

# The LUTHERAN CLARION



Lutheran Concerns Association  
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## From Toleration to Supremacy: A Review of Recent Supreme Court Decisions (Part II)

**Editor's Note:** Mr. Mark Stern, Esq., presented the following paper on January 20, 2014, at the 2014 LCA Conference in Fort Wayne, Indiana. Part I was published in the March 2014 issue of the Clarion.

The March 2014 Lutheran CLARION contained the first portion of Attorney Mark Stern's presentation on same-sex marriage at the January 20, 2014 LCA Conference. Clarion readers are referred to that issue where at the outset Attorney Stern observed the distinction of Law and Gospel before reviewing recent Supreme Court and lower court decisions on same-sex marriage. Court decisions on the subject continue around the country. Our readers are encouraged to study them.

### What Next?

Just one week before this article was written, a U.S. District Judge in Utah issued an opinion striking down part of Utah's law against polygamy, in *Brown v. Buhman*.<sup>48</sup> Basing his decision in part on the cases we've already discussed, Judge Clark Waddoups ruled that Utah may not enforce its laws against what he refers to as "plural families." The opinion finds that anti-polygamy laws had their origin in racism (despite the opinion's observation that anti-polygamy and anti-slavery were linked in the 1856 Republican platform). The Court allowed (at least for now) the State of Utah to limit a person to one marriage license at a time, but prohibits the state from banning multiple marriage-like relationships.<sup>49</sup> This case is only the logical extension of *Windsor*. Once marriage is cut loose from its historic definition, any of its characteristics—one man, one woman, one at a time, age and consanguinity restrictions—are easily depicted as merely arbitrary and relics of "bias," "discrimination" and "hatred."

Meanwhile, in North Dakota, the attorney general issued an opinion that the state cannot deny a marriage license (for a traditional marriage) to an individual who was already party to a same sex marriage in a state where same sex marriage is legal.<sup>50</sup> I think this is a correct decision. From North Dakota's standpoint, the same sex marriage is a legal nullity, so the individual is single and free to enter into a traditional marriage in North Dakota. But the key questions, as yet unanswered, are (1) whether the state in which the individual entered into the same sex marriage would view the North Dakota marriage as "bigamy," and (2) what stance, if any, the federal government could take after *Windsor*. Further chaos will likely ensue as a result of these decisions.

### Marriage for All?

Perhaps the best illustration of what is really going on here comes from a billboard. A progressive radio station in Chica-

go posts various left wing slogans on a billboard along the Kennedy Expressway. Most recently, celebrating Illinois' same sex marriage law, it posted a new one, "Marriage for All!" Think about that – when was the last time the progressive left promoted marriage as a positive good? Remember Murphy Brown? In the 1990s, a sitcom featuring Candice Bergen had the title character choose to bear and raise a child as a single parent. Then Vice-President Dan Quayle was mocked and excoriated for daring to criticize this promotion of bringing children into the world without the benefit of marriage.

There may be well meaning individuals who believe that same sex marriage really is about giving homosexuals "equal status." But even many homosexual activists are honest enough to acknowledge that they really don't want same sex marriage, but want to "expand" the meaning of marriage. Some believe even the designation of individuals as "male" or "female" is a "constraint."<sup>51</sup> Obviously, the goal is to so confuse the definition of marriage as to destroy the institution altogether. The North Dakota "bigamy" opinion is a clear example of this type of mischief.

The social engineering progressives are joined by plain old socialists. The destruction of the institution of marriage brings with it an increase in every type of social pathology, and a corresponding demand for an increase in the role of the state to fill the space where husband and wife once maintained a home, family and sustenance. A recent article in *The Economist*, titled "The marriage gap," noted that in the Virginia governor's race, married women voted Republican by a nine point margin, but unmarried ones backed the Democrats by a staggering 42 points. Obama defeated Romney by 36 points among unmarried women, who are looking for Big Government to meet their needs, wanting not the nanny state, but the "Hubby State."<sup>52</sup>

### The Risk to the Church

Same sex marriage proponents also claim that traditional marriage is equivalent to laws prohibiting interracial marriage. Charges of racism are often used today to cut off serious discussion by smearing one's opponents. I reject these claims, and for that reason hesitate to include the next case in this discussion, but need to do so because it provides a road map of what lies ahead.

