Counsel and Conscience: Post-Reformation Lutheran Casuistry According To the Dedekenn-Gerhard thesaurus Consiliorum Et Decisionum and Its Cases on Marriage and Divorce.

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COUNSEL AND CONSCIENCE:
POST-REFORMATION LUTHERAN CASUISTRY ACCORDING TO
THE DEDEKNN-GERHARD *THESAURUS CONSILIORUM ET
DECISIONUM* AND ITS CASES ON MARRIAGE AND DIVORCE

A DISSERTATION SUBMITTED TO
THE FACULTY OF CALVIN THEOLOGICAL SEMINARY
IN CANDIDACY FOR THE DEGREE OF
DOCTOR OF PHILOSOPHY

BY
BENJAMIN T. G. MAYES

GRAND RAPIDS, MICHIGAN
MAY 2009
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In his omnibus deprecare Altissimum,
Ut dirigat in veritate viam tuam.
Ante omnia opera verbum verax praecedat te,
Et ante omnem actum consilium stabile.
— Ecclesiasticus 37:19–20
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Benjamin T. G. Mayes
### ABBREVIATIONS

<table>
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<tr>
<td>FC SD</td>
<td>“Formula of Concord: Solid Declaration,” 1577.</td>
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<tr>
<td>NDB</td>
<td><em>Neue deutsche Biographie</em>. Edited by die Historischen Kommission bei der Bayerischen Akademie der Wissenschaften. Berlin: Duncker &amp; Humblot, 1953–.</td>
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<td>SA</td>
<td>Martin Luther, “The Smalcald Articles,” 1537.</td>
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<tr>
<td>Code</td>
<td>Description</td>
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<td>------</td>
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<td>WA</td>
<td><em>D. Martin Luthers Werke: Kritische Gesamtausgabe.</em> Weimar: H. Böhlau, 1883–.</td>
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<td>WA Br</td>
<td><em>D. Martin Luthers Werke: Briefwechsel.</em> Weimar: H. Böhlau, 1930–.</td>
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ABSTRACT

In much literature on early modern casuistry and conscience, Lutheran casuistry is denied a place, under-researched, or ignored. Yet in Lutheran Germany of the post-Reformation era (ca. 1580–1750), there was a genre of pastoral/ethical writings consisting in casuistry and in topically or thematically related theological counsels, aimed at instructing and comforting the consciences of Christians. An extensive example from this genre is Georg Dedekenn and Johann Ernst Gerhard, eds., Thesaurus Consiliorum Et Decisionum, 4 vols. (Jena: Zacharias Hertel, 1671). Lutheran casuistry, related to but also distinct from Roman Catholic and Reformed counterparts, arose especially as pastors looked within Holy Scripture, the medieval tradition, and the writings of Martin Luther and other Lutheran authorities for answers to ethical problems and doctrinal disputes. Dedekenn’s Thesaurus was an anthology, addressing a wide range of dogmatic as well as practical matters. Dedekenn and the other editors of the Thesaurus did not view their counsels as necessarily obligating to a Christian’s conscience. Instead, they viewed the counsels as wise advice, and they encouraged readers to avoid individualistic ethical choices and instead to engage in an “aristocratic” process of moral decision making in which one would consult the wise men of the past and present. The counsels included in the Thesaurus address inter-confessional disputes, intra-Lutheran disputes, sacraments, church government, pastoral ministry, social ethics, marriage, sexual ethics, and many other topics. By examining the cases and counsels on divorce and remarriage, one sees various arguments being made, and several sources of authority aside from Scripture being used, including medieval canon law and ancient Roman imperial law. Usually, a high degree of uniformity can be seen in the answers given in the Thesaurus. Yet an irreconcilable diversity in these cases on marriage presents a picture of the condition of marital practice in 17th-century Germany, a condition which was of concern to the editors of the Thesaurus and their friends.
CHAPTER 1. CASUISTRY

This dissertation will demonstrate, contrary to much recent scholarship, that there is a substantial genre of Lutheran pastoral/ethical writings from the post-Reformation era (ca. 1580–1750), consisting both in casuistry and in topically or thematically related theological counsels. On the basis primarily of the Thesaurus conciliorum et decisionum of Georg Dedekenn,¹ this dissertation will show that this literature was uniquely Lutheran, pastoral, dogmatic, and practical. In chapter one, we shall set forth the state of the question regarding post-Reformation casuistry, including the rise of Lutheran casuistry, its sources, theological background, and practical setting. In chapter two, we shall introduce Georg Dedekenn and the other compilers of the Thesaurus. In chapter three, the prefatory material from the Thesaurus will be examined to show how this work, theological counsels, and casuistry in general were understood by their 17th-century practitioners. In this prefatory material, Georg Dedekenn, the sons of Johann Ernst Gerhard, Christian Grübel, and their friends explain why they did their work, how the work is configured physically,

¹. Georg Dedekenn, ed., Thesaurus consiliorum et decisionum, 4 vols. (Hamburg: P. Langen, 1623); Georg Dedekenn and Johann Ernst Gerhard, eds., Thesauri Consiliorum Et Decisionum, 4 vols. (Jena: Zacharias Hertel, 1671).
and what each compiler contributed to the work. In chapter four, the contents of the *Thesaurus* will be reviewed, showing the broad extent of Lutheran casuistry and its pastoral, doctrinal, and practical focus. In chapter five, one area of the *Thesaurus* will be examined in detail—divorce and remarriage—to determine the methods and arguments used. By so doing, we will be able to evaluate whether the purposes for the *Thesaurus*, as stated in the prefatory material for the work, as well as the methods of moral reasoning discussed in the same place, correspond to the working out of the cases themselves. Finally, in chapter six, we shall briefly describe the decline of Lutheran casuistry and give conclusions.

**Post-Reformation Lutheran Ethics**

Groups of Christians are recognized as distinct from others by the words they speak and the deeds they do. The Reformation of the Western church in the 16th century marked the division of Christendom into multiple, distinct groups. Christians now did not speak the same way and often their deeds, the ways they lived their lives, were at odds with each other as well. Yet the various Christian groups did not become distinct all at once; their “confessionalization” was a process—to some extent gradual, but also marked by major milestones.²

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² Wolfgang Reinhard and Heinz Schilling introduced the term “Konfessionalisierung” in 1981 to designate a transformational process, emanating from religion, in which the medieval culture of unity developed into different systems of culture and religion, manifested in doctrine, piety, worship, and lifestyle. When the term is used by social historians, it does not mean “the formation of confessions” or of distinct ecclesiastical entities, but the process of transformation of society brought about by the spirit of a confessional Christianity. Church historians, however, use the term with reference to its primary object, the church, and thus use it to designate the process of differentiation of occidental
For Lutherans, the followers of the 16th-century reformer Martin Luther, a major milestone in the process of confessionalization was the publication in 1580 of the Book of Concord, the definitive collection of Lutheran confessions. The time after Luther’s death in 1546 and leading up to the Book of Concord marked the conclusion of the Reformation. During these decades, doctrinal disputes among Luther’s heirs led to the formation of confessions and, eventually, to a significant degree of ecclesiastical consolidation. The Book of Concord of 1580, then, ushered in the era of Lutheran Orthodoxy. The career of Johann Gerhard (1582–1637) marks the beginning of “high Orthodoxy,” which terminates with the deaths of Abraham Calov (1612–86) and of Johann Andreas Quenstedt (1617–88). This was a period of scientific flourishing in theology, of a deeper use of Aristotelian scholastic philosophy, of a comprehensive systematization of dogmatics, and of omnifaceted apologetics. The next period, until ca. 1750 (the death of Valentin Ernst Loescher), is known as “late Orthodoxy.” In this period, “the intellectual strength and the power of its thought among the people waned.”

________________________________________


In the period of Lutheran Orthodoxy, the Lutheran churches defended the Christian message made normative in the Lutheran Confessions and did so with the use of Aristotelian philosophy, developing a unified ecclesiastical doctrine and defending it with sharp polemic against the other confessions. With the term “Orthodox,” the churches of the Reformation claimed the concept of the church found in the ancient Christian confessions for themselves. By claiming to be “Orthodox,” they claimed continuity with the Christendom of the Bible, of the ancient church, and of the first centuries.

The Reformation era, especially the lives and thought of the major reformers, has been studied extensively. But the era of Lutheran Orthodoxy is the classical age of Lutheran Protestantism, and much historical work remains to be done in this area, particularly in the area of ethics. Through preaching, writing, and various forms of pastoral

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care, generations of Lutheran pastors taught their people God’s Word regarding the right faith and life. They did this because of their conviction that God had spoken in His Son, Jesus Christ, because of their conviction that it was important to know God’s will, and because of their hope for salvation for themselves and their hearers. An examination of the teaching of Orthodox Lutheranism will help us to understand an important and under-studied period of German history, and it will open windows to historic Lutheran pastoral practice. Knowing this history can help modern pastors and people to reevaluate and re-appreciate their own practices and assumptions.  

Lutheran ethical writings during the Reformation and post-Reformation periods were not all of one kind. One kind of ethical writing can be called “philosophical ethics.” Despite Luther’s rejection of Aristotle’s ethics, Philipp Melanchthon lectured on the Nicomachean Ethics at least eight times and published several commentaries on it, and many other Lutheran works of philosophical ethics were published in the 16th century.

