

The Use and Misuse of Luther in Contemporary Debates on Homosexuality: A Look at Two Theologians
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Writing over forty years ago, Lutheran systematician and ethicist Helmut Thielicke observed "One cannot expect to find in the theological ethics of German-speaking Protestantism a clear, consistent attitude toward homosexuality simply because hitherto the writers on ethics have taken little or no notice of the mere fact itself and therefore a body of opinion - to say nothing of a unanimity of judgment - is almost non-existent. The indexes of many well-known works on ethics do not contain the word at all."¹ A survey of contemporary texts in ethics reveals that homosexuality has moved front and center even as a clear, consistent attitude toward homosexuality remains elusive.

How elusive this issue has been may be seen by contrasting the approaches of two living Lutheran theologians, Edward Schroeder and Gerhard Forde. I have chosen to examine the work of these two theologians as both appeal to a classical distinction in Lutheran theology, the distinction of the law from the Gospel yet come to radically different conclusions. Some have argued that it is this very distinction that has landed present day Lutherans in a state of moral disarray². I will suggest that it is not the law/gospel distinction that is at issue but a particular misuse of this dialectic. Through these two theologians, I will also assess how Luther is used and misused in the present debate.

Edward Schroeder was part of the post-World War II generation of theologians in The Lutheran Church-Missouri Synod influenced and formed the theology emanating from Erlangen, especially that of Werner Elert and to a less degree, Paul Althaus. Elert seemed especially attractive to many young Missourians of this period as his emphasis on law and Gospel resonated with that of the Missouri Synod's patriarch, C.F.W. Walther. Schroeder himself would complete his doctorate not with Elert who died in November of 1954 but with Helmut Thielicke at Hamburg. Returning to the states, Schroeder took a position on the theology faculty at Valparaiso University and from there to Concordia Seminary, Saint Louis. In 1974, Schroeder was part of the faculty majority that left Concordia to form Concordia Seminary in Exile or Seminex, later called Christ Seminary. Writing from his home in Saint Louis, Schroeder publishes his *Thursday Theology* by e-mail each week. It is through this medium that Schroeder has set forth his approach to homosexuality.

For Schroeder, the questions of blessing same-sex unions and the ordination of homosexuals are answered in the affirmative on the basis of his application of a

¹ Helmut Thielicke, *The Ethics of Sex*, trans. John W. Doberstein (New York: Harper & Row Publishers, 1964), 269.

² See David Yeago, "Martin Luther on Grace, Law, and the Moral Life: Prolegomena to an Ecumenical Discussion of *Veritatis Splendor*" *The Thomist* 62 (1998), 163-191.

law/promise hermeneutic that he claims comes from Luther. According to Schroeder's construal of this hermeneutic, Luther's approach to the Scripture is to see Christ at the heart and center of the Bible. The Scripture itself consists of two words from God, a word of law and a word of promise. He puts it like this "Scripture's law serves as God's diagnostic agent- diagnosis of our malady, not prescription for our healing. God's Law is X-ray, not ethics. The healing for patients diagnosed by the Law is God's promise, the Christ-quotient of both OT and NT. The law's purpose (Paul said it first - after he received his 'new' hermeneutics beginning at Damascus) is to 'push sinners to Christ.'"³ Once sinners are in Christ, they are no longer under the law but under grace. Thus he writes "Once Christ-connected they come into the force-field of his 'new commandment,' and it really is new, not refurbished 'old' commandment, not 'Moses rehabilitated.' Christ supersedes Moses -not only for salvation, but also for ethics. In Paul's language the touchstone for this new commandment is the 'mind of Christ' and being led by, walking by, his Holy Spirit. More than once Paul makes it 'perfectly clear' that this is a new 'law-free' way of life."⁴ Schroeder then goes on to ask and answer the question of what we are to do with all the commands and imperatives in the Bible in light of this new way of life, free of the law. He concludes "First of all, this new hermeneutic relativizes them."⁵ Here Schroeder sees himself in company with Luther, especially Luther's treatise of 1525, "How Christians Should Regard Moses"⁶ to which we shall return a bit later. Arguing that the law applies only to the old creation while the promise constitutes life in the new creation, Schroeder asserts that human sexuality is clearly a component of the old creation, and hence is under the governance of the law.

Surely there is much in Luther and the Lutheran confessional writings that seems to give credence to Schroeder's argument. In 1522, Luther wrote in his ""The Estate of Marriage" that marriage was a bodily and outward thing: "Know therefore that marriage is an outward, bodily thing, like any other worldly undertaking."⁷ Thus Luther recognizes the place of civil authority in regulating matters of sexuality and marriage⁸

³ Edward Schroeder, "Thursday Theology 159" (January, 28, 2001), 4 at <http://www.crossings>

⁴ Ibid. 4.

⁵ Ibid. 4.

⁶ *Luther's Works*, American Edition, 55 volumes, edited by J.Pelikan and H.T.Lehmann (Saint Louis: Concordia Publishing House and Philadelphia: Fortress Press, 1955-1986), 35:155-174. Hereafter abbreviated as *LW*.

⁷ *LW* 45:25.