In 1970, the IRS ruled that it would not grant tax exemption to private schools that practiced racial discrimination. Bob Jones University, arguing that this violated its religious tenets, chal-

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lenged the IRS in court. Ultimately, in 1983, the U.S. Supreme Court, in an 8 to 1 decision, upheld the IRS restrictions in *Bob Jones University v. U.S.*<sup>53</sup> Currently, any educational institution seeking tax exempt status must complete a schedule on IRS Form 990 confirming that it does not have racially discriminatory policies, and must regularly publicize its racial nondiscrimination policies, to maintain its tax exemption.<sup>54</sup> The IRS could easily add a requirement that institutions must not “discriminate” as to homosexuality. Just as bans on race

**“Once the Supreme Court declares that opposition to same-sex marriage constitutes ‘intolerance’ or ‘hate,’ it follows that no institution advancing such beliefs can have tax exempt status.”**

discrimination have not been limited to admitting and treating everyone equally, but to require “affirmative action,” “equal rights” will require that the schools do not brook any criticism of the homosexual lifestyle, and actively promote it.

We have already seen attempts to exclude the Boy Scouts from public benefits. Even the deci-

sion of the Boy Scouts to allow homosexual members was not enough to keep the City of Philadelphia from evicting the Scouts from the downtown offices they occupied for 85 years.<sup>55</sup> In California, Senate Bill 323, seeking to strip state tax exemptions from any non-profit that “discriminates” and specifically targeting the Boy Scouts, passed 27-9 in the State Senate, but stalled in the State House of Representatives. Can such efforts targeting religious institutions and schools be far behind?

When Illinois passed its same sex marriage bill in 2013, a so-called “religious exemption” was added. But the “exemption” actually made the bill worse, by stating specifically that the exemption for “religious facilities” means only “sanctuaries, parish halls, fellowship halls, and similar facilities” and “does not include facilities such as businesses, health care facilities, educational facilities, or social service agencies.”<sup>56</sup> Essentially, we will be free to exercise our religious beliefs only within the four walls of our sanctuary, for now. Separately incorporated Lutheran day schools or high schools; colleges and universities such as our Concordias; Lutheran social service agencies; religiously affiliated hospitals; and even Sunday

School classrooms (they are educational facilities, after all) are all threatened with lawsuits for maintaining their confessions.

Soon Church-affiliated institutions will face profound choices. Once the Supreme Court declares that opposition to same-sex marriage constitutes “intolerance” or “hate”, it follows that no institution advancing such beliefs can have tax exempt status.

Schools that are integrally part of an individual congregation will be better positioned to resist, but institutions that are not directly attached to a congregation, such as high schools and the Concordia system, will be out of luck. Time will tell if we will hold to our confessions even if the “price” is to pay taxes to Caesar. We give thanks that our Synod in convention recently adopted Resolution 2-07A, “To Emphasize Biblical Teaching of Sexuality, Marriage, and Family” by a vote of 901 to 40.<sup>57</sup> What the will of God is for the future of our nation is unknown to us. But God’s will for each of us is sure and certain; we are saved by Christ.

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**Note from Mr. Stern:** Readers should be aware that this area of law continues to change with incredible rapidity. The Utah case that partially invalidated Utah’s polygamy ban was decided on December 13, 2013. After this article was originally prepared for publication in mid-December 2013, several other federal judges have ruled on marriage redefinition. On December 20, 2013, a different federal judge in Utah held unconstitutional Utah’s definition of marriage as between one man and one woman, in *Kitchen v. Herbert* (Case No. 2:11-cv-00217-RJS (D. Utah), available at [http://www.utd.uscourts.gov/documents/213cv217\\_memdec.pdf](http://www.utd.uscourts.gov/documents/213cv217_memdec.pdf)).; On December 23, 2013, a judge ordered Ohio to recognize out-of-state same sex marriage in connection with the issuance of death certificates, in *Obergefell v. Wymyslo* (Case No. 1:13-cv-501, 2013 WL 6726688 (S.D. Ohio)). On January 14, 2014, a judge invalidated Oklahoma’s constitutional and statutory definition of marriage as one man and one woman, in *Bishop v. U.S. ex rel. Holder* (Case No. 04-CV-848-TCK-TLW, 2014 WL 116013 (N.D. Okla.)). This list is current as of January 31, 2014. All of the cases listed above are trial court decisions and are currently being appealed to higher courts by the state authorities.

*Thank You*

**Balance-Concord, Inc.**

Balance-Concord, Inc., has been a most faithful contributor to *The Lutheran Clarion* in honor of the sainted **Rev. Raymond Mueller** and the sainted **Rev. Edgar Rehwaldt**, both of whom faithfully served the Synod and Balance-Concord, Inc., for many years.

