.

Moore's account is one-third chronological account of his court battles, one-third history lesson regarding the religious convictions of America's forefathers, and one-third sermon on the so-called moral decay of society and the need for courts and legislatures to publicly acknowledge the Bible and the Judeo-Christian God as the moral foundation of the American law and justice system. It is frequently difficult to follow the thread of Moore's logic as he struggles to explain how displaying the Ten Commandments is not an endorsement of Judeo-Christian faiths.

Moore's legal battles began when he displayed a wooden placard of the Ten Commandments and invited clergy to say prayers in his first courtroom as an Etowah County Judge. From the beginning of his tenure on the bench, Moore faced opposition from the American Civil Liberties Union and other organizations who contested Moore's religious displays. Shortly after being elected to the Alabama Supreme Court, Moore commissioned the granite monument of the Ten Commandments. On the day of the installation of the monument, Moore said that he hoped that "this day marks the beginning of the restoration of the moral foundation of law to our people and a return to the knowledge of God in our land."

The Establishment Clause of the Bill of Rights prohibits any law "respecting an establishment of religion." *Glassroth v. Moore*, 335 F.3d 1282, 1293 (11th Cir. 2003). The United States Supreme Court has interpreted this phrase to mean that "government may not promote or affiliate itself with any religious doctrine or organization, may not discriminate among persons on the basis of their religious beliefs and practices, may not delegate a governmental power to a religious institution, and may not involve itself too deeply in such an institution's affairs." *Id.* Moore's display of the Ten Commandments was ultimately struck down by the United States District Court for the Middle District of Alabama as an unconstitutional violation of the Establishment Clause. In analyzing Moore's display, the Eleventh Circuit explained the potential impact of allowing Moore to display the Ten Commandments. "[I]f we adopted his position, the Chief Justice would be free to adorn the walls of the Alabama Supreme Court's courtroom with sectarian religious murals and have decidedly religious quotations painted above the bench. Every government building could be topped with a cross, or a menorah, or a statue of Buddha, depending upon the views of the officials with authority over the premises." *Id.* at 1294. The decision of the Alabama district court was affirmed by United States Court of Appeals for the Eleventh Circuit.

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Following the decision of the trial court and the expiration of his appeal, Moore refused to comply with the order of the district court to remove the Ten Commandments from the rotunda of the Alabama State Judicial Building. Following a trial before a state ethics panel, Moore was removed from his position as Supreme Court Justice for his refusal to comply with the court order.

Moore regards the judicial outcome of his display of the Ten Commandments as an attack on Christian morality and the religious roots of our nation. Moore's one-sided account of the history of religion in society fails to appreciate the sentiment expressed by Justice O'Connor above—that the separation of church and state protects and benefits religion. In a separate case finding an unrelated display of the Ten Commandments unconstitutional, Justice O'Connor reminds us of the historical basis and importance of prohibiting Establishment Clause violations.

The First Amendment expresses our Nation's fundamental commitment to religious liberty by means of two provisions—one protecting the free exercise of religion, the other barring establishment of religion. They were written by the descendants of people who had come to this land precisely so that they could practice their religion freely. . . . They embody an idea that was once considered radical: Free people are entitled to free and diverse thoughts, which government

ought neither to constrain nor to direct. . . . By enforcing the Clauses, we have kept religion a matter for the individual conscience. . . . Our guiding principle has been James Madison's—that "[t]he Religion . . . of every man must be left to the conviction and conscience of every man." Government may not . . . prefer one religion over another or promote religion over nonbelief. . . . When we enforce these restrictions, we do so for the same reason that guided the Framers—respect for religion's special role in society. . . . Voluntary religious belief and expression may be as threatened when government takes the mantle of religion upon itself as when government directly interferes with private religious practices. When the government associates one set of religious beliefs with the state and identifies nonadherents as outsiders, it encroaches upon the individual's decision about whether and how to worship. . . . Allowing government to be a potential mouthpiece for competing religious ideas risks the sort of division that might easily spill over into suppression of rival beliefs. Tying secular and religious authority together poses risks to both. (*McCreary County*, 125 S. Ct. at 2746-2747.)

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