⁸ Luther sees marriage as grounded in creation. It is not a sacrament that bestows forgiveness but there is no higher social calling where faith is exercised than that of the family. Marriage is the arena for faith and love. In 1519, Luther still regarded marriage as a sacrament. The change is evident in "The Babylonian Captivity" of 1520. In divesting marriage of its sacramental status, Luther actually elevates marriage as he makes it equal or superior to celibacy. See Scott Hendrix, "Luther on Marriage" *Lutheran Quarterly* XIV (Autumn 2000), 355; James Nestingen, "Luther on Marriage, Vocation, and the Cross" *Word & World* XXIII (Winter 2003), 31-39; William Lazareth, *Luther on the Christian Home* (Philadelphia: Muhlenberg Press, 1960); and Carter Lindberg, "The Future of a Tradition: Luther and the Family" in *All Theology is Christology: Essays in Honor of David P. Scaer*, edited by Dean Wenthe et al (Fort Wayne: Concordia Theological Seminary Press, 2000), 133-151. For a picture of Luther's contribution to the place of marriage in western culture, see John Witte, Jr., *From Sacrament to Contract: Marriage, Religion, and Law in the Western Tradition* (Louisville: Westminster/John Knox Press, 1997), 42-73. Lindberg aptly summarizes Luther's impact on marriage: "Luther's application of evangelical theology to marriage and family desacramentalized marriage; desacralized the clergy and resacralized the life of the laity; opposed the maze

Does Luther's assessment of marriage as an outward thing, an artifact of the old creation, make questions of sexual ethics a matter of relativity as Schroeder contends and therefore lead to a definition of marriage elastic enough to include same-sex unions? I think not. There are several difficulties with Schroeder's approach. The first has to do with his understanding of the place of creation in Luther's thinking.

In contrasting old creation with new creation, Schroeder is concerned to show that the law is operative in creation both to deliver justice (recompense, as he puts it) and to preserve the fallen world from plunging into total chaos. Of course, these are themes that are readily found in Luther. But then Schroeder makes an interpretative move that Luther does not make. While Luther surely sees that neither the laws of Moses nor civil laws that indeed vary from place to place and one historical epoch to another, work salvifically, he does not view the law as being merely set aside by the Gospel. To use the language of the *Formula of Concord*, "the distinction between law and gospel is a particularly glorious light"⁹ but it is not a light that blinds us to the normative character of Holy Scripture. To reduce the distinction to an ideology, abstracted from the actual content of the biblical texts blurs both God's judgment and His grace. Schroeder's law/promise hermeneutic ends up with a divorce between creation and redemption, a schism between faith and life that is foreign to Luther.¹⁰

Luther understands creation as the arena for God's work. Schroeder introduces a relativism and subjectivism to creation that is not there in Luther when he makes the claim that homosexuals are simply "wired differently"¹¹ than heterosexuals. Luther, in fact, sees human identity as male and female as a creational reality. Or to use the words of William Lazareth, God's ordering of creation is heterosexual.¹² This can be seen in Luther's exposition of the sixth commandment in the *Large Catechism* where he writes "He has established it (marriage) before all others as the first of all institutions, and he created man and woman differently (as is evident) not for indecency but to be true to each other, to be fruitful, to beget children, and to nurture and bring them up to the glory of God."¹³ This is also expressed in a letter Luther wrote to Wolfgang Reissenbush in

of canonical impediments to marriage; strove to unravel the skein of canon law, imperial law, and German customs; and joyfully affirmed God's good creation, including sexual relations" (133).

⁹ Formula of Concord-Solid Declaration V:1, Robert Kolb and Timothy Wengert, translators, *The Book of Concord* (Minneapolis: Fortress Press, 2000), 581. Hereafter abbreviated as Kolb and Wengert.

¹⁰ Contra this divorce, see Bernd Wannewetsch, "Luther's Moral Theology" in *The Cambridge Companion to Martin Luther*, edited by D. McKim (Cambridge: Cambridge University Press, 2003), 120-135; William Lazareth, *Christians in Society: Luther, the Bible and Social Ethics* (Minneapolis: Fortress Press, 2001); Reinhard Huetter, "The Twofold Center of Lutheran Ethics" in *The Promise of Lutheran Ethics* edited by K. Bloomquist and John Stumme (Minneapolis: Fortress Press, 1998), 31-54. Schroeder asserts that "Huetter's conclusion really is 'the end' of the promise of Lutheran ethics" - "Thursday Theology 26" (November 12, 1998), 1.

¹¹ "Thursday Theology 34" (January 28, 1999), 2.

¹² William Lazareth, "ELCA Lutherans and Luther on Heterosexual Marriage" VIII (Spring 1995), 235-268. Lazareth writes "Clearly, same-sex 'unions' do not qualify as marriages to be blessed for Christians who have been baptized as saints into the body of Christ. The Lutheran church should not condone the sinful acts (conduct) of an intrinsic disorder (orientation) in God's heterosexual ordering of creation" (236).

¹³ Large Catechism I:207, Kolb and Wengert, 414.