*The Clarion* is most appreciative of such continued support from Balance-Concord, Inc., as well as the wonderful support of our readers. These contributions make it possible to bring you substantive articles by respected and qualified authors on issues affecting YOUR Synod. Please continue your support. It is both appreciated and needed.

<sup>48</sup> *Brown*, supra.

<sup>49</sup> *Id.*

<sup>50</sup> Attorney General of North Dakota, Letter Opinion 2013-L-06, available at <http://www.ag.nd.gov/Opinions/2013/Letter/2013-L-06.pdf>.

<sup>51</sup> See, e.g., <http://www.abc.net.au/unleashed/44576.html>.

<sup>52</sup> *The Economist*, “The marriage gap”, Lexington, December 14, 2013, p. 42.

<sup>53</sup> *Bob Jones University v. U.S.*, 461 U.S. 574 (1983), available at [http://www.oyez.org/cases/1980-1989/1982/1982\\_81\\_3](http://www.oyez.org/cases/1980-1989/1982/1982_81_3).

<sup>54</sup> See Schedule E to IRS Form 990 (available at <http://www.irs.gov/pub/irs-pdf/f990se.pdf>).

<sup>55</sup> See, e.g., <http://news.yahoo.com/boy-scouts-vacate-philly-home-under-settlement-192828976.html>.

<sup>56</sup> Public Act 98-0597, available at <http://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=098-0597>.

<sup>57</sup> See <http://www.lcms.org/convention/overtures#>.

## Reclaiming Our Squandered Heritage The Lutheran Doctrine of the Two Kingdoms (Part I)

On January 20, at the 2014 LCA Conference, Rev. Thomas J. Queck read aloud the following paper by Rev. Dr. Laurence L. White, who could not attend the conference due to an emergency at his church. Part II will be published in the next issue.

### I. Introduction

I am confidently certain that there is no one present who would challenge the assertion that the culture of the Western democracies and - more specifically that of the United States of America find themselves in a moment of profound crisis. That crisis grows more urgent every day. With prescient insight, now sainted Professor Kurt Marquart offered this eloquent assessment of the state of Western civilization nearly three decades ago:

*“One need not be a seer to realize that the vexing economic, political, and cultural conflicts of our time signal a much deeper crisis. It is the moral, philosophical, and religious underpinnings of our civilization which are crumbling before our very eyes. Small wonder then that the whole superstructure shudders with what may well turn out to be the terminal convulsions of irreversible decomposition.” (Marquart (1), p.1)*

The crumbling and the shuddering has continued, and perhaps even accelerated, in the years that have passed since those words were written. Our country is indeed *Slouching Towards Gomorrah*, to borrow the apt title of Robert Bork’s book on the cultural crisis in America. Judge Bork cogently argues:

*“A nation’s moral life is, of course, the foundation of its culture... What we are experiencing now is not the addition or subtraction of one or another of the elements of our moral life, but an assault that aims at, and has largely accomplished, sweeping changes across the entire cultural landscape. Large chunks of the moral life of the United States, major features of its culture, have disappeared altogether, and more are in the process of extinction. These are being, or have already been, replaced by new modes of conduct, ways of thought and standards of morality that are unwelcome to many of us.” (Bork, p.12)*

The countries of the West, riddled with rampant sensualism and materialism, seem determined to sever any connection with even the most basic standards of morality. At the festering heart of the moral disease which infects this country is the monstrous evil of abortion. We have sacrificed tens of millions of unborn children to an insatiable modern Molech whom we euphemistically call “reproductive freedom.” For forty long years this horror has raged among us and the blood of nearly forty million babies cries out to God for vengeance from the soil of America. Christians have seemingly grown indifferent to the ongoing slaughter and the church carries on its “business as usual” while the little ones die. An entire generation has grown up among us who have never known an America where it was not legal and socially acceptable to murder unborn children. Marriage and family are disintegrating before our eyes. Nearly universal promiscuity, divorce so prevalent that it has become virtual serial polygamy - the marriage of multiple partners, one at a time, facilitated by a series of divorces, the success of the “Gay Rights Movement” and

### We Need Your Support

Even though some progress was made at the 2013 Synodical Convention, much work remains to be done to return our Synod to the Church of our Grandfathers and Reformation fathers! The Lutheran Concerns Association is dedicated to the effort to reclaim our full Lutheran heritage for the LCMS, but we cannot achieve this long-range goal alone.

