

Good works

by [Robert Benne](#) in the [October 9, 2002](#) issue

Law and Protestantism: The Legal Teachings of the Lutheran Reformation. By John Witte Jr. Cambridge University Press, 337 pp., \$65.00; paperback, \$23.00.

This wonderful book will be edifying for all those interested in the social impact of religious movements, especially of the Protestant sort. It is a tonic for Lutherans because it sharply qualifies the unremittingly negative picture of Lutheranism drawn by Ernst Troeltsch in his massive *Social Teaching of the Christian Churches*. That account was pretty much accepted by both Richard and Reinhold Niebuhr, who in turn influenced the mainstream Protestant view of Lutheranism and its ethos. That viewpoint lives on, as I found out when I was affectionately chided in the pages of this magazine by two ethicists—one Catholic and one Presbyterian—for operating out of a Lutheran perspective. “It is difficult enough being a Lutheran ethicist—if one always has a bad conscience about good works,” they offered in mock sympathy.

Troeltsch criticized Luther and the Lutheran movement for having no “fundamental social theory” that had transformative effects. (Catholicism and Reformed Christianity, he thought, had such a theory.) Because its ethics were so personal and inward, Lutheranism essentially capitulated to all the worldly powers in which it lived. It was quietistic and passive, adapting to whatever milieu it found itself. It allowed the worldly powers autonomy to shape the world without serious critique from the church. It identified the status quo with natural law and distanced itself both from the prophetic judgment of God’s will as revealed in the Ten Commandments and the prophetic literature. Its patriarchalism set the stage for political tyranny, if not Nazi totalitarianism. These alleged negative effects are taken to a further level by Richard Marius in *Martin Luther: The Christian Between God and Death*, which argues that the Lutheran Reformation was a “catastrophe in Western civilization” and that it would have been better had Luther never lived.

Quite a different assessment is made by John Witte Jr., professor of law at Emory University and the director of its Law and Religion Program. Witte argues that early Lutheranism developed a “fundamental social theory” that not only decisively

shaped the various German principalities of the time, but continues to influence the modern world. While Luther himself originally roared a vigorous no to ideas and practices of the late medieval church and society, it did not take long before he and his followers realized that they needed more than a principle of negation. They needed to construct a new church, new political arrangements, new universities and schools, new laws, new social welfare institutions, new social institutions such as marriage, and even new theories of the common good.

In copiously researched chapters, Witte shows how Luther's two-kingdoms theory provided a social theory that enabled his followers—particularly Melanchthon, Eisermann and Oldendorp—to reconstruct society in the Lutheran lands. In order to carry this off, Witte has to give a lucid and complete interpretation of that key Lutheran theological construct—the two ways that God reigns. His is the best exposition of that theory I have read, including my own. Witte has chapters on the Lutheran conversion of canon law; Lutheran theories of law, politics and the common good; church law; marriage law; and education law.

In reconstructing society, Lutherans selectively employed many vestiges of the Catholic times, especially canon law. But they brought new biblical and theological insight to the process of reconstruction, as well as a lot of practical rationality. In this project, the Ten Commandments were seen as the foundation of natural and positive law, theologians were in constant conversation with Christian magistrates on the formation and application of the laws, countervailing forces were put in place against tyrannical princes, and there was a sustained effort to create a Christian commonwealth. Witte maintains that this effort was remarkably successful.

Though Witte challenges many of Troeltsch's interpretations, one that is not challenged concerns the fateful decision of the Lutheran Reformers to put the care and regulation of the church into the prince's hands. The church in due time became a state church, beholden to it for support and direction. The Lutheran churches of Germany and Scandinavia still struggle with the devastating consequences of being made into government-supported purveyors of religious and social services.

I wish Witte had taken up the later trajectory of this Lutheran experiment in nation-building. Why and how did it decay into the kind of church that Troeltsch so devastatingly describes? Perhaps Witte should have addressed Troeltsch's critique directly.

Nevertheless, *Law and Protestantism* adds a much needed counterpoint to the unflattering story of Lutheranism told so often among academics in this country. And the quarrel about its nature is not simply an argument about an interpretation of history. If it were only that it would be of small interest. Rather, Lutheranism, like Calvinism and Catholicism, appeared to have had a “fundamental social theory” that shaped Lutheran cultures for centuries. Those cultures, like those shaped by Calvinism and Catholicism, have forgotten their religious foundations. They are now “cut-flower” civilizations, separated from their roots. In due time, when confusion and chaos overtake them, they may search for firmer ground. Then books like Witte’s will provide a remembrance of a “fundamental social theory” that may serve again as a basis for renewal. Such recollections might also serve new nations in the developing world that are strongly connected with Christian religious traditions, offering them a vision for the future.