March, 1527. After counseling Reissenbusch that he is free to renounce his vow of celibacy without committing sin, Luther observes "Our bodies are in great part the flesh of women, for by them we were conceived, developed, borne, suckled, and nourished. And it is quite impossible to keep entirely apart from them. This is in accord with the Word of God. He has caused it to be so and wishes it so."¹⁴

Earlier, in his "The Estate of Marriage" (1522), after noting God's design and purpose in creating humanity as male and female, Luther speaks of this ordinance or institution as "inflexible,"¹⁵ beyond alteration. What Luther sees as a given, biological reality, Schroeder now moves into the realm of the subjective with an appeal to the explanation of the First Article in the Small Catechism. Luther's doxological confession that "God has created me together with all that exists. God has given and still preserves my body and soul" eyes, ears, and all limbs and senses" is now used by Schroeder to make God the author of homosexuality. He writes "Luther doesn't mention sexuality in that gift-list, but today God puts it on the lists we have. If 'hetero-' is one of the creator's ordainings, then wouldn't 'homo-' also be on the gift-list for those so ordained? Isn't it' most certainly true' for both that they 'thank, praise, serve and obey God' as the sexual persons they have been ordained to be?' Both homosexuals and heterosexuals have a common calling to care for creation, carrying out the double agenda in God's secular world - the law of preservation and the law of recompense. If the gifts are different, the pattern of care will be different. What examples are already available within the ELCA of Christians-gay and straight- doing just that-preservation and recompense -with the sexual gift that God has ordained? Despite the current conflict, is it true about sexuality too that 'what God ordains is always good?' "¹⁶

Luther's rejection of required clerical celibacy is seen by Schroeder as a precedent for relaxing requirements for individuals who understand themselves to be homosexual. Schroeder writes: "For outsiders to 'require' celibacy of them as a prerequisite for the validity of their Christ-confession is parallel to the Roman church's 'requirement' of celibacy for the clergy. Concerning that requirement the Lutheran Reformers said: God created the sexual 'pressure' that surfaces at puberty. To 'require' celibacy of the clergy - or anybody- is blatantly contradicting God. For those whom God 'wired differently' as a student once described himself -regardless of how that different wiring came to pass - requiring celibacy for him sounds like the same thing to me. It is God, not the gay guy, who is being contradicted." ¹⁷

¹⁴ Theodore Tappert, editor, *Luther: Letters of Spiritual Counsel* (Vancouver, British Columbia: Regent College Press, 1995), 273.

¹⁵ *LW* 45:18.

¹⁶ "Thursday Theology 51" (May 27, 1999), 3.

¹⁷ "Thursday Theology 159, 5. Similar arguments are advanced by Christian Batalden Scharen, *Married in the Sight of God* (Landham, Maryland: University of America Press, 2000), although he finally must admit that "an ethic for same-sex relationships goes nowhere with the 'letter' of Luther's views (128). Likewise, Martha Ellen Stortz, "Rethinking Christian Sexuality: Baptized into the Body of Christ" in *Faithful Conversations: Christian Perspectives on Homosexuality* edited by James M. Childs, Jr. (Minneapolis: Fortress Press, 2003). 64-66.

Here Schroeder reveals a basic premise that is not shared by Luther, namely, that homosexuality is ordained by God. Luther does not speak of a generic sexual drive or instinct but of the desire of man for woman, and woman for man: "This is the Word of God, through whose power procreative seed is planted in man's body and a natural, ardent desire for woman is kindled and kept alive. This cannot be restrained either by vows or laws"¹⁸ Luther seldom mentions homosexual behavior. But when he does, his evaluation is always negative. For example, Luther identifies the sin of Sodom with homosexuality. Commenting on Genesis 19:4-5, he writes "I for my part do not enjoy dealing with this passage, because so far the ears of the Germans are innocent of and uncontaminated by this monstrous depravity; for even though disgrace, like other sins, has crept in through an ungodly soldier and a lewd merchant, still the rest of the people are unaware of what is being done in secret. The Carthusian monks deserve to be hated because they were the first to bring this terrible pollution into Germany from the monasteries of Italy".¹⁹ In the same section of the Genesis lectures, Luther refers to "the heinous conduct of the people of Sodom " as "extraordinary, inasmuch as they departed from the natural passion and longing of the male for the female, which is implanted into nature by God, and desired what is altogether contrary to nature. Whence comes this perversity? Undoubtedly from Satan, who after people have once turned away from the fear of God, so powerfully suppresses nature that he blots out the natural desire and stirs up a desire that is contrary to nature."²⁰

Luther's rejection of homosexual activity is not merely a matter of aesthetic preference but rather a theological judgment rooted in the reality of the way the wrath of God is revealed against all ungodliness that will not acknowledge God to be the Creator and Lord that He is. For Luther, homosexuality is a form of idolatry, of false worship as we see in his lectures on Romans ²¹. In attributing homosexuality to the creative will of God for certain human beings, Schroeder strangely enough overlooks the teaching of his

¹⁸ Tappert, 273. For similar statements in Luther see *Luther on Women: A Sourcebook*, edited by Susan C. Karant-Nunn and Merry E. Wiesner-Hanks (Cambridge: University of Cambridge Press, 2003), 137-170.

¹⁹ LW 3:251-252.