We need your continued help so that a truly Lutheran church body will be there for our grandchildren and great-grandchildren. In some small way we at the LCA desire to be helpful in preserving our faith, under the Lord’s blessing, so that the treasure of pure doctrine and right practice will be known for generations to come. Would you prayerfully consider assisting us in this on-going effort with your tax deductible donations?



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the widespread approval of the oxymoron of “Gay Marriage” all indicate a most radical transformation of the mores—the moral standards—of Western society. Add to this a negative birth rate, the fact that 40% of all births in the US are illegitimate, the defiant rejection of unique gender roles for men and women within the family, and the pervasive abandonment of wives/mothers as full time homemakers and child rearers. The catastrophic cumulative impact of all of the foundational elements of Western culture can be readily seen.

In the face of this catastrophic holocaust and general moral collapse the Church has remained strangely, tragically silent. Polls indicate that active church members approve of and are participating in all of these trends to an appalling extent. The Church is Biblically illiterate, its identity shaped by a desire to conform and comply with the culture for the sake of acceptance, institutional growth and success. Those voices which have been raised in the Name of Christ in the public square have all too often seemed to be captive to the political ideologies of the left or the right. Among Lutherans this silence has been abetted by the mistaken assumption that Luther’s articulation of the Biblical doctrine of the two kingdoms is the equivalent of American liberalism’s assertion of the principle of the absolute separation of church and state.

Christianity seems blissfully unaware of the “deeper crisis”—to borrow Marquart’s words—signaled by all of these ominous trends. Like frightened little children who escape their fears by tightly closing their eyes to pretend the object of their terror isn’t there, we have pretended that all of this is outside of our realm of interest or responsibility. We are called to preach the Gospel, we piously declare, looking down with self-righteous disdain on the sordid mess of politics and the world. In fact, the challenge posed by the moral meltdown of the culture is directed squarely at relevance and validity of the Christian faith. Our failure to recognize and respond to that challenge has resulted, in the words of communist leader Leon Trotsky, in Christianity “being consigned to the dustbin of history” by the popular majority in countries which were once the heartland of Christianity. The world, ever seeking an excuse to reject the Christ, has failed to see the compassion,

the conviction, and the courage of Christ in us, and has therefore concluded that this Christ, whom we profess is not real. I am haunted by words written by a Lutheran Deaconess named Marga Meusel in Berlin in 1936. As the Nazi intent to annihilate the Jews became inescapably clear, the young lady was furious over the Confessing Church's refusal to speak out on this life and death issue. She wrote in her report to a national synod.

*"It is no exaggeration when one speaks of the attempt to annihilate the Jews. What should one reply to the desperate and bitter questions and accusations? Why does the Church do nothing? Why does it allow unspeakable injustice to occur?...What shall we one day answer to the question 'Where is thy brother Abel?'" The only answer that will be left to us as well as to the offending church is the answer of Cain."*  
(Goldhagen, p. 438)

The navigators of ancient Greece told of a most fearsome passage between the swirling whirlpool of the sea monster Charybdis and the rocky crags haunted by the six headed she demon Scylla. Only the most skilled and intrepid pilot dared to contemplate the narrow straight where the slightest deviation in either direction meant instant destruction. In a less grandiose manner the peril of Charybdis and Scylla was like to that which we Texans describe as being "caught between a rock and a hard place." Whether one prefers the classical or the down home terminology, either will serve to describe the perilous dilemma of Christianity in general and Lutheranism in particular in the midst of the moral calamity which has befallen our homeland. We find ourselves caught between two mutually non-Biblical—and therefore unacceptable—alternatives.

On the one hand is the whirlpool of what might be called "humanist naturalism." This overwhelmingly prevalent perception (actually mis-perception!) of reality rejects the supernatural in any form, contends that there is nothing beyond the

***"Christians...may be tolerated only so long as they remain meekly in the churches on Sunday mornings and do not allow whatever convictions they may have to be expressed or applied anywhere else."***

natural process of cause and effect, and that truth and morality must remain absolutely relative to each and every individual. They fervently believe, the zeal of the most ardent religious fanatic, that there is no truth beyond my truth and no right beyond what's right for me. The only remaining sin (although I suspect they would cringe at the use of such a hateful word) is

judgementalism, that is, suggesting what anyone else thinks or does could possibly be wrong. The expression of judgementalism is automatically "hate speech." These folks, who dominate virtually every cultural elite, whether it be education, from the great universities to the local kindergartens - entertainment, government, mainline religious denominations, etc., aggressively contend for what they characterize as complete "separation of church and state." While cloaking their social agenda, that is, their religion, in the terminology of the founding fathers and the constitution (which does not present a problem if truth is whatever I want it to be) their actual goal is the exclusion of Christian citizens from the public square and

### **Help Needed!!**

#### **Another Foreign Mission Effort Deserving Generous Support**

In March 2011, *The Lutheran Clarion* encouraged support of Concordia Theological Seminary's mission efforts in Kenya, Africa, and Novosibirsk, Siberia, and in January 2013 we asked for support for Rev. Jeff Horn, now teaching at Timothy Lutheran Seminary in Papua, New Guinea.