7. Hans-Christoph Rublack lists several tasks for research into the history of Lutheran Orthodoxy. Among other tasks, he recommends that future research should look at an exact picture of the Evangelical church of that epoch, including the accomplish-ments of Orthodox Lutheran thinking and of the organization of the church; and that research should be carried out on pastoral books, as part of the effort to describe the Evangelical clergy as a whole. This dissertation will make a contribution to these two points. Hans-Christoph Rublack, “Zur Problemlage der Forschung zur lutherischen Orthodoxie in Deutschland,” in Die Lutherische Konfessionalisierung in Deutschland (Gütersloh: Gerd Mohn, 1992), 13–32, here at 29–32.


Besides this, theological ethics were carried out in the *Loci theologici* of Melanchthon, Martin Chemnitz, Johann Gerhard, and others.\(^\text{10}\) Georg Calixt was not the first Lutheran to write a work of ethics separate from dogmatics, but he was the first Lutheran to handle moral theology from the standpoint of a regenerate Christian obeying divinely revealed law, not primarily from the standpoint of the philosophically discerned obligations incumbent on all human beings, and to do this separately from dogmatics. Calixt’s method became the model for subsequent moral writing among Lutherans in the 17th and 18th centuries.\(^\text{11}\)

In addition to these kinds of ethical writings, another kind emerged at least by the early 17th century: an ethic of conscience. This ethic of conscience originated from the


complex of problems that arise in the life of faith in this world. It considers the condition of a Christian’s conscience in many difficult situations in life and attempts to give answers and guidance.\textsuperscript{12} It will be our task to examine this genre in more detail in this dissertation, especially one significant example of this genre, the \textit{Thesaurus conciliorum et decisionum} of Georg Dedekenn.\textsuperscript{13}

Lutheran ethics in the post-Reformation period were shaped by the ethical approaches of Luther, Melanchthon, and the Lutheran Confessions. For Luther’s religious ethic, a fundamental paradigm is the paradoxical relationship of the two kinds of righteousness: being righteous before God (alien righteousness) and being righteous before other human beings (one’s own righteousness).\textsuperscript{14}

Another fundamental aspect of Luther’s theology which affects ethics is his view of the bound will. The will of a fallen human being is not free to decide between good and evil. In \textit{The Bondage of the Will}, Luther depicts the human will as a beast of burden.


\textsuperscript{13} See below, p. 76 ff.

being ridden either by the devil or by God. Yet despite his emphasis on the bondage of the will for salvation, Luther still had room to speak of the freedom of a Christian. Indeed, a Christian’s good works, though caused by God, are still the work of the Christian himself. For Melanchthon, human free will was not nearly so bound as it was for Luther.

A basic point in Lutheran ethics is that good works do not cause one’s justification or acceptance by God, but are instead a result of justification. Good works follow faith. To use later terminology, justification begins the process of sanctification. The non-imputation of sins is the beginning of one’s actual purification through the Holy Spirit. Through faith, the Holy Spirit and Christ himself dwell in believers and impart the life of God to them.

As we will show below, the conscience played an important role in Lutheran ethics and became a central element in the third kind of Lutheran ethical writings: ethics


17. Dittrich, *Geschichte der Ethik*, 4/1:102. Melanchthon, *Loci Communes 1543*, 41–46. Free will does not play a big role in Dedekenn’s *Thesaurus*. This indicates that the dogmatic formulation of free will was satisfying to Dedekenn and not seen as problematic.

of conscience. Especially Melanchthon’s view of conscience was important for this genre.\textsuperscript{19}

For any discussion of ethics, one’s view of authority for human life is vital. For Lutherans, canonical Scripture is of the highest authority. Yet despite the Lutheran emphasis on “Scripture alone” as the standard by which teachers and doctrines are to be judged, other subordinate sources of authority were recognized, such as natural law.\textsuperscript{20} Also, since at least 1577, Lutherans confessed the “third use of the law,” agreeing that God’s law as contained in Scripture not only accuses sinners but also instructs Christians in holy living and gives a concrete form to the new life of faith and of the Spirit.\textsuperscript{21} This moral instruction for Christians was often organized according to the “three estates”: church (\textit{ecclesia}), state (\textit{politia}), and home (\textit{oeconomia}).\textsuperscript{22} Orthodox Lutheranism carried

\begin{footnotesize}
\begin{enumerate}
\item[22.] Dedekenn’s \textit{Thesaurus} was organized according to the “three estates.” See SA “Preface” 14 (\textit{Triglotta}, p. 459; K-W, p. 300); Martin Luther, “Confession Concerning
on these features of Reformation-era ethics while at the same time addressing new problems that arose.23

Defining “Casuistry” and Related Terms

Lutherans by at least 1628 had developed a genre of casuistry.24 “‘Casuistry,’ broadly conceived, is any effort to apply general moral principles in particular circum-

23. Hans Emil Weber sees Lutheran Orthodox ethics as carrying on the distinctly reformatory faith. Honecker and Gass, however, say that some of this faithfulness to tradition lapsed into convention-based social ethics, which was not thought through methodologically. Weber, Reformation, Orthodoxie und Rationalismus, 2:63; Honecker, “Sozialethik,” 334; Gass, Geschichte der christlichen Ethisch, 2/1:102–3.


stances, particularly when two otherwise valid principles conflict, or when, for whatever reasons, we simply do not know how to apply our principles in our current circumstances.” Casuistry is made up of an examination and documentation of particular “cases.” A “case” (casus, Fall) consists of a set of circumstances—in other words, a situation. Originally the Latin word casus (from cadere, “to happen, take place”) meant the circumstances that gave rise to a particular legal ruling. Christian ethicists or moral


James F. Keenan distinguishes directories and summaries of cases from casuistry in the proper sense. For him, real casuistry “addresses a dilemma, uses analogies, examines circumstances, resolves doubt, examines the intentionality of personal agents and gives its solution. . . . For casuistry, then, a case needs to be made, argued and demonstrated by an author with evident authority”: James F. Keenan, “Was William Perkins’ Whole Treatise of Cases of Consciences Casuistry? Hermeneutics and British Practical Divinity,” in Contexts of Conscience in Early Modern Europe, 1500–1700, ed. Edward Vallance and Harald Braun (New York: Palgrave Macmillan, 2003), 17–31, here at 20. Keenan’s distinction reminds us that there were several different casuistry-like genres which could have served as precedent for Puritan practical divinity (and Lutheran cases of conscience as well). This distinction, however, will not prevent us from calling these other casuistry-like genres “casuistry” in the broad sense. Seventeenth- and eighteenth-century Lutheran literature connected the terms “casuistry” and “cases of conscience,” which was the normal term for Lutheran works of this genre: Salomon Deyling, Institutiones prudentiae pastoralis, ed. Chr. Wilh. Kuestner, 3rd ed. (Leipzig: Joannes Fridericus Iunius, 1768), 17; Sigmund Jacob Baumgarten, Kurzgefaßte casuistische Pastoraltheologie, ed. Joh. Friedr. Hesselberg (Halle, 1752); Otto Gothis and Adam Rechenberg, Gottholds Manuale casuisticum oder der für angehende Priester in schwehren u. vorkommenden Gewissens-Rath; nebst. dissertatione Rechenbergiana de fundamento et norma decidenti casus conscientiae (Franckfurt: Renger, 1717); Johannes Olearius, Universa Theologia Positiva, Polemica, Exegetica Et Moralis, Eiusque Fructus Ascetica, Catechetica, Paracletica atque Casistica: Cum Studiorum Methodo, nec non XXXI. distinctis tam Rerum quam Verborum Repertoriiis Mnemonicos, post Semiseculares. . . meditatationes, delineata (Halae Saxonum: Mylius, 1678); Balduin, De casibus conscientiae, fol. [ ]:( ):

26. Jonsen and Toulmin, Abuse of Casuistry, 116–17; Albert R. Jonsen, “Casuistry,
theologians consider “cases” insofar as they are “cases of conscience” (casus conscientiae, Gewissensfälle). A “case of conscience” is essentially a scruple or doubt in which the conscience of a Christian, without information, is not able to judge correctly. Lutheran theologians in the early 17th century viewed cases of conscience as occurring in self-examination, which give even the devout a scruple. Thus, the treatment of cases of conscience was seen as an especially necessary part of theological contemplation, pertaining to the part of theological wisdom called “didactic.” Casuistry literature unravels the knots that constrict the conscience, being directed against doubts and temptations which people encounter in life.

Later, we will deal with the Orthodox Lutheran concept of “conscience” in greater detail. Although Orthodox Lutherans were not all agreed on the nature of the conscience—as to whether it is a habit, power, faculty, or act of the mind—nevertheless


27. Balduin also speaks of a casus conscientiae as meaning a “falling,” “moral error,” “occurrence,” “accident,” or “emergency”—meanings which are latent in the German Gewissensfall: Balduin, De casibus conscientiae, 1.16, pp. 41–42. In order to show the underlying Latin (casus conscientiae), in which the range of meanings from “situation” to “falling” are present, we prefer to remain with the normal English translation of “case of conscience.” See also Jonsen and Toulmin, Abuse of Casuistry, 7, 127; Dittrich, Geschichte der Ethik, 4/1:386, 392.


29. See below, pp. 65–75.
there was broad agreement on how the conscience functions. Melanchthon gave the classic Lutheran definition of the conscience as a practical syllogism in the intellect, in which the major premise is the law of God or the Word of God; the minor premise and conclusion are the application, approving something done rightly or condemning a transgression; and this approval is followed by happiness in the heart, and the condemnation is followed by grief. [This happens] in the natural order sanctioned by God; he wants this knowledge of his judgment to be in his rational creature and he wants the performance [of it] to be added, so that there might be a testimony concerning him, showing that God exists, commands righteousness, and prohibits and punishes unrighteousness.  