²⁰ LW 3:255; Also note Luther's comment on "On War Against the Turk" (1529): "Both the pope and the Turk are so blind and senseless that they commit the dumb sins shamelessly, as an honorable and praiseworthy thing. Since they think so lightly of marriage, it serves them right that there are dog-marriages (and would to God that they were dog-marriages), indeed, also 'Italian marriages' and 'Florentine brides' among them; and they think these things good. I hear one horrible thing after another about what an open and glorious Sodom Turkey is, and everybody who has looked around a little in Rome or Italy knows very well how God revenges and punishes the forbidden marriage, so that Sodom and Gomorrah, which God overwhelmed in days of old with fire and brimstone (Gen. 19:24), must seem a mere jest and prelude compared with these abominations" LW 46:198.

²¹ Luther, in exposition of Romans 1, Luther links homosexual behavior with idolatry: "For this reason, namely: idolatry, God gave, not only to the above-mentioned disgrace, them, some of them, up to dishonorable passions, to shameful feelings and desires, before God, although even they, like Sodom, called this sin.... And the men likewise, with an overpowering drive of lust, gave up natural relations with women and were consumed with passion, which overpowered the judgment of their reason, for another, men with men, and thus they deal with each other in mutual disgrace, committing shameless acts and consequently, receiving the penalty, punishment, due for their error, fitting and just for so great a sin, the sin of idolatry, in their own persons, according to the teaching and arrangement of God" LW 25:12-13.

mentor, Werner Elert who maintains that creation places humanity in an ordered world of nomological existence.²²

Schroeder sees his law/promise hermeneutic threatened by what he would term as a literalistic reading of the Bible and an appeal to the orders of creation or anything for that matter resembling natural law.²³ Especially troubling for Schroeder is any appeal may to the orders of creation in defense of the traditional teaching that human existence is heterosexual by its very nature. Schroeder outlined his objections to both the terminology and content of the orders of creation in a March, 1972 article published in the *Concordia Theological Monthly* under the title "The Orders of Creation- Some Reflections on the History and Place of the Term in Systematic Theology." In this article Schroeder makes the case for "Creator's order" rather than "orders of creation".²⁴ His aim is to avoid any hierarchical and static notion of the orders and rather to show that God has put a person on earth in particular place and time. He writes "The explanation of the First Article of the Creed in Luther's Small Catechism is a classic expression of such localized specific placement 'ordained' or 'given' a person by the Creator. Perhaps the word 'Ordnung' would be better translated into English with the verbal form 'ordain.' This makes it easier to get to the present-tense character of the notion of the Creator's order, as well as the personal quality involved in one's understanding that God has put him on earth in a particular place, with particular parents, in a particular century, as a member of a particular race and community or a particular language group or national state, with a particular economic order, particular siblings, and so on. This is what God has ordained for him."²⁵

Schroeder's fundamental revision of the orders theology is essentially in place in the 1972 article. In his more recent missives, he brings his reading of the "Creator's order" to bear

²² See Werner Elert, *The Christian Ethos*. Trans. Carl J. Schneider (Philadelphia: Fortress Press, 1957). Elert writes "Creation places man into the world, *nomos* binds him to the world. In the first place, nomological under law means only that we, like all other creatures, are subject to the orderly rule of God and that we do not live in a world of chaos and arbitrariness" (51).

²³ For a more positive view of the place of "natural law" in Luther, see Carl Braaten, "Natural Law in Theology and Ethics" in *The Two Cities of God: The Church's Responsibility for the Earthly City* edited by Carl Braaten and Robert Jenson (Grand Rapids: Eerdmans Publishing Company, 1997), 42-58; and Antti Raunio, "Natural Law and Faith: The Forgotten Foundations of Ethics in Luther's Theology" in *Union with Christ: The New Finnish Interpretation of Luther* edited by Carl Braaten and Robert Jenson (Grand Rapids: Eerdmans Publishing Company, 1998), 96-128; Also see Paul Althaus, *The Ethics of Martin Luther*, trans. Robert Schultz (Philadelphia: Fortress Press, 1972), 25-35; Heinrich Bornkamm, *Luther and the Old Testament*, trans. Eric and Ruth Gritsch (Philadelphia: Fortress Press, 1969), 124-149; F. Edward Cranz, *Luther's Thought on Justice, Law, and Society* (Mifflintown, PA: Sigler Press, 1998), 41-72; Wannewetsch, 123-126.

²⁴ Edward Schroeder, "The Orders of Creation - Some Reflections on the History and Place of the Term in Systematic Theology" *Concordia Theological Monthly* XLIII (March, 1972), 165-178. Schroeder attempts (unsuccessfully in my view) to pin "the orders of creation" on Calvinism. His target in this article is Friz Zerbst, *The Office of Woman in the Church*, trans. A.G. Merckens (Saint Louis: Concordia Publishing House, 1955). Schroeder accuses Zerbst of being a "Calvinist" (170). The same label is used for Robert Gagnon. See "Thursday Theology 323" (August 19, 2004), 2-3. In fact it was Adolph von Harless (1806-1879), a confessional Lutheran theologian of Erlangen who popularized the term. See Adolph von Harless, *Christliche Ethik* (Stuttgart, 1864), 477.

²⁵ Schroeder, "The Orders of Creation- Some Reflections on the History and Place of the Term in Systematic Theology," 172.

on sexual identity, concluding that the homosexual person is to understand him or herself as created this way by God. Thus acceptance not repentance, affirmation not exhortations to self-denial are said to characterize the church's ministry to men and women who find themselves created with sensual urgings for persons of the same gender.