*The Lutheran Clarion* asks readers to generously support missionaries Rev. Micah (wife Robin) Wildauer and Rev. Jacob Gaugert in teaching at Lutheran Center for Theological Studies (LCTS) in Dapaong, Togo (a small West African coastal country). Micah, whose parents are LCMS teachers, was born in Bremen, IN, and baptized there in a charter congregation of the LCMS, graduated from Concordia University-Texas and Concordia Theological Seminary (CTS). He served dual parishes in Milwaukee, WI. Rev. Gaugert was born in Sullivan, WI, and was baptized at St. John's Lutheran Church there. He graduated from Concordia University - Mequon and CTS and served The Ev. Lutheran Church of Martin Luther in Chicago, IL. Synod began work in Togo in 1980. The LCTS serves French-speaking West African Lutherans in seven countries.

In Resolution 4-03 of Synod's 2013 Convention, adopted without discussion, with the singing of the Doxology, The Lutheran Church of Togo was recognized as an independent self-governing church body. Missionaries Wildauer and Gaugert face a real challenge in raising significant funds to make their mission possible. Checks with a memo showing a designation for Pastors Wildauer and/or Gaugert should be sent to:

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or to: The Lutheran Church—Missouri Synod, P.O. Box 790089, St. Louis, MO 63179-0089 but be sure to write the purpose on the memo line of the check.



the determination of public policy. Christians, in this view, may be tolerated only so long as they remain meekly in the churches on Sunday mornings and do not allow whatever convictions they may have to be expressed or applied anywhere else. Much of Christianity has unfortunately allowed itself to be intimidated into silence by this nonsense, reducing the Lord Jesus Christ to impotence and irrelevance. What is even more irritating is that many Lutherans have been deceived into believing that their timid withdrawal from civic responsibility is consistent with the Reformation doctrine of the Two Kingdoms. The Lutheran doctrine of the Two Kingdoms reminds us that God is the Founder and Lord of both realms. He cannot be excluded from the Kingdom of the Left Hand so that sinful man be left to pursue his own deadly passions for power, pleasure, and greed. Then the law of the jungle prevails. Then the weak and helpless are reduced to the status of prey to be victimized, swept aside or destroyed by those who are strong enough to do so. This frustrating foolishness will be subsequently examined in detail.

On the other hand are the deadly rocks of Christian political activism driven by political ideology or patriotism. The Christian pastor must speak out on the moral issues under debate in the culture, issues which directly impact the faith and life of every member of his congregation. The Christian citizen must participate in the public debate of those issues as a

**“Your Encouragement and Support will Make a Difference”**

The above quote is from Rev. Jeffrey Horn, a CTS graduate and missionary, who, with his wife Lora, are serving the Lord in Papua, New Guinea. In addition to preaching and giving Bible studies, Rev. Horn teaches at Timothy Lutheran Seminary.

The March 2013 issue of the *Clarion* published a thank-you letter from Rev. Horn. Having been there only a short time, he faces many obstacles: the local pastors need more education, a local heresy has spread to many congregations, congregations need copies of the *Small Catechism* in the local language, they need new hymnals, congregations go without the Lord’s Supper because there is no wine available.



During the past year, *Clarion* readers generously donated \$1,610.00 for Rev. Horn’s missionary work. We pray you will continue with your encouragement and support for Rev. Horn. Please send checks payable to:

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Mark the memo line of your check “New Guinea Mission Project.” LCA will see to it the funds are mailed in and specifically earmarked for the mission of Rev. Jeffrey Horn.