Modern definitions of casuistry do not always agree with the traditional definitions. “Situationism,” as popularized especially by Joseph Fletcher, resembles traditional casuistry but is much less stable and consistent, and much more subjective and relativistic. Several 20th-century Protestant theologians, most famous among them being Karl Barth, condemned and rejected all forms of casuistry as being too rigid “to do justice to the unique particularities of the historical situation.” For them, situations are radically


unique. This recent rejection of casuistry goes hand in hand with the view of the conscience set forth in modern theology. “[T]he popular modern superstition [of] ‘conscience’ is an exclusive private daemon, wholly impermeable to rational persuasion, which will produce instant verdicts that differ from individual to individual in such a way that no one could possibly say that anything or anyone was wrong (or even right).” In the face of an older casuistry on the one hand, viewed as static and inflexible, and the modern situational and existential rejection of casuistry on the other hand, some modern theologians have attempted to chart a middle course.


33. Henry Chadwick, Some Reflections on Conscience: Greek, Jewish and Christian, Robert Waley Cohen Memorial Lecture 1968 (London: Council of Christians and Jews, 1969), 7. Annegret Freund examines the meaning of the term “Gewissen” in the leading German systematic theologians of the 20th century. In so doing, she discovers a large degree of diversity, while at times being able to identify commonalities. One such commonality is that the conscience is viewed by most theologians exclusively as an encounter with God, either God’s condemning word of law, or his gospel. Thus, the conscience is exclusively passive, existential, and unable to be educated. Annegret Freund, Gewissensverständnis in der evangelischen Dogmatik und Ethik im 20. Jahrhundert (Berlin: de Gruyter, 1994), 177, 181.

Anglo-Catholic and Reformed Casuistry

At the beginning of the 17th century, casuistry started to be published by English Protestant authors.35 Richard Baxter, Robert Sanderson, John Sharp, and especially Jeremy Taylor were leading writers of this literature.36 For Anglicans, the genre was for use both by pastors and by laity, which explains why much of the literature was written in English. While the English casuists followed pre-Reformation casuistry in many


respects, their divergence from older models of casuistry, as well as their rejection of contemporary Jesuit casuistry, has been well-documented. The Anglican casuistry especially had much in common with the Puritan tradition of casuistry. “English casuists wrote with the intention ‘not of correcting the work of their predecessors but of amplifying it.’ Bishops drew from the work of ‘puritans’ and vice versa.”

The Reformed had their casuistry as well, beginning with William Perkins’s *Whole Treatise of the Cases of Conscience.* Writing in the mid-18th century, the


40. William Perkins, *The Whole Treatise of the Cases of Conscience, Distingvished into Three Bookes: The First Whereof is Revised and Corrected* (Cambridge: Legat, 1606). The first part had been published earlier as: *The First Part of the Cases of Conscience* (Cambridge: Legat, 1604). The treatise was quite popular, experiencing at least nine editions between 1606 and 1651. Another treatise on conscience appeared earlier in German-speaking lands: William Perkins, *Anatomia Sacra Hvmanaee Conscientiae, Gvilielmi Perkinsii Angli, Doctrinâ, Iudicio, Candoand praestantifâ. Theologi: Quâ ipsius Natura, Proprietate, ac Differentiae dextrè produntur, cum curandi conservandique genuinâ Methodo*, trans. Wolfgang Mayer (Basileae: König, 1603). Margaret Sampson says that there was an English Protestant casuistry written in 1523: “Laxity and Liberty in Seventeenth-Century English Political Thought,” in *Conscience and Casuistry in Early Modern Europe*, ed. Edmund Leites (Cambridge: Cambridge University Press, 1988), 72–118, here at 98. But this early casuistry was isolated and not part of a major effort at publishing casuistry, such as there was among Lutherans, Anglicans, and Puritans in the
Lutheran theologian Johann Georg Walch listed Heinrich Alsted, William Ames, Perkins, Joseph Hall, Jeremy Taylor, Robert Sanderson, and Andreas Rivetus as the chief Reformed casuists.\textsuperscript{41} Latin and German translations of their works were known in Germany, being printed not only in Reformed cities but in a few Lutheran ones as well.\textsuperscript{42}

\begin{flushright}
17th century.
\end{flushright}

James F. Keenan argues that \textit{The Whole Treatise} is not truly a “casuistry,” but is rather a directory in the first part and a summary of cases thereafter. Keenan’s observation, that there were several possible predecessors for Perkins, is helpful, but his narrow usage of the word “casuistry” will not prevent us from using it in a wider sense. Keenan, “Was William Perkins’ \textit{Whole Treatise of Cases of Consciences Casuistry}?”


Why was this casuistry literature not written and published among Protestants until the beginning of the 17th century? It has been suggested that casuistry seemed inseparable from the confessional, the abuses of which had been an argument that Protestants used against the Roman Catholic Church; also, a work of casuistry is a large and difficult task—too much for the 16th-century theologians who chose to spend their time in the controversies of the day. Yet eventually casuistry was written. Perhaps the moral theologies and systematic presentations of ethics were not flexible nor sensitive enough to address all situations; in an age of conflict, ethical behavior also became controversial; new developments in life arose which congregations were not able to judge on their own. These are the kinds of answers that have been suggested. Yet these suggestions do not answer the question of why casuistries only started to be written in the 1590s among the Reformed and in the 1620s among the Lutherans. The factors mentioned—e.g., conflict, ethical behavior as controversial, new developments—existed both long before and long after the turn of the 17th century.

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44. Gass, Geschichte der christlichen Ethik, 2/1:147. Gass’s suggestions here, which he applies to both Reformed and Lutheran casuistry, are not completely satisfying. See below, pp. 34–56.

45. We will suggest a reason for the delay in Lutheran casuistry-writing below, pp. 34–56.
Just as Lutherans had several different kinds of ethical literature, so also the Reformed could write some philosophical ethics, relying on Aristotle, and other theological ethics. In their casuistry, the Reformed looked to Scripture rather than to Aristotelian philosophy for the duties they set forth. The most distinctive aspect of Reformed casuistry, however, is its focus on the assurance of election. Examining theologians such as Perkins, Ames, John Downham, John Bunyan, and Richard Baxter, one finds that their greatest case of conscience was “whether a man be a childe of God or no.” All in all, the English Reformed casuistry was focused on the personal assurance of salvation, and for the most part it was meant also for the laity (thus being written in the vernacular).

Of course, the Reformed focus on personal assurance of salvation was the indication of fundamental theological problems, according to Lutheran writers. To be sure, the writers of the dedicatory epistle for Balduin’s *De casibus conscientiae* did not have nearly as much criticism for the Reformed as they did for the Roman Catholic versions of casuistry, yet the criticism is still biting, dealing with the distinctive Reformed doctrine of

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the conscience. The “Calvinists,” they say, often deal with cruel things, though they sometimes try to temper God’s providence with human wisdom. Afflicted consciences and people anxious about their salvation are not helped by their counsels, but are given the “wine of desperation and of the infernal pit.” This is due to Reformed doctrines “on the absolute love of those who will be saved, the absolute hate of those who will be damned, the will of the sign and another will of good-pleasure, particular syllogisms, genera of individuals, good grief, and similar paradoxes.”49 However, the critique of the Reformed position on the conscience should not obscure the fact that casuists such as Perkins and Ames could describe the functions of the conscience syllogistically, similar to how Melanchthon and Balduin described the conscience.50

Many comparisons have been made between Puritan casuistry and Roman Catholic casuistry, especially of the Jesuits, but no unanimity has so far emerged.51


According to Stone, the casuistry of Perkins and Ames allowed for no mitigating circumstances. They were convinced that the practice of piety would lead one to realize what the Word of God required. This was in stark contrast to the Jesuit casuistry of Juan Azor, which allowed for many exceptions: Stone, “Adoption and Rejection of Aristotelian Moral Philosophy,” 78.

50. Merrill, “Introduction,” xiii; Sprunger, Learned Doctor William Ames, 170. Regarding the Lutheran doctrine of conscience, see below, pp. 65–75.

thorough analysis will require a larger number of examples of the casuistry of both sides, as well as familiarity with other ethical genres. The same caveat applies for comparisons between Lutheran and Reformed casuistry.

**Roman Catholic Moral Theology and the Debate Surrounding Probabilism**

The Middle Ages handed down contradictions in some areas of Christian faith and life to Christians of the 16th and 17th centuries. Lutherans and Roman Catholics alike inherited the same contradictions, but developed differing ways of managing them. The Roman Catholic tradition of casuistry presented various ways of handling the contradictions and resolving doubts on individual cases. In the history of Western Christian casuistry, there were three stages. First, penitential books arose in the course of the 6th and 7th centuries. Next, after canon 21 of the 4th Lateran Council (1215) made annual con-

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52. E.g., the legitimate grounds for divorce and remarriage. See below, pp. 257–329.

fession mandatory for all Catholics, there began the era of the “summists,” who prepared summaries of cases for pastors hearing confession. The third period began with the Council of Trent. In this period, Roman Catholic casuistry became much more detailed and methodologically sophisticated.  