While the nineteenth century rendition of the 'orders of creation' was certainly misused by some Lutheran theologians in their eager endorsement of National Socialism in Germany in the last century, Carl Braaten takes upon himself the task of rehabilitating this teaching. His article, "God in Public Life: Rehabilitating the 'Orders of Creation'"²⁶ is most relevant to the current discussion for Braaten has demonstrated that these orders are not as subjective and individualistic as Schroeder has suggested.

Braaten's work, along with that of the Tuebingen theologian Oswald Bayer offer theological resources that are a corrective to what actually turns out to be a "flight from creation" to borrow the title of the book by Gustaf Wingren²⁷. Particularly helpful is Bayer's treatment of Luther's use of the three orders or three estates. Luther speaks of three basic structures that are essential to human life: church, government and home. While "none of these orders is a means of salvation"²⁸ -that is found in Jesus Christ alone; the believer out of these temporal orders but now lives within them by faith and love. Christian faith is not limited to one estate but thrives in all of them. As Bayer points out, Luther avoids a move that is made in nineteenth century liberalism of pitting an "ethic of radical obedience" against an "ethic of the household code." Luther's theological achievement according to Bayer is "the indissoluble bonding of the ethics of the table of duties and the ethics of discipleship and having them guard one another."²⁹ The Christian lives under the First Commandment within the God-ordained estates. Love as the fulfillment of the law does not explode the orders but love is fulfilled within them.

These estates or orders are not personalized or individualized in the way that Schroeder argues. Rather, to use the language of Bayer, "element and institution"³⁰ are bound together. God's Word of institution is definitive in both creation and the sacraments. Nature, then is, not defined by the gnostic self, but by God whose almighty Word brings creation out of nothingness. Thus there is no room for enthusiasm in either theology or ethics. The "element cannot become autonomous" in Bayer's words.³¹

Yet, is this not exactly what has happened in Schroeder's appeal for a new ethic of homosexuality? The Word is stripped from the element as it were. We see, then, an

²⁶ Carl Braaten, "God in Public Life: Rehabilitating the 'Orders of Creation'" *First Things* (December 1990), 32-38.

²⁷ Gustaf Wingren, *The Flight From Creation* (Minneapolis: Augsburg Publishing House, 1971).

²⁸ LW 37:365; Luther treats the three estates or three orders in any number of places, most representative is the section in the 1528 "Confession Concerning Christ's Supper" LW 37:363-365.

²⁹ Oswald Bayer, "Nature and Institution: Luther's Doctrine of the Three Orders" *Lutheran Quarterly* XII (Summer 1998), 139. Other writings of Bayer relevant to this discussion are "I Believe That God Has Created Me With All That Exists: An Example of Catechetical-Systematics" VIII (Summer 1994), 129-161 and "Luther's Ethics as Pastoral Care" IV (Summer 1990), 125-142. Also see his book, *Schoepfung als Anrede* (Tuebingen: J.C.B.Mohr, 1986).

³⁰ Ibid. 141.

³¹ Ibid. 143.

ethical enthusiasm in Schroeder and others who take this approach. Careful exegetical study of the biblical texts, such as that done by Robert Gagnon³², is dismissed as legalistic biblicism. Promise trumps the law, Spirit over the text, new creation triumphs over old creation, and we are left some rather fanciful attempts to justify a radical departure from biblical teaching and historic Christian practice. The new obedience is emptied of content and so evaporates into the new disobedience.

Schroeder dismisses New Testament texts that condemn homosexual behavior with an appeal to Article XXVIII of the Augsburg Confession. He writes "But surely the rules laid down by the apostles in the NT are permanent aren't they? Not really, says Article 28. 'Even the apostles ordained (sic!) many things that were changed by time, and they did not set them down as though they could not be changed' (Apology 28:16). Here's an example: 'The apostles commanded that one should abstain from blood, etc...Those who do not observe (this) commit no sin, for the apostles did not wish to burden consciences with such bondage but forbade such eating for a time to avoid offense. In connection with the (blood) decree one must consider what the perpetual aim of the Gospel is' (AC 28:65)."³³ From this citation of the *Augustana*, Schroeder concludes that New Testament prohibitions against homosexual expression are time-bound, related perhaps to a linkage between homosexuality and idolatry in the ancient world.

Schroeder overlooks the fact that "the perpetual aim of the Gospel" is the forgiveness of sins, not the overthrow of natural orders. Article XVI of the Augsburg Confession declares "The gospel does not overthrow secular government, public order, and marriage, but instead intends that a person keep all this as a true order of God and demonstrate in these walks of life Christian love and true good works according to each person's calling."³⁴ Rather than rightly distinguishing law from Gospel, Schroeder has done exactly what he accuses those who support the traditional Christian teaching on homosexuality of doing - he offers another gospel, a gospel unlike the gospel confessed in Augsburg XVI, that seeks to overthrow the good orders created and instituted by God to preserve His world. Underneath Schroeder's deeply flawed law/promise hermeneutic lies an understanding of creation that is foreign to Luther and the Lutheran Confessions. Others have identified the gnostic character in an approach that parades itself as relevant to current challenges for inclusiveness and tolerance³⁵. Such a "serach for relevance" writes Christoph Schwoebel "comes into conflict with fundamental dogmatic tenets of a Christian theology of creation. What seems to be needed is not an ethics of creation, but

³² Robert Gagnon, *The Bible and Homosexual Practice: Texts and Hermeneutics* (Nashville: Abingdon Press, 2001). See Schroeder's polemical response to Gagnon in "Thursday Theology 323"(August 19, 2004), 1-4.