faithful servant of the Lord Jesus Christ. But while Christian participation in this debate is essential and necessary it must be based exclusively upon the Word of God. As an American, I love my country. But God is the Lord of every country. As a voter, I am most certainly entitled to my own opinions, but I dare never confuse “*This is what I think*” with “*Thus saith the Lord*.” God is not a conservative nor is He a liberal. I may be convinced that one philosophy or the other is more consistent with Biblical principles. But that personal opinion does not constitute a divine endorsement of an ideology, a party, or a candidate. The Bible does not endorse a particular form of government, a system of economics, a policy on immigration, etc. In short, there is no Christian counterpart of Islamic *sharia*. On the great majority of political issues, there is ample room for disagreement among Christians of good conscience. The failure to observe this fact has led the Christian left to the advocacy of a social gospel which contradicts and cancels out the true Gospel of salvation by grace through faith in Jesus Christ in favor of big government, socialism, the welfare state, and pacifism. The same problem on the Christian right has reduced Jesus Christ to the status of a mascot for the Republican Party and enabled a corrupt party establishment to manipulate Christian activists to serve their own ambition and greed while ignoring issues of life and family beyond the promises and platitudes needed to keep the evangelicals in line. Come election time we are then bamboozled to support their guy as the lesser of two evils. From a Lutheran perspective, the problem with this submersion of theology into ideology is a confusion of Law and Gospel. Herman Saase notes with characteristic insight:

*“But if the governing authority, remaining within its limits, is part of God’s creation, if the state also essentially belongs to*

*the order of creation and not to the order of salvation, then there can be no Christian state. Indeed, the bearers of public office may be Christian. From them may be demanded a special consciousness of the nature of their office and a special measure of performance of duty, but their duties are the same as all governing offices on earth have. There is as little possibility of a Christian state as there is of Christian agriculture or Christian technology... There is no Christian order for society, for that would be an attempt to make sin disappear from the world, that love take the place of law, in other words, that the kingdom of God would have come in glory.” (Sasse, p. 93)*

At the time of the Reformation, Andreas Karlstadt and his *Schwärmer* (pentecostal) colleagues rejected the existing government of the Holy Roman Empire and attempted to replace it with a godly form of government based on the stipulations of Mosaic Law. The Apology of the Augsburg Confession minces no words in rejecting such nonsense:

*“Meanwhile, Christ’s kingdom allows us outwardly to use the legitimate political ordinances of every nation in which we live, just as it allows us to use medicine or the art of building, or food, drink and air. Neither does the Gospel offer new laws about the public state, but commands that we obey present laws, whether they have been framed by heathens or by others. It commands that in this obedience we should exercise love. Carlstadt was foolish and crazy to impose on us Moses’ judicial laws.” (Apol. XVI, 54)*

Contemporary *Christian Reconstructionists* repeat the same mistake in the most radical form as they attempt to define God’s structure of government and law on the basis of Israelite precedent.

The essence of this distinction was dramatically illustrated in a Nazi courtroom near the end of WWII. Hitler’s reign was almost over as the allied armies closed in on Berlin, but the elimination of his opponents ruthlessly continued. The defendant was a Lutheran military officer named James Helmut von Moltke. Count von Moltke was a member of one of the most exalted families of the old Prussian aristocracy. His forebearers had been the Field Marshals and War Ministers of Prussia for centuries. He was charged with collaboration with anti-Nazi conspirators in the Wehrmacht. The presiding judge was a fanatical Nazi named Roland Freisler. In his opening statement to the court von Moltke declared, “*I do not stand before you today as a German or a Prussian. I am not here as a patriot, a nationalist, or a member of the old aristocracy. I stand accused before you today for one reason and one reason only, because I am a Christian.*” That bold declaration of faith was more than the Nazi judge could tolerate. Freisler leaped up from the bench, leaning out over the judge’s desk. He was snarling like a rabid animal, the spittle flying from his mouth. “*Moltke,*” he roared, “*that is the one and the only thing that you Christians and we Nazi’s have in common. We both demand the whole man.*” Count von Moltke was condemned that day to execution by hanging. Judge Friesler was killed two days later when American bombers destroyed his courthouse and he was crushed in the rubble. That day the devil in his rage spoke the truth. Christianity truly does demand the whole man.

However, having said all that, about the impossibility of Christian *sharia*, I must also observe that on rare occasions in periods of profound social transformation issues do arise that are

of such fundamental moral importance and which signify such a direct confrontation between good and evil that on such issues there can be only one Christian position. To fail to stand with the truth of God's Word against the deadly lies of Satan on such an issue is to betray the Lord Jesus Christ and deny the authenticity of the church as His people. At this moment in history abortion and gay marriage are two such issues. The failure of God's people to take this faithful, steadfast stand has dishonored our Savior and discredited Him in the eyes of the world.