In the 16th through 18th centuries, Roman Catholic writers produced the most casuistry works. Pierre Hurtubise estimates that close to 1300 first editions of casuistry works were produced by Roman Catholic writers between 1550 and 1799, with the greatest concentration (414) being printed between 1650 and 1699. Why did Roman Catholic writers produce so much casuistry? To some extent, new discoveries and new situations were producing new moral questions, and people were beset with a “scrupulous worry” which fueled the economy surrounding the publication of casuistry. In addition, the genre was produced to such a great extent due to the new responsibilities placed on clergy and laity by the Council of Trent—including more frequent confession and Communion—and to the poor education of the clergy. The 1586 Jesuit Ratio studiorum made the study of cases a major component in the curriculum for practical-track Jesuit students, whose major duty would be the hearing of confessions. So central was casuistry to their educa-


55. Christian Grübel makes this clear in his dedicatory letter for the Appendix Nova of the 1671 edition of Dedekenn’s Thesaurus: Christian Grübel, ed., Thesauri Consiliorum Et Decisionum Appendix Nova (Jena: Zacharias Hertel, 1671), fol. a3 r.

tion that these students were called *casistae*. The academic-track Jesuit students (the *scolastici*) also had casuistry as a major part of their preparation.57

In the 17th and 18th centuries, Roman Catholics fought an internal war over appropriate forms of moral theology, moral decision making, and casuistry. In the course of the debate, distinctive schools of thought emerged.58 Because these schools of thought represent basic possibilities for moral decision making in doubtful situations, and because Lutheran casuistry is occasionally compared with them, we shall briefly review these Roman Catholic schools of thought.59

In many cases, there can be no full certainty on whether a particular action is required, permissible, or impermissible. If two or more views present themselves as possible courses of action, and neither is certain, then the arguments for one side or the other can be of differing strengths. If both opinions have the same weight of arguments for them, they are “equally probable” (*aeque probabilis*). (Here it should be noted that “prob-


59. Döllinger and Reusch, *Geschichte der Moralstreitigkeiten*, 3–5, provide a clear conceptual taxonomy for this material.
able” means “approvable” or “having weighty authority,” not “statistically likely.”) If one of the two opinions has more arguments for it than the other has, it is “more probable” (probabilior), and the opinion with less arguments is “less probable” (minus probabilis). This probability can be based on internal reasons, in which case it is called “intrinsic probability” (probabilitas intrinseca), or on external reasons (i.e., the testimony of accepted authorities), in which case it is called “extrinsic probability” (probabilitas extrinseca). These terms started to be used among Roman Catholics at the end of the 16th century.

Opinions were also considered in terms of safety. The “safer opinion” (opinio tutior) is the opinion which, if one follows it, he will avoid transgressing a law with more certainty than if he had followed the “less safe opinion” (opinio minus tuta). For example, someone is following the “safer opinion” if he refuses to enter a contract whose permissibility is doubtful to him; someone is following the “less safe opinion” if he enters that contract despite such doubt. Someone is following the “more probable opinion” if he enters a contract whose permissibility has stronger reasons speaking for it than against it; someone is following the “less probable opinion” if he enters that contract despite the fact that weaker reasons speak for it than for the opposite opinion.


61. Döllinger and Reusch, Geschichte der Moralstreitigkeiten, 3–4; Fleming, Defend-
In accordance with these different kinds of opinions, various theories were developed in the course of the 17th and 18th centuries. First, “tutiorism” said that one must follow the safer opinion even if the less safe opinion is more probable. That is, if one doubts whether an action is permissible, one may not do it. (One must have certainty in order for it to be permissible.) And if one doubts whether an action is required, one must do it. Tutiorism was the strictest of all the moral theories and was generally rejected by Roman Catholic theologians as being too rigoristic.62

Second, “probabiliorism” said, in agreement with tutiorism, that one may follow the safer opinion even if it is less probable, but one may only follow the less safe opinion if it is more probable than its opposite. That is, certainty of the permissibility of an action was not required for one to do it, as long as it had more authority for it than against it, and uncertainty about whether an action was required did not compel one to do it, as long as it had more authority against it than for it. This moral theory was strict, but not nearly so strict as tutorism. The authorities invoked by probabiliorists tended to be restricted to biblical and patristic authorities.63

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63. Döllinger and Reusch, Geschichte der Moralstreitigkeiten, 4; Fleming, Defending Probabilism, 5; Hurtubise, La casuistique dans tous ses états, 266; Kantola, Probability and Moral Uncertainty, 13, 191.
Third, “aequiprobabilism” said that one may follow the less safe opinion if it and the safer opinion are equally probable.\(^{64}\)

Finally, “probabilism” said that one may follow the less safe opinion even if it is less probable than the safer opinion, so long as it is probable to some extent. The extent to which the less probable opinion still had to be “probable” led to differing kinds of probabilism, with some probabilists being close to aequiprobabilists, and others being extremely lax on how improbable the less probable argument could be. Probabilism allows a group to hold two or more mutually exclusive positions at the same time. It also allows one to posit portions of one’s authority (e.g., Scripture) as contradictory to each other and then hold to one side or the other, rather than reconciling the statements and accepting the authority as a whole. The Jesuits fostered probabilism, but others did, too, such as Bartolomé de Medina (d. 1580), a Dominican. The authorities invoked by probabilists were not restricted to Scripture and ancient fathers, but included scholastic theologians, canonists, and contemporary authorities.\(^{65}\)

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Lutherans in the 17th and 18th centuries were aware of these developments among Roman Catholic moral theologians. While some Lutherans found some of the Jesuits’ ethical categories to be helpful in writing their own moral theologies, the general Lutheran reaction was quite negative toward the Jesuits and probabilism. A major problem in Lutheran eyes was that in Roman Catholic casuistry the conscience was supposed to accept a whole range of authorities beyond Scripture. Lutherans also condemned their doctrine of moral probability, their direction of intention, their mental reservation, their arbitrary changing of the definitions of moral subjects, their distinction of philosophical and theological sins, their distinction between mortal and venial sins in a superficial manner, and the sufficiency of attrition. Thus, probabilism was one part of a host of Jesuit problems, but an important problem that the Orthodox Lutherans vigorously rejected.


Even as early as 1628, Lutherans were writing against the problems of Roman Catholic casuistry. In the dedicatory epistle to Friedrich Balduin’s De casibus conscientiae, the dean of the Wittenberg theological faculty wrote that the Roman Catholic casuistry had erred greatly by following papal decrees instead of the divine Word, which alone can confirm consciences. In contrast to them, Balduin was setting forth his casuistry on the basis of Scripture alone.\(^6^8\) The Roman Catholic casuistry gave “superstitious counsels”; encouraged regicide, seditions, and perjury; and contained many counsels that encouraged “iniquity and peril,” for example, in matters related to marriage: no remarriage was permitted, concubinage was tolerated, brothels were allowed.\(^6^9\)

In rejecting probabilism, did Lutherans attach themselves to one of the other models? Given the Protestant rejection of tradition (councils, papal decrees, teaching of the scholastics, canonists) as necessarily binding on the conscience,\(^7^0\) how did they approach the issues raised by probabilism and probabiliorism? What would a “probable opinion” be for Lutherans? Or can we say that Lutherans did not reject the complex of authorities

\(^6^8\) The “norm of Scripture alone” was set up specifically in opposition to the traditions of the Papists and the decrees of the popes. The emphasis on “Scripture alone” did not prevent Balduin from making use of medieval definitions of the conscience proposed by Thomas Aquinas and others who were, in part, commenting on Aristotle.

\(^6^9\) Balduin, De casibus conscientiae, fol. \([\ ):(\ ):(\ 4]\ v, fol. \):(:\ ):(:\ r – fol. \):(:\ ):(:\ 4]\ r.

\(^7^0\) Weber, Reformation, Orthodoxie und Rationalismus, 2:61–62; Döllinger and Reusch, Geschichte der Moralstreitigkeiten, 26–27.
handed down from the medieval church, but instead rearranged their priority, putting Scripture in the highest place?\(^7\)

Although M. W. F. Stone sees Protestant casuistry, such as that which was developed by Balduin and Johann Alsted, as totally different from late medieval casuistry (and, indeed, does not even consider Protestant casuistry to be casuistry in the proper sense), he still admits that they had similar methods and approaches in their study of the cases of conscience.\(^7\) Kittsteiner goes so far as to classify the Protestant casuists in general as tutiorists.\(^7\) Dittrich, however, leaves the door open to both tutiorism and probabiliorism among the Lutheran casuists. He calls the Lutheran reception of tutiorism and probabiliorism, taken “directly from the Catholic moral systems,” as a *katholisierendes Moment* in the evangelical Lutheran casuistry.\(^7\) One should not forget, however, that tutiorism and probabiliorism were the stricter tendencies within Roman Catholic moral theology. If the Lutherans were appropriating these, they were being very selective and appropriating only what they saw as compatible with Lutheran doctrine. Such appropriation would not

\(^7\) As we shall show below (pp. 261–262) on the basis of the questions concerning divorce and remarriage in Dedekenn’s *Thesaurus*, the Lutherans did not reject the old authorities, but rather subjected them to Scripture’s authority. Where Scripture did not speak explicitly on an issue, the other authorities were cited and often followed.

\(^7\) Stone, “Adoption and Rejection of Aristotelian Moral Philosophy,” 60.


\(^7\) Dittrich, *Geschichte der Ethik*, 4/1:394.
stand in tension with a thorough critique of other tendencies within Roman Catholic moral theology.

Much remains to be discovered regarding this question. The difference in authority structures between Roman Catholics and Lutherans raises the question of what a “probable” and “more probable” opinion would have been for the Lutherans. The question of whether Lutherans were tutiorists or probabiliorists will have to wait for an answer until the moral theology and casuistry of Lutheranism as a whole can be studied in greater detail than has occurred until now.