³³ "Thursday Theology 51" (May 27, 1999), 4.

³⁴ AC XVIII:5-6, Kolb and Wengert, 49-50.

³⁵ See, for example, Philip Lee, *Against the Protestant Gnostics* (New York: Oxford University Press, 1987) and David Yeago, "Gnosticism, Antinomianism, and Reformation Theology: Reflections on the Cost Of A Construal" II *Pro Ecclesia* (Winter 1993), 37-49. Also note B. Wannewetsch's critique of the "docetic" turn taken by advocates of homosexual unions in B. Wannewetsch, "Old Docetism-New Moralism? Questioning a New Direction in the Homosexuality Debate" *Modern Theology* XVI (July 2000), 353-364.

an *ethic of createdness* which is informed by a *theology of creation*.³⁶ An ethic of createdness so prominent in Luther cannot be sustained by the shallow reductionism of Schroeder's approach.

Gerhard Forde is the second contemporary Lutheran theologian that I wish to examine in this paper. Recently retired after a distinguished teaching and writing career at Luther Seminary in Saint Paul, Forde is recognized as both a Luther scholar and systematician. A *festchrift*³⁷, published by Eerdmans earlier this year, witnesses his broad influence both in the Lutheran-Roman Catholic Dialogue and in Reformation studies. Like Schroeder, Forde makes use of the law/gospel distinction. His first book, a reworked version of his doctoral dissertation at Harvard is entitled *The Law-Gospel Debate*.³⁸ Unlike Schroeder, Forde does not slip into antinomianism.

For Forde, Romans 10:4 is a crucial text in understanding the law/gospel dialectic: "For Christ is the end (*telos*) of the law, that everyone who has faith may be justified." This leads Forde to inquire as to the nature of the law, both in terms of content and function.³⁹ Forde faults those calling for a revision of the church's moral teaching on homosexuality of missing a fundamental Lutheran insistence: the law always accuses. The accusation of the law can only be answered in Christ who was made sin for us. The law offers no compassion. Therefore Forde begins his essay on "Law and Sexual Behavior" by reminding his readers that "This is an essay about the function of the law as it confronts sexual behavior. Therefore the first thing that needs saying is that this paper cannot be about compassion"⁴⁰

The law, Forde argues, has two uses or functions.⁴¹ In its civil or political use it regulates human behavior. Here the law works horizontally to protect and preserve life. It curbs chaos and reigns in outbursts of immorality that would destroy the fabric of human community. The law, in its second use, unmasks sin *coram deo* and reveals the wrath of God against every idol. In its civil function, Forde notes that the law does not have to do with so-called "orientation"-which he deems a rather "modern invention that seems particularly pernicious."⁴² Here the law has to do with human actions, with behavior. Yet ultimately the law accuses the sinner before God. But these two uses cannot be so easily segregated. "The doctrine of the uses of the law is simply an attempt analytically to discern what the law actually does. Law does two things to us, come what may. It sets limits to sinful and destructive behavior, usually by some sort of persuasion or coercion -

³⁶ Christoph Schwoebel, "God, Creation, and the Christian Community: The Dogmatic Basis of a Christian Ethic of Createdness" in *The Doctrine of Creation: Essays in Dogmatics, History, and Philosophy*, edited by Colin Gunton (Edinburgh: T & T. Clark, 1997), 150.

³⁷ J. Burgess and M. Kolden, editors. *By Faith Alone: Essays on Justification in Honor of Gerhard O. Forde* (Grand Rapids: Eerdmans Publishing Company, 2004).

³⁸ Gerhard Forde, *The Law-Gospel Debate* (Minneapolis: Augsburg Publishing House, 1969).

³⁹ For a helpful overview of Forde's method, see James Nestingen, "Examining Sources: Influences on Gerhard Forde's Theology" in Burgess and Kolden, 10-21.

⁴⁰ Gerhard Forde, "Law and Sexual Behavior" IX (Spring 1995), 3.

⁴¹ I will forgo the question of the law's third use in this discussion of Forde. This issue of the third use of law in recent American Lutheranism is well-treated by Scott Murray, *Law, Life, and the Living God: The Third Use of the Law in Modern American Lutheranism* (Saint Louis: Concordia Publishing House, 2002).