Returning to our initial metaphor, I submit that the narrow passage between the whirlpool and the rocks is Martin Luther's much maligned Biblical doctrine of the Two Kingdoms. The recovery of this squandered heritage could enable Lutherans to safely navigate their way between the perils. But much more importantly it could demonstrate the authenticity of the Gospel of Jesus Christ and restore the integrity of the Church after decades of helpless silence in the face of the onslaught of death and perversion. In the course of our gathering we shall attempt to present an accurate summary of the Two Kingdoms doctrine and suggest practical applications of that doctrine to the crisis which confronts Christianity in our land.

## II. The Modern Critique Of The Two Kingdoms Doctrine

The distorted caricature that Luther taught silent, supine submission to the absolute authority of the state and thereby liberated the government from any form of moral constraint has been endlessly repeated since the days of the Reformation. It has, however, come particularly to the fore in light of the failure of German Christianity to oppose and effectively resist the evil of National Socialism and the implementation of the Nazi racist state. In his recent study *Martin Luther's Understanding Of God's Two Kingdoms - A Response to the Challenge of Skepticism*, Dr. Martin J. Wright correctly observed:

*"Whatever alterations of Luther's teaching of the two kingdoms were made up to the time of the First World War, the widespread attacks on the idea and on Lutheranism itself for holding it began in the 1930's. The rise of National Socialism in Germany provided the opportunity for the ultimate application of the concept of the double autonomy of the worldly spheres of life. The perverted use of it by the Nazis and their collaborating German Christians caused the great questioning of the value of Luther's teaching by Lutherans themselves, and it caused the attack by others, not just on this concept, but on Lutheranism in general. There should be little doubt about this fact... The focal point of their criticism is the Nazi use of the teaching." (Wright, p. 31)*

The enormous prestige of 19<sup>th</sup> Century German scholar Ernst Troeltsch and his massive study, *The Social Teachings of the Christian Churches*, popularized the view that Luther promoted state absolutism and moral dualism while Calvinism offered a vital interrelationship between church and state. Ironi-

cally, this inaccurate stereotype has been much more popular in the English speaking world than in Germany itself where Troeltsch's peculiarities were more familiar. Among us, Reinhold Niebuhr, along with a legion of others, have perpetuated the caricature to the point where it has become a standard component in most popular treatments of the Third Reich. In such popular history, this perversion serves to make Martin Luther the single most important explanation for the rise of Hitler and the failure of German Christianity to recognize and resist the evils of Nazism. A recent book entitled *Ideology of Death - Why the Holocaust Happened in Germany* by Dr. John Weiss of the City University of New York is a flagrant example of this all too common distortion of history. The book begins with an unrestrained denunciation of Martin Luther as a racist demagogue:

*"Unlike the Catholic hierarchy, Luther refused to heed the Christian limits to violence established by the witness theory. No pope ever uttered such vile attacks upon the Jews; Luther's anti-Semitism was more obscene than even Hitler's Mein Kampf. And his violent religiosity struck a chord in the souls of millions of peasants and artisans of northern Germany, a chord echoing down to the twentieth century. It inspired the racial nationalists and Christian anti-Semites of modern Germany... In letters and pamphlets he denounced the Jews with a violent gutter language previously limited to the demagogues who had slaughtered the Jews during the first crusades... All the old myths spewed forth with a virulence no Catholic leader had allowed himself since the fifth century... Luther was a racist, pure and simple, bothered not at all that his hatred of the Jews denied the power of Christ to redeem all humanity. To him the Jew was simply not human. As the Protestant "German Christians" of the Nazi movement would later claim, the blood of a Jew was beyond redemption... Luther spoke for those millions of peasants and rural artisans who, throughout modern German history, were the backbone of populist and racial social movements, culminating with the Nazis... In turn, during their campaigns, the Nazis gleefully published Luther's anti-Semitic obscenities, including his well-known admonitions to outlaw Judaism, seize Jewish property, burn the synagogues, and drive the Jews from the land all accompanied by dark hints of slaughter. Luther's document, The Jews and Their Lies was exhibited in a glass case in Nuremberg during Nazi Party Rallies." (Weiss, p. 24ff.)*

Dr. Weiss seems determined to demonize Luther and his theological heirs. To that end, he goes to great lengths, the facts notwithstanding, to demonstrate that Lutherans had nothing whatsoever to do with Christian opposition to Hitlerism.