**Lutheran Adaptation of Medieval Models**

The Reformation marked a change in the patterns of Christian faith and life in comparison to preceding patterns set forth by the Roman Catholic Church of the Middle Ages. As Lutherans, in particular, accepted the Reformation’s message of the free justification of a sinner through faith alone for the sake of Christ alone, they also grappled with how to structure their collective life as the church and as Christians in society. As principalities accepted the Lutheran Reformation, often indicated by their formal subscription to the Augsburg Confession, they also found the need to set forth church ordinances as a replacement for the older canon law.\(^75\) In many points, the old canon law could not be

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\(^75\) The authoritative edition of the 16th-century Lutheran church ordinances is: Emil Sehling, ed., *Die evangelischen Kirchenordnungen des XVI. Jahrhunderts* (Tübingen: Mohr, 1902–1994). On the development of the German Lutheran church ordinances, see Jeffrey Philip Jaynes, “‘Ordo et libertas’: Church Discipline and the Makers of Church Order in Sixteenth Century North Germany” (PhD diss., Ohio State University, 1993);
reconciled with the Evangelical confession of the Christian faith. Yet in these Lutheran church ordinances, as well as in other juristic and casuistic writings, medieval canon law continued to be an influence. John Witte argues that despite the early Lutheran rejection of canon law—symbolized by Luther’s burning of the Corpus Iuris Canonici, the Summa angelica, and other books in 1520—Lutherans by the late 1520s were appropriating canon law for use in the new Lutheran church ordinances and for use in civil law. Thus, what began as a revolt against canon law became a reformation of canon law, or as Witte puts it, “a compromise.” Philipp Melanchthon in 1531 could claim: “We conform to the canons more truly than do the adversaries.” In Dedekenn’s Thesaurus, a counsel is included from the Leipzig consistory, saying that imperial laws on marriage should be subjected to canon laws. Lutherans from the late 17th and early 18th centuries continued to recommend canon law as a source for Lutheran casuistry. Their attitudes toward

Dittrich, Geschichte der Ethik, 4/1:116.


78. Georg Dedekenn and Johann Ernst Gerhard, eds., Thesauri Consiliorum Et Decisionum Volumen Tertium, Mixta Et Inprimis Matrimonialia Continens (Jena: Zacharias Hertel, 1671), p. 362 (3.4.8, no. 5).
the old Roman Catholic canon law was eclectic, rejecting some parts as false but recognizing other parts as approved within Lutheran churches.\textsuperscript{79} The eclectic acceptance of Canon law was joined with a similar manner of acceptance of old Roman civil law as well.\textsuperscript{80}

Besides the eclectic acceptance of Canon law, Lutherans accepted other aspects of pre-Reformation church life, adapting them as needed to fit the Evangelical confession of faith. One such aspect was the medieval parish system, in which a person’s congregational membership and pastor was determined from above, according to the place of one’s residence. This compulsory parish membership (Parochialzwang) was implemented in varying ways by Lutherans, and was used especially as a means to control sacramental practice and promote church discipline.\textsuperscript{81} Although Luther did not accept all the medieval regulations concerning the parish system as matters of divine law, he could refer to the


\textsuperscript{81} Eberhard Winkler, “Pfarrei II,” s.v. in TRE, here at 26:348; Dietrich Pirson, “Parochialrecht,” s.v. in RGG\textsuperscript{4}; S. Reicke, “Parochialrecht,” s.v. in RGG\textsuperscript{3}. 

parish system as a whole—especially the relation of the congregation to its called pastor—as “ordained of God.”

82 Another example of the survival of pre-Reformation institutions within the confines of the new Lutheran churches was monasticism. Luther’s rejection of monasticism was virulent, yet in some places he could envision a place for the old monasteries and a freely chosen, nonmeritorious monastic lifestyle within the newly constituted Evangelical churches. The Cistercian monastery of Amelungsborn is an example of a Lutheran monastery of the 16th century. The abbot and monks of Amelungsborn accepted the Augsburg Confession on August 10, 1568, and remained as a Lutheran monastery, which still today is constituted as a “spiritual corporation” of the Evangelical Lutheran Territorial Church of Hannover. (The office of abbot was vacant for several decades of the 20th century, however.)

83 The Cistercian monastery of Loccum, likewise, accepted the Reformation in 1593.


85 Martin Kruse, “Kloster und Gemeinde nach 1593,” in Geschichten aus dem Kloster Loccum: Studien, Bilder, Dokumente, ed. Horst Hirschler and Ernst Berneburg (Hannover: Lutherhaus-Verlag, 1982), 141–46; Ernst Berneburg, “Die Loccumer Hora:
Just as a few monasteries survived after the Reformation, the institution of cathedral chapters and the office of canons (members of those cathedral chapters) survived in many places, often only as ecclesiastical governing bodies but usually also with residential and liturgical requirements similar to those of pre-Reformation times, as well as prohibitions of marriage, so long as one wanted to remain in his office as a canon.  

These examples of Lutheran adaptations of pre-Reformation institutions and law show how Lutherans grappled with the tradition that preceded them and made extensive, though not uncritical, use of that tradition in the new context of reformed, Evangelical church ordinances. A similar kind of discontinuity-continuity dynamic can be seen in the Lutheran approach to casuistry.

**The Rise of Lutheran Casuistry**

On December 10, 1520, Luther burned the *Corpus Iuris Canonici* and other books—among them, the *Summa angelica* of Angelus de Clavasio as a sign of revolt against the entire church-legal system of the Roman Catholic Church. Luther’s selection

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88. Martin Brecht, *Martin Luther: His Road to Reformation, 1483–1521* (Phil-
of the *Summa angelica* among the books to be burned is significant because, as a popular
casuistry for the use of father confessors, it exercised a profoundly negative influence on
him. In his Genesis lectures (given from 1535 to 1545), Luther said,

> The theologians had no reason for thinking up this kind of [invincible] ignorance; for one must not look for any means of defending sins, as it frequently was done in the *Summa angelica* where it deals with the instruction of conscience. The author of this book caused great offense when into theological disputations he introduced statements that concern the government and the management of the home. When I, as a young theologian, read that book in order to enable me to counsel consciences at confession, I was very often deeply offended; for it treated in a forensic and legal manner matters that belong to the judgment of God and to the church.  

Roderick Martin argues that Luther rejected the *Summa angelica* not because it sought to inform consciences but because it in fact misled consciences, not properly distinguishing law and gospel; also, it supported the authority of the pope over against Scripture.  

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as this is, perhaps Luther’s opposition to this *Summa* was more extensive. In the quotation above from the Galatians commentary as well as in his commentary on Psalm 45:6, Luther emphasized that new cases constantly arise, new situations present themselves as exceptions to those laws, and thus an exhaustive treatment of laws is impossible.\(^92\) Luther’s point is that no exhaustive enumeration of laws (such as the *Summa angelica* tried to provide) is possible; the law cannot save; the law cannot give peace of conscience.\(^93\)

Yet the followers of Luther and Melanchthon were not able to do without concrete instruction in ethical cases. Their Christian consciences needed instruction. Rather than being doubtful about whether God is gracious and whether one can be saved, people came to have doubts about what they should do. For the former concern, casuistry is worthless. But for the latter concern, casuistry is valuable. And Luther himself became a valuable source for this new, Lutheran casuistry.\(^94\) Luther gave advice on what to do

\(^92\) Martin Luther, “Psalm 45,” 1532 (LW 12:238; WA 40/2:526).


when laws conflict, discussed various cases of conscience in his writings, and stated that cases are similar in such a way that one can learn from past cases and from them judge correctly on future cases. Luther also exerted concrete influence on the adjudications of the consistory that was established in Wittenberg in 1539 to deal with marital cases and other civil matters.

It has often been stated that Lutheran casuistry did not begin to be written until Friedrich Balduin wrote his *De casibus conscientiae*, which was published posthumously in 1628. According to this view, Luther’s opposition to casuistry was followed faithfully until a new frame of mind among Lutherans in the 17th century made casuistry attractive. While it is certainly true that Balduin was doing something new (this fact is pointed out even by the dedicatory letter to Balduin’s work), the explanations given so far as to why Balduin did this new thing are unsatisfying. Martin rightly thinks that Balduin did not write his casuistry simply to establish the authority of Lutheran clergy, but that

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Balduin’s casuistry was instead a form of pastoral care. But Martin indicates that the reason for the rise of Lutheran casuistry was a change in theological context. Whereas Luther was worried about works without faith, “[h]is followers became increasingly concerned about faith without works.” And so Balduin’s new genre of Lutheran casuistry was due to the new demands of his early 17th-century context.

More than a hundred years ago, W. Gass explained things similarly.

The problem with these explanations is not that they are false, but rather that they are too general. They do not answer the question of why casuistries only started to be written in the 1590s among the Reformed, and in the 1620s among the Lutherans. New problems in life constantly arise, of course, and already Luther and other reformers were concerned that people were not living out their Christian faith, as can be seen from their moral admonitions and ethical instruction in countless catechisms and sermons.

Without denying that there were new pastoral situations which occasioned the new Lutheran casuistry literature in the 1620s, other factors can be identified. The answer to why casuistry literature was not written until the early 17th century is quite simple: there were other works that met the need sufficiently.