⁴² Forde, "Law and Sexual Behavior," 4.

ultimately by death itself; and it accuses of sin. That is simply what it does. We have no choice in the matter."⁴³

Forde sees antinomianism, in whatever form it takes, as an attempt to find some other end for the law other than Christ crucified. So, for example, in the current debate on homosexuality, he observes that there are those who attempt to change the content of the law. He writes "...when we come up against laws that call our behavior into question we usually attempt by one means or another to erase, discredit, or change the laws. We become antinomians. If we don't like the law we seek to remove or abolish it by exegetical circumlocution, appeals to progress, to genetics, to the authority of ecclesiastical-task force pronouncements, or perhaps just to the assurance that 'things have changed.'⁴⁴ But the law will not disappear by exegetical attempts to expunge difficult texts from our hearing, or invocation of the latest scientific research to lessen the claim of Scripture, nor will it be house broken in the name of compassion or tolerance. The law cannot be so easily silenced. We cannot bring an end to the law. Only Christ is the end of the law for faith. Forde then proceeds to take up Paul's rhetorical question and answer in Romans 3:31-"Do we then overthrow the law by faith? By no means! On the contrary, we uphold the law." Faith does not set the law aside but rather lives with trust in Christ alone. Faith does not overthrow the law but establishes "it in its rightful place."⁴⁵

The "rightful place" of the law then continues as it orders human community and as it accuses of sin, driving broken sinners to Christ alone. It is a pernicious misuse of the law/gospel distinction to legitimize homosexual unions or ordinations. Forde writes "The idea that law could be so altered in content that the civil use would be somehow milder or even contrary to the theological use is quite contrary to the doctrine. Law may indeed be *applied* variously according to the situation but the basic content remains the same".⁴⁶ This point can be demonstrated from Luther's treatise, "How Christian's Should Regard Moses." In this writing Luther develops the distinction between the laws of Moses that pertain only to the political entity of Old Testament Israel (ceremonial and civic ordinances) and the commandments of God which are also inscribed in the heart. "Nature also has these laws"⁴⁷ says Luther and they are reflected the Ten Commandments.

"It is not enough" says Luther "simply to look and see whether this is God's word, whether God has said it; rather we must look and see to whom it has been spoken, whether it fits us".⁴⁸ One may not simply place the Old Testament prohibition against the eating of pork alongside of the sixth commandment. Forde's argument, consistent with

⁴³ Ibid. 7.

⁴⁴ Ibid. 5. Also see Forde's description of antinomianism as a "fake theology" in his article, "Fake Theology: Reflections on Antinomianism Past and Present" 22 (Fall 1983), 246-251 and "The Normative Character of Scripture for Matters of Faith and Life: Human Sexuality in Light of Romans 1:16-32" XIV (Summer 1994), 305-314; Also Gerhard Forde, *A More Radical Gospel: Essays on Eschatology, Authority, Atonement, and Ecumenism*, edited by Mark Mattes and Steven Paulson (Grand Rapids: Eerdmans Publishing Company, 2004), 33-49 , 137-155.

⁴⁵ Ibid.6.

⁴⁶ Ibid.8.

⁴⁷ LW 35:168.

⁴⁸ LW 35:170.

Luther, is that the law of God in creation itself orders human existence in the bi-polarity of male and female. Creation itself is structured heterosexually. The nature of sexual intercourse as a one flesh union of two who are other, who are biologically different demonstrates this. "The two become one flesh, a substantial unity in difference".⁴⁹ Civil law rightly has a stake in regulating and protecting marriage for the good of the human race.

The civic realm draws us into Luther's understanding of life in the world, of the "three orders or estates." This is the location of vocation, calling. Forde writes "If marriage is to be understood as entry into an estate under the civil use of the law, then it should be the case that genital sexual activity involved must itself be seen in light one's vocation to serve God and the neighbor through a life of love in the world. 'The heart of the matter rests with the claim that the sexual activity itself must be an essential aspect of the exercise and realization of (one's) vocational calling and have social as well as personal import' (James Hanigan). Same-gender sexual relations cannot fulfill this vocational calling. In the first place, the calling is that in sexual activity the 'two shall become one flesh.' This is not possible for persons of the same sex. The most obvious outcome and instance of the two becoming one flesh is in their children. Homosexual sexual intercourse obviously cannot do that. Furthermore, persons of the same gender cannot become one flesh in the sense of a shared life of love as unity in difference. They cannot become one out of two in the sexual act itself. At best the sexual activity of homosexuals can only imitate but not participate in what the act symbolizes".⁵⁰

Forde concludes that it is impossible for the church to bless same-sex unions or authorize the ordination of practicing homosexuals without resorting to antinomianism which finally undermines the Gospel itself.

Finally, I will conclude with several observations gleaned from examining these two approaches to the questions of the church's stance on homosexual practice.

In the last century, the Swedish theologian Gustaf Wingren argued the necessity of the doctrine of creation for evangelical theology. Every other article of the faith will be

⁴⁹ Forde, "Law and Sexual Behavior," 10. On this "unity in difference" note Meilaender: "The mutuality for which we are destined is a loving union of those who are *other*. And for creatures who are finite, historical, and earthly-for embodied human beings-that otherness has a biological grounding. Homosexual acts are forbidden precisely because lover and beloved are biologically, not sufficiently other. The relationship approaches too closely the forbidden love of self" Gilbert Meilaender, *The Limits of Love* (University Park: The Pennsylvania State University Press, 1987), 129.