Weiss insists that all the leaders of the confessing church in Germany were Calvinists. He asserts: *"The few Protestant clerics who opposed Nazi anti-Semitism, men like Dietrich Bonhoeffer, Martin Niemoller, and Martin Dibelius, came from the Calvinist wing of the German Evangelicals."* (Weiss, p.34)

The three individuals cited (presumably the intended reference is to Otto, not Martin Dibelius) all belonged to the state church of Prussia, the Church of the Old Prussian Union. While none of them were genuine confessional Lutherans, they all considered themselves to be Lutherans and identified themselves as such, despite their membership in a unionistic church body. To label them as Calvinists is simply to misrepresent the facts. Weiss's assertion also overlooks the activities of the Lutheran bishops of the so-called *"intact churches"* which were not taken over by the pro-Nazi *"German Chris-*

### Concordia Catechetical Academy 2014 Annual Symposium



The 20<sup>th</sup> Annual Symposium on Catechesis "Lord, teach us to pray..." Catechesis on the Lord's Prayer will be held **June 18-20, 2014**, at County Springs Hotel, Waukesha, Wisconsin. Contact the CCA for more information at 262-246-3200 or online at <http://lutherancatechesis.org/>

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tians,” and the prominent role played by Herman Sasse, a stalwart confessional Lutheran.

Weiss goes on to dutifully repeat the inaccurate stereotype of Luther and Lutheranism as advocates of unquestioning, absolute obedience to the state.

*“The German Lutheran tradition has always been one of subordination to the state. Luther himself depended on the rulers of several German territories to protect him from the Vatican, though none did so simply out of a belief in religious freedom. Some were sincere Lutherans, but most seized the chance to limit the power of Rome and confiscate the considerable wealth of the church in their domains. Moreover, unlike popes and Calvinists, Lutherans did not challenge political authority. The clergy were concerned only with the salvation of souls...Luther’s unquestioning support of the state was not shared by other Protestant leaders...Only Lutheranism in Prussia welcomed princely authoritarianism, and did so from the time of the reign of the kings of Prussia through the Kaisers of the Second Reich and down to the appointment of Hitler as Chancellor - an appointment welcomed by the vast majority of Evangelical clergy.”* (Weiss, p.28,29)

The acceptance of this convenient caricature necessitates an ignorance of centuries of German history and a substantial distortion of Luther’s theology. German theologian Gerhard Ebeling is much closer to the truth of the matter in his assessment of Luther’s view and the role of the Two Kingdoms concept in the reformer’s thought.

*“Anything like a modern separation of church and state, which is what people usually have in mind, is a totally inadequate picture of the scope of Luther’s doctrine of the two kingdoms. This is true regardless of whether this new interpretation of the term as a separation between two distinct spheres has a religious or a secularist emphasis, or whether it is meant to legitimize, by means of a doctrine of the two kingdoms with a religious or secularist slant, either the withdrawal of the devout from the world or the retreat of secular life from God.”* (Ebeling, p. 178)

The road to Nazism was not paved by Luther and his heirs. It leads instead from Frederick the Great, a lapsed Calvinist and child of the Enlightenment, to the Prussian Union of 1817 which decimated Lutheran theology and deified the state. Kurt Marquart is exactly correct when he argues: *“It was this wily, violent and persistent imposition of confessional indifference and surrender, and not the full-blooded Lutheranism of the Formula of Concord that accustomed Lutherans to bootlicking and extracted their spines.”* (Marquart (2), p.181) Herman Sasse, a faithful confessional Lutheran who played a leading role in the German Church Struggle, makes the same point. Sasse contends:

*“No, it was not Lutheranism as such, but a sick Lutheranism that gave National Socialism an open door into the church. It was the Lutheran Church which was no longer capable of standing guard over the souls of its people because it had fallen asleep itself. It had lost its power over demons because*

***“It was the Lutheran Church which was no longer capable of standing guard over the souls of its people because it had fallen asleep... It ...no longer possessed the power of distinguishing between ‘spirits.’”***  
Hermann Sasse

*it no longer possessed the power of distinguishing between “spirits.”...We have noble families in which the grandfathers were conservative and confessional Lutherans, the fathers were German nationalists and members of the union church and the sons joined the S.S.”* (Quoted in Herman, p. 50, 51)

Those who cited Luther in favor of subservience to the state no matter what, were guilty of abusing and distorting the Reformer’s true position. Sasse asserts:

*“They picked out of Luther’s teaching those phrases regarding governmental authority which were opportune and which people wanted to hear; phrases concerning the dignity of divinely ordained offices and the duty of obedience to them. But what Luther said about the sins of governmental authority; about the tyrannous murder of man’s soul by the authority which goes beyond its limits or about the boundaries of obedience - all that was whispered very softly in the first years of the Third Reich, or not mentioned at all...They supplemented Luther with Robespierre.”* (Quoted in Herman, p. 52)

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