Many of these works came from Luther himself, though not as “casuistry,” strictly speaking. Johann Förster, in his Consilium de Studio Theologico rite instituendo &


100. Gass, Geschichte der christlichen Ethik, 2/1:147.

101. On the authority of Luther among his heirs, see Robert Kolb, Martin Luther as Prophet, Teacher, and Hero: Images of the Reformer, 1520–1620, Texts & Studies in
absolvendo (1608–13), a guide for theological study, recommended Conrad Porta’s *Pastorale Lutheri* as well as Felix Bidembach’s *Consiliorum Theologicorum* as texts that would help prepare theology students for the care of souls and the practice of confession and Absolution. Porta’s book is essentially a casuistry drawn from Luther’s works. The title, translated, reads: “Luther’s Pastoral Book: That is, useful and necessary instruction on the foremost parts that belong to the holy ministry; and correct answers to many important questions on difficult . . . cases.” It was especially written as a pastoral manual, to give instruction to pastors from Luther’s writings on what to do in the “difficult cases.” Porta collected especially Luther’s counsels, his official opinions given to those Reformation & Post-Reformation Thought (Grand Rapids: Baker Books, 1999). Christoph Ernst Luthardt views the Evangelical casuistry literature as having begun early and as being significantly different than Roman Catholic casuistry: Geschichte der christlichen Ethik, 2:221.


103. C. F. W. Walther characterizes Porta’s theology as being very faithful to Luther’s. “No other book of the same tendency can be set beside the *Pastorale Lutheri*. Whoever has not read this book cannot say that he has read a truly Lutheran pastoral theology.” Walther, *Pastoraltheologie*, 13–16.
with unique problems and cases of conscience. Porta also included the counsels of other theologians.\footnote{Porta, \textit{Pastorale Lutheri}, vii, xiii.} This book, printed in 1582, predates Balduin’s work by forty-six years. This may help to explain why casuistry works in a narrow sense were not written until Balduin’s work of 1628. Other works, such as Porta’s, served this need sufficiently.

Other casuistry-like literature drawn from Luther’s writings also served Lutherans in the 16th century. One of the first editions of Luther’s letters was meant for a pastoral purpose. Caspar Cruciger’s 1545 edition of Luther’s correspondence is entitled: “Several writings and sermons of consolation for those in danger of death, in other distress, and in temptation.” Other kinds of writings are included here besides letters. This collection was expanded by Georg Rörer to include various kinds of afflictions. Johann Aurifaber likewise published a collection of Luther’s letters for the pastoral purpose of “consolation.”\footnote{Luthardt, \textit{Geschichte der christlichen Ethik}, 2:226.}

century. Aurifaber’s edition was published in 1564 and 1565 under the title (translated): “Table Talk, or Conversations of Dr. Martin Luther, which he held over many years in the presence of erudite people, also foreign guests and his table companions, arranged according to the chief parts of our Christian doctrine.”

As can be seen from the title of Aurifaber’s edition, the compiler arranged Luther’s sayings (and much foreign material) not chronologically, but according to loci communes, commonplaces. That is, he arranged them by subject matter, so that the Tischreden would serve the reader by giving Luther’s statements on any particular subject. Heinrich Peter Rebenstock’s 1571 Latin edition of the Tischreden “swarms with errors,” yet from the title of this edition, it appears even more clearly that the Tischreden was intended as a casuistry or pastoral handbook. The translated title reads: “Conversations, Meditations, Consolations, Counsels, Judgments, Decisions, Stories, Responses, and Jokes of Dr. Martin Luther, of pious and holy mem-


ory, observed at the lunch- and supper-table and in traveling, and faithfully transcribed.”¹¹⁰ These titles show that the editors of the *Tischreden* intended not to present a historical chronology of Luther’s utterances at table but to present a handbook of Luther’s advice, a casuistry-like manual from Luther’s mouth.

Other casuistry-like manuals from Luther include Nikolaus Ericeus’s

Forest of Decisions, Examples, Histories, Allegories, Comparisons, and Jokes, observed partially from the Reverend Doctor Martin Luther’s and Philipp Melanchthon’s private and public sayings, and partially from the books of other ancient and recent doctors, arranged into commonplaces with an alphabetical order,¹¹¹ as well as Theodosius Fabricius’s “Luther’s Commonplaces.” The latter work was a pastoral reference work, organized topically.¹¹²

In addition to casuistry-like works derived from Luther’s writings, Luther’s own official opinions, addressing issues of politics, liturgy, marriage, and pastoral practice,


could have functioned casuistically for Lutherans before Balduin’s *De casibus conscientiae* was published in 1628.113

Melanchthon’s role in the rise of Lutheran casuistry has been noted.114 Besides providing a concept of the conscience that would be picked up by Balduin and others, Melanchthon also gave examples of how to resolve casuistic questions in several of his ethical works.115 Melanchthon himself could also be a source for a casuistry. Christoph Pezel’s collection of Melanchthon’s advice and counsels is similar to Conrad Porta’s *Pastorale Lutheri*.116

According to Pelt, Paul von Eitzen’s *Ethicae doctrinae* (1571–73) dealt with marital matters under the rubric of the Sixth Commandment (i.e., “You shall not commit adultery”) in a wholly casuistic manner. Eitzen discusses chastity, causes of marriage,


persons who may marry (i.e., forbidden grades), parental consent, conditions, weddings, divorce, remarriage for the innocent party, polygamy, mixed marriage, and remarriage after the death of a spouse. 117 These happen to be the same topics that Dedekenn includes in the third volume of his Thesaurus.

Casuistic handling of various moral questions was also found in many of the Lutheran dogmatic works. Jasper Rasmussen Brochmand, Johann Gerhard, Leonhard Hutter, Abraham Calov, and Johann Andreas Quenstedt handled casuistry questions in their commonplaces on the law, on the church, on the ecclesiastical ministry, on marriage, on the civil magistrate, and on the domestic estate. 118

Marriage adjudication was fertile ground for casuistry in the 16th century. In the Reformation era, marriage legislation was given predominantly in the church ordinances, but this legislation was not extensive. It fell to the new Evangelical consistories to handle the many cases that arose in an equitable and careful manner. The consistories in Saxony were responsible for protecting pastors and supervising congregational practice and discipline. The Wittenberg consistory started work in 1539, but only in a provisory manner. By 1550, the activity of the Wittenberg consistory had become highly efficient. Ralf


Frassek reports that the consistory would send copies of previous decisions for similar cases that arose rather than writing new decisions. By 1580 there was a relatively homogenous system of marital adjudication for all Saxon lands. Some of the reformers’ official opinions on marital cases became precedent for marriage-law cases. With special attention to the *Wittenbergisches Buch*, a manuscript collection of decisions by the Wittenberg consistory, Frassek shows that in the development of Evangelical marriage law in the Reformation era, adjudication (*Rechtsprechung*) dominated abstractly formulated legislation (*Rechtsetzung*). In order to use cases as precedent, this *Wittenbergisches Buch* made cases anonymous and removed dates, in part to remove unnecessary details and to focus on the essence of the case. Sometimes names were left in if they appeared honorably in the case.¹¹⁹ A similar procedure was followed with the cases included in Dedekenn’s *Thesaurus*. From a comparison of the cases described by Frassek and the cases in Dedekenn’s *Thesaurus*, we see that cases were made anonymous not only for published works of pastoral care, but it was normal to make such cases anonymous wherever they would serve as models or precedent for future cases.

Johannes Brenz’s *Wie in Ehesachen* from 1531 is a short casuistry dealing with nine questions related to marriage ethics, including parental consent for betrothal and marriage, forbidden grades of relationship in marriage, polygamy, and divorce for various

causes. Similar to Brenz’s *Wie yn Eesachen*, works such as Erasmus Sarcerius’s *Corpus iuris matrimonialis*, Melchior Kling’s *Matrimonialivm cavsarvm tractatvs*, Joachim von Beust’s *Tractatus de sponsalibus et matrimoniiis*, and Johann Bugenhagen’s *Vom Ehebruch* seem to be books of casuistry focused on the topic of marriage ethics.

We can also find a clue as to what casuistry-like literature preceded Balduin’s *De casibus conscientiae* by examining the dedicatory letter to his work. According to this letter, written by the dean of the theological faculty at Wittenberg, a book such as Balduin’s—a truly Lutheran explanation of cases of conscience (*professio casuum conscientiae*)—had been desired by many people. Yet before the time of Balduin’s *De casibus conscientiae*, there was no suitable work. The preface takes note of the collections of theological counsels gathered by Felix Bidembach and Georg Dedekenn, but desires something more:


However, just as lawyers and physicians do not only suggest counsels to those who ask for them in a case presented at a [certain] time and insert them into large volumes, but they also, in other works, arrange them into certain orders—whatever could correspond from similar cases—which they are able to foresee with probability: thus, much more in theology, it would be worth the effort, beyond exact decisions from theologians according to the circumstances, to propose an accurate synopsis of every genus of cases of conscience and, having shown the solutions, to arrange them in a uniform, systematic style.  

Thus, according to this dedicatory letter, casuistry and theological counsels have the same aim and function, but they differ with regard to style, level of specificity, and comprehensiveness. The theological casuistry and theological counsels had corresponding bodies of literature from the disciplines of law and medicine. Balduin was seen as the first among the Lutherans to set forth a theological casuistry.  

Of course, the main reason for the publication of a Lutheran casuistry was that the “Romanist” and “Calvinist” casuistries were deficient. Roman Catholic theologians had published many thick tomes of cases of conscience, both in former times as well as contemporarily with Balduin. It helped them, of course, that their professors of cases of conscience were “supported with large stipends.” The conclusion of the preface gives a summary of the purpose of Lutheran casuistry as set forth by Balduin: “We entreat God

123. “tamen ut JurisConsulti & Medici non tantùm Consilia suggerunt petentibus in Casu pro tempore oblato, eaq[ue] magnis inserunt voluminibus, sed alio etiam labore in certos ordines digerunt, quicquid respernderi posset de casibus similibus, quos prospicere probabiliter possunt: ita multò magis in Theologiâ opera pretium fuerit, præter Decisiones à Theologis pro re natâ exactas, accuratam aliquam Synopsin omnis generis Casuæ Conscientiae proponere, & monstratis solutionibus ad analogiam aliquam Systematicam referre.” Balduin, De casibus conscientiae, fol. ):( ):( 3 r.