⁵⁰ Ibid. 16. The fact that homosexual unions are non-productive is not a biological irrelevancy. "...in a world in which the language of love and consent have gradually come to trump all other moral language, we do well to remind ourselves at the outset that marriage, the first of all institutions, is not simply about love in general. It is about the creation of man and woman as different yet made to be true to each other; it is about being fruitful, begetting and rearing children. This pours content and structure into our understanding of sexual love, and it takes seriously the body's character within nature and history" Gilbert Meilaender, "The First of Institutions" VI (Fall 1997), 446.

deformed, he contended, is the doctrine of creation is mishandled.⁵¹ In a recent article, Gilbert Meilaender has demonstrated the importance of honoring the *bios* Lutheran bioethics.⁵² The same must be asserted for a sexual ethic as well. Too often, in the current debates on homosexuality, the biological reality of our being created male and female is dismissed as long as the relationship is consensual, committed, and caring. Thus one Lutheran ethicist, Paul Jersild, is worried that some Christians have adopted an "excessively physicalist approach to homosexuality."⁵³ Creation is seen as secondary if not irrelevant. But without creation, there is no incarnation. Without creation, the new creation is reduced to a spiritualistic construct of our own imagination. Is not God "excessively physicalist" in Jesus? Do we not confess the resurrection of the body?

Being open to the guidance of the Spirit, reliance on experience and reason, dialogue with others becomes a cover for a new enthusiasm that would cause the 16th century Anabaptists to blush! It is not given to us to speak as though God has not spoken. When the Bible is reduced to merely a conversation partner, we may be assured that the Scriptures will not have the final word.

Homosexuality is a disordering of God's design expressed in Genesis 1-2. Whatever else may be said about the causes of homosexuality, it cannot be attributed to God. From the standpoint of theological ethics it is irrelevant whether homosexuality is a result of a genetic disorder, environment or personal choice as the Scriptures teach us that all of creation after the fall is subject to bondage, disorder, and death. Robert Jenson is on target here: "We need not here resolve the question of whether there are such things as 'sensual orientations' and if so how they are acquired. What must anyway be clear is that 'homosexuality,' if it exists and whatever it is, cannot be attributed to creation; those who practice forms of homoerotic sensuality and attribute this to 'homosexuality' cannot refer to the characteristic as 'the way God created me,' if 'create' has anything like its biblical sense. No more in this context than in any other do we discover God's creative intent by examining the empirical situation; as we have seen, I may indeed have to *blame* God for the empirically present in me that contradicts his known intent, but this is an occasion for unbelief, not a believer's justification of the evil."⁵⁴

Self justification is ultimately the justification of the evil. Opposite of self-justification is repentance. Luther defines repentance in relationship to Baptism in both catechisms. In the *Small Catechism*:

"What does such baptizing with water indicate? It indicates that the Old Adam in us should by daily contrition and repentance be drowned and die with all sins and evil

⁵¹ Gustaf Wingren, *Creation and Law*, trans. Ross MacKenzie (Philadelphia: Muhlenberg Press, 1961), 25-26. Also James Nestingen, "Luther on Marriage, Vocation, and the Cross" XXIII (Winter 2003), 31-39 and "The Lutheran Reformation and Homosexual Practice" in Childs, 41-58.

⁵² Gilbert Meilaender, "Honoring the *Bios* in Lutheran Bioethics" 43 *dialog* (Summer 2004), 118-124.

⁵³ Paul Jersild, *Spirit Ethics* (Minneapolis: Fortress Press, 2000), 139.

⁵⁴ Robert Jenson, *Systematic Theology - Volume 2: The Works of God* (New York: Oxford University Press, 1999), 93. This in contrast to both Schroeder but also Jersild who opines "But for those who discover their homosexual orientation, the norm becomes homosexual behavior" 141.

desires, and that a new man should daily emerge and arise to live before God in righteousness and purity forever" ⁵⁵

And in the *Large Catechism*:

"Thus a Christian life is nothing else than a daily baptism, begun once and continued ever after. For we must keep at it without ceasing, always purging whatever pertains to the old Adam, so that whatever belongs to the new creature may come forth. What is the old creature? It is what is born in us from Adam, irascible, spiteful, envious, unchaste, greedy, lazy, proud - yes - and unbelieving; it is beset with all vices and by nature has nothing good in it." ⁵⁶

Martha Ellen Stortz contributed an article, "Rethinking Christian Sexuality: Baptized into the Body of Christ" to the volume, *Faithful Conversation: Christian Perspectives on Homosexuality*. Stortz proposes a discussion of sexuality that begins with baptism, thus avoiding the reality of humanity created as male and female. Her conclusions are predictable. Baptismal identity supercedes creation⁵⁷. The old Adam is not put to death but affirmed. Baptism, to paraphrase Bonhoeffer, then becomes the justification of the sin, not the sinner. What suffers finally is not just morality, but the Gospel itself. We now find ourselves in a world, where "everything is permitted and nothing is forgiven." (Alan Jones)⁵⁸

Acceptance and accommodation are not substitutes for absolution. Any use of Luther that aims for anything less misses the mark.

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⁵⁵ SC IV:4 in *Luther's Small Catechism* (Saint Louis: Concordia Publishing House, 1986), 22-23.

⁵⁶ LC IV:66, Kolb and Wengert, 465.

⁵⁷ Stortz, 59-79.

⁵⁸ Quoted by Gerhard Forde, *On Being a Theologian of the Cross* (Grand Rapids: Eerdmans Publishing Company, 1997), x.