124. “aluntur . . . magnis stipendiis.” Balduin, De casibus conscientiae, fol. ):( ):( 3 r.
alone that he might bestow peace on the afflicted Christian church, sound counsels on Christian magistrates, liberty and integrity on consciences, patience on the afflicted, and, finally, rewards on us all, both of this and of the future life. Amen.”125 Avoiding “superstition” (God alone), the casuist’s task is to give advice from God’s Word, tested in experience (sound counsels), and thereby to console afflicted consciences (liberty and integrity, patience), with a view toward the good of the church here below (peace) and in eternal life (rewards).

So the genre of theological counsels or responses paved the way for the new genre of Lutheran casuistry, a fact which has not been overlooked by some scholars.126 Udo Sträter has recently described how Lutheran faculties gave the official counsels which later were gathered into collections such as Dedekenn’s Thesaurus, and long before, in 1841, Johannes Geffcken described these counsels on the basis of archival material in Hamburg. At the time of Lutheran Orthodoxy, the authoring of official responses was one of the chief tasks of the theological faculties in Germany. Anyone could request an official response. When conflicts arose between individuals, often between pastors due to a


perceived false doctrine or practice by a pastoral colleague, individuals or groups would seek official opinions from recognized authorities, such as theological faculties. Those seeking a response were obligated to pay for this service, and thus the giving of official responses formed a significant source of funding for the faculty. Other groups, such as pastoral ministeria, or individuals of high reputation for their pastoral wisdom or experience, were also approached for their official responses.127

The subjects of the responses can be put into four categories. First, many responses were answers to a scruple of conscience, that is, a true *casus conscientiae*. At times, people were in doubt as to the right course of action and so they sought advice from respected authorities. Often, when pastors received a call to a new place of service, they would seek advice in the form of official opinions. In these case, they generally acted in accordance with the responses they received. Second, many questions were asked in order to justify an ecclesiastical doctrine or practice, or to obligate others to accept, teach, or carry out that doctrine or practice. Often these responses would be sought in the aftermath of a dispute, when pastors would rebuke what they perceived as sin but their hearers or pastoral colleagues did not perceive as sin. Looking at disputes related to pietism in Hamburg at the end of the 17th century, Geffcken finds that this church-political use of the responses was not effective in solving the problems and resolving the conflicts, since at that time one could often obtain the response he sought by

how he formulated the question. Third, many responses were sought in marital cases, especially in the complicated and confusing issue of forbidden grades of relationship. Fourth, responses were sought concerning the rights of the clergy in relation to the civil government. For example, could the clergy of Hamburg acting alone, without the permission of the city council, impose a new oath upon its members, dealing with new controversies occasioned by pietism? Could the city council appoint preachers without the approval of the ministerium?128

The term “response” is a representative term for a genre whose individual parts can be labeled in various ways: consilia or Bedenken (“counsels”), iudicia (“judgments”), or responsa (“responses”). As noted above,129 the genre of “responses” or “counsels” existed also in the fields of law and medicine.130 According to Christoph Matthaeus Pfaff, writing in the mid-18th century, whoever gives a theological counsel must, besides being orthodox and well-versed in Scripture, judge the matter strictly according to the submitted species facti, which was an exact report of the question or problem.131 In contrast to the rules governing judicial proceedings, in the giving of theological counsels, the other


129. See above, p. 47.


131. Species facti is a term with medieval roots. For example, the decretals of Gregory IX contain more than just legislative decisions. They usually also contain an account of the controversy that led to the request for a papal decision, the positions of each party in the dispute, and a request for a decision. This is called the species facti or pars historica. A. Van Hove, “Decretals, Papal” The Catholic Encyclopedia (1908), http://www.newadvent.org/cathen/04670b.htm, accessed on 1/30/08.
party does not have to be heard if a *species facti* is at hand. This is because, according to Pfaff, the counsels are not binding judgments; they are only informative. Not only did theological faculties render theological counsels, so did consistories, preacher-ministeria, and respected individual theologians in the academy and church vocations. These had greater authority than other private individuals. Many of the counsels were edited and published for the everyday use of a parish pastor. Such counsels were made into anonymous cases before printing by removing names and dates.¹³²

So why was “Lutheran casuistry” not written until 1628? The answer is very simple. Other works met the need sufficiently. Despite Luther’s rejection of the *Summa angelica* and similar casuistries, casuistry-like literature soon arose out of Lutheran soil well before Balduin’s *De casibus conscientiae* of 1628. Luther’s writings were gathered into topical, casuistry-like, pastoral handbooks. Luther’s writings and the writings of other reformers, especially on marriage, gave specific application of Christian ethics to particular cases. Casuistic questions appeared in Lutheran Orthodox dogmatic works. Finally, the direct predecessors of Lutheran casuistry (in the narrow sense) were the collections of counsels, the official opinions given by theological faculties, consistories, and individuals of high reputation. Then, it was a small step for a Lutheran casuist such as Balduin to fill in the gaps and give a more systematic presentation to the already-compre-

hensive collections of theological counsels that previously existed, such as Dedekenn’s *Thesaurus*, which appeared five years before Balduin’s work.

This Lutheran casuistry literature became quite popular in the course of the 17th century. Johann Georg Walch lists seventy-three printings of Lutheran works on casuistry and theological counsels from the 1600s through the 1750s, with the largest concentration falling in the 1640s and 1650s.\(^\text{133}\) Walch’s listing is selective, however, so the number of Lutheran works of casuistry and theological counsels is even greater than he indicates. The question of why this casuistry literature became so popular in the course of the 17th century cannot be answered here. But we can point out that the popularity of this literature was not limited to Lutherans. The explosion of casuistry literature among Roman Catholics after the Council of Trent, reaching its high point in the second half of the 17th century,\(^\text{134}\) indicates an interest that crossed confessional boundaries.

In a broad sense, the casuistic arrangement can be seen in many kinds of 17th-century Lutheran literature. Many writers took specific situations in life and adapted their


content accordingly. Prayer books,\textsuperscript{135} hymnody,\textsuperscript{136} and even homiletical theory\textsuperscript{137} were arranged according to specific cases and situations in life. Johann Gerhard’s \textit{Enchiridion Consolatorium Morti Ac Tentationibus In Agone mortis opponendum} (1611) is a good example of Lutheran pastoral care in a casuistic form. In this short book, Gerhard gives pastoral comfort to people in many different kinds of spiritual desperation. The accusation of the law, the doubt of God’s grace, the particularity of God’s promises, the unworthy use of the Holy Supper, insufficient sorrow over one’s sins—all these and many more


are categorized and given an appropriate pastoral response. The casuistic form facilitates access to the most fitting material for the situation at hand.

Casuistry was especially connected with the Lutheran practice of private confession and Absolution. Private confession was included in the Lutheran Confessions and church ordinances and became mandatory. Casuistic handbooks for father confessors were produced to help Lutheran pastors in their ministry of hearing confession and pronouncing Absolution. The connection of casuistry and confession is understandable when one remembers that in the age of Lutheran Orthodoxy, the confession-chair (Beichtstuhl) was the primary locus of individual pastoral care, or at least it was supposed to be so.

The fluidity of boundaries between Lutheran casuistry and works on confession can be seen in Arnold Mengerings’s Scrutinium conscientiae (1642). The book stemmed


140. Bezzel, Frei zum Eingeständnis, 108.
from Mengering’s sermons over three years regarding the conscience. The three volumes—“Stimulant [Suscitabulum] of Conscience,” “Refectory of Conscience,” and “School [Informatorium] of Conscience” (1636–38)—correspond to law, gospel, and the third use of the law. The Scrutinium was large and would have been used as a casuistical reference work in conjunction with other, smaller books of reference for the father confessor on the confession chair. Nicolai Rost’s Libellus Absolutorius shows the connection of confession and casuistry even more clearly. The book presented an abundance of Absolution formulas and by doing so approached the form of a casuistry, taking into account the individuality of the cases and stations of life of the various penitents who might come to confession. Bezzel notes in this book an “increasingly systematic development of confession under theological viewpoints.”

141. Arnold Mengering, Scrutinium conscientiae catecheticum: Das ist Gewissensrüge und Sündenregister aus dem Catechismo (Altenburg in Meissen: Michael, 1642); Bezzel, Frei zum Eingeständnis, 237 n. 377. Hans Leube noted that Mengering’s work, written in German, was meant just as much for the laity and for all vocations, not only for pastors, as the Latin collections of casuistry were. Hans Leube, Die Reformideen in der deutschen lutherischen Kirche zur Zeit der Orthodoxie (Leipzig: Dörrfling & Franke, 1924), 118–19. While the literature had been around for a while, reform-minded pastors such as Mengering seem to have focused on “conscience” to promote pious conduct. Regarding a dispute in 1644 between Mengering and the ministerium of Hamburg, see below, pp. 233–234.

evangelicum gave tailored confession-admonitions (a part of the Lutheran liturgies for confession) for various life situations of the confessants, times of the year and times of the church year, political situations, and various estates and vocations.\textsuperscript{143}

A responsible practice of confession required sufficient pastoral training. Casuistry was a part of the education of Lutheran pastors in at least some places in 17th-century Germany.\textsuperscript{144} The study of Lutheran works of theological counsels and casuistry was recommended by Balthasar Meisner, Johann Förster, and Abraham Calov.\textsuperscript{145}

It should therefore come as no surprise that Lutheran casuistries were often essentially pastoral theology handbooks. Casuistic categorizing of knowledge is especially appropriate to 17th-century Lutheran pastoral care, for it is here that the teaching of the gospel comes into contact with the many situations and struggles of life. To the extent that Lutheran authors sought to keep track of those many situations, to that extent casuistry arose.\textsuperscript{146}

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\begin{itemize}
  \item \textsuperscript{143} Joh. Ludwig Hartmann, \textit{Pastorale evangelicum seu instructio plenior ministerorum verbi} (Nürnberg, 1678); Bezzel, \textit{Frei zum Eingeständnis}, 141. On the casuistic development of pastoral theology, Bezzel notes: “In dem Bestreben, auch im Beichtstuhl individuell und persönlich zu reden, ist die Pastoraltheologie auf dem besten Weg zu einer unerträglichen Kasuistik, die auch vor Spielereien und Geschmacklosigkeiten nicht zurückschreckt.” Bezzel, \textit{Frei zum Eingeständnis}, 148.
  \item \textsuperscript{144} Koch, \textit{Das Konfessionelle Zeitalter}, 227.
  \item \textsuperscript{145} Nieden, \textit{Die Erfindung des Theologen}, 161–62, 170 n. 36, 208, 235.
  \item \textsuperscript{146} Kittsteiner notices that Balduin’s casuistry, especially in the section on problems of conscience with regard to religion, is written for pastors. Kittsteiner, \textit{Die Entstehung des modernen Gewissens}, 193–94. See also: Carl Ferdinand Wilhelm Walther, “Lutherisch-theologische Pfarrers-Bibliothek,” \textit{Lehre und Wehre} 4 (1858): 345–
Literature on Lutheran Casuistry

Many recent studies of casuistry in the early modern period expand their scope to examine Protestant casuistry, but then they completely ignore the Lutheran contribution to this genre, or perhaps mention only Friedrich Balduin.147 Many writers either do the same or dismiss casuistry as un-reformational and undeserving of examination.148 But

46; Vilmar, “Kasuistik,” 130.


before any of these objections can be taken seriously, one must distinguish various kinds of casuistry, for the Protestant varieties of casuistry are often much different than their post-tridentine Roman Catholic counterparts. Modern Lutheran works of pastoral theology also neglect to study, or even mention, the Lutheran literature of casuistry and theological counsels from the 17th century.\textsuperscript{149}

Recently, a happy exception to this trend of forgetfulness and dismissal is Rod- erick Martin’s dissertation on Friedrich Balduin’s \textit{De casibus conscientiae} (1628). Martin sets Balduin’s casuistry in the context of his philosophical and rhetorical predecessors, his Reformed counterparts, and literature on a broad spectrum of topics centering on the conscience and social history of early modern Europe. In so doing, he finds that Balduin viewed the conscience as a communal possession of many agents, in contrast to the individualistic views of the 17th-century Reformed and of modern society.\textsuperscript{150}

The rejection of “casuistry” within Protestant ethics is widespread.\textsuperscript{151} One curious debate among 20th-century scholars is whether the early modern Lutheran casuistry was “existential.” Barth and Bonhoeffer thought it was not, and therefore they rejected it.


\textsuperscript{149} John H. C. Fritz, \textit{Pastoral Theology}, 2nd ed. (St. Louis: Concordia, 1945); Norbert H. Mueller and George Kraus, eds., \textit{Pastoral Theology} (St. Louis: Concordia, 1990). This is in contrast to Walther, \textit{Pastoraltheologie}, who reviews many Lutheran casuistries and collections of theological counsels.

\textsuperscript{150} Martin, “The Reformation of Conscience.” Regarding Martin’s view of the conscience, however, see below, pp. 70–72.

\textsuperscript{151} Denecke, \textit{Wahrhaftigkeit}, 5.
Despite the Reformation’s move away from Roman Catholic casuistry, in the second half of the 16th century, Protestants viewed the Scriptures as “a general law for concrete human action,” which Barth rejects. Barth especially opposes the tendency (which he appears to find in post-Reformation Protestant casuistry) “to speak as concretely and particularly as possible in relation to real human action.” According to Barth, casuistry speaks as law to others, mastering and handling the command of God, and making itself an authority between the conscience and God. Yet as we shall see, Dedekenn and other preface-writers for the *Thesaurus consiliorum et decisionum* will point out that this is not how the counsels are to be used. Rather, the arguments drawn from God’s Word always remain decisive. Dedekenn explicitly will point readers away from merely taking the answers without considering the arguments used to arrive at the answers. Thus, according to Dedekenn, Lutheran casuistry is not an independent authority between Christian consciences and God’s Word. Instead, it proclaims God’s Word into the many situations in which Christians find themselves, much as any pastor is called to do.

Bonhoeffer says casuistry always ends in failure, since it is based on an ethic which tries to “define that which is good once and for all.” Such ethics are either so general and formal as to be insignificant, or they try to say “in advance what would be good


in every single conceivable case.” And this would not be valid for all.\textsuperscript{154} Bonhoeffer’s contention is that the will of God and Christian good will are always concrete, never a general principle. Casuistry, though trying to be concrete, is actually setting forth abstract principles, because it sets forth decisions in advance. Casuistry, for him, does away with human freedom.\textsuperscript{155} It is interesting, however, that despite his rejection of casuistry, Bonhoeffer would have the Protestant Church reclaim a concrete ethic “by rediscovering the divine office of confession,” such as it had at the time of the Reformation.\textsuperscript{156} Yet, ironically, from early times Lutheran casuistry was closely connected precisely with confession and Absolution.\textsuperscript{157}

Yet despite this characterization of Lutheran casuistry as not “existential,” there were other 20th-century writers who disagreed. Hans Emil Weber says the Evangelical conscience-theology becomes “an expression for the existentialism of personal faith, which, in the tensions and complexities of existence in the world has to preserve and unfold itself as ‘good conscience.’”\textsuperscript{158} In fact, according to Weber,

The conscience-theology grows into an existential theology, that is, into theology under the viewpoint of the existential appropriation of message and commission. In this way, it continues the line of the original Reformation, which with the “ter-


\textsuperscript{155.} Bonhoeffer, \textit{Ethics}, 284–85.

\textsuperscript{156.} Bonhoeffer, \textit{Ethics}, 292–93.

\textsuperscript{157.} See above, pp. 54–56.

rified conscience” means the human being challenged by the question of his own existence, called before God, and on that account finds the good conscience in faith.159

Weber seems to mean that Lutheran casuistry was existential not in the sense that it was free from scriptural norms and thus flexible, but that it applied directly to the human experience of terror and comfort.

Arthur Carl Piepkorn describes the Lutheran casuistry on marriage as existential, but for a different reason than Weber does. For Piepkorn, the Lutheran discussions were thoroughly existential. They were consciously applying not only God’s Word, but the principles of “right reason,” of natural law, of imperial legislation, of provincial statutes, and of local customs to the immediate and current problems of marriage and family life. . . . In this situation it is not always easy, or even possible, to determine how much the Sacred Scriptures and how much the more environmental factors enter into a given decision or opinion.160

As we shall see, Piepkorn’s description certainly fits some of the marriage cases included in Dedekenn’s Thesaurus. The Lutheran marriage counsels show a variety of approaches, with some being decided on the basis of Scripture alone, but others being decided on the basis of other principles, and with several diverse answers being given to the same question. But if for this reason the Lutheran marriage counsels were “existential,” then so was all the Roman Catholic casuistry as well. In any case, the Lutheran casuistry did not assume an immediate confrontation of the human being with God’s command, but saw this command as being set forth in universally applicable scriptural norms. Even if not all


casuists could agree on what those norms meant, they agreed that those norms were binding on all people.

Besides the question of whether it was “existential” or not, what was this Lutheran casuistry literature like? The earliest reviewers of this literature emphasized its distinctness from Roman Catholic casuistry, declaring it to be better especially because it was normed by Scripture alone.\(^\text{161}\) The literature fell into criticism in the course of the 18th century,\(^\text{162}\) but writings on pastoral theology by confessional Lutherans of the 19th century again emphasized the difference between Lutheran casuistry and Roman Catholic casuistry, and warmly recommended the literature to Lutheran pastors.\(^\text{163}\) Christoph Ernst Luthardt characterized the old Lutheran casuistry as follows:

> It is the good conscience which is handled throughout [the Lutheran casuistry]; decisions are based on the good pleasure of God, “what pleases God.” The questions are not as in the Jesuit morality: What is morally possible? How far can one go without sinning? But rather: What is the right thing, the right thing alone?\(^\text{164}\)


\(^\text{162.}\) See below, pp. 330–336.


\(^\text{164.}\) Luthardt, *Geschichte der christlichen Ethik*, 2:228; see also 229.
Walch divided the Lutheran casuistry literature into cases of conscience and theological responses. However, many of the works he includes as cases of conscience are actually collections of theological responses and of other cases, drawn from a variety of sources.\(^\text{165}\) Wilhelm Löhe’s words show his implicit and correct assumption that the Lutheran casuistry was essentially edited collections of cases, drawn from many sources. He writes,

At this point, one should note that in all, also the Lutheran books, the answers to the questions asked are not always guaranteed. It can happen that in a good confessional book, an answer can be found from a theologian of a completely different confession, because the answer of an orthodox casuist was not to be found. Such answers, then, of course serve for no other purpose than to sharpen one’s reflection, [just] as the entire casuistry of the Lutheran Church should not be so much boasted of, as recommended for study.\(^\text{166}\)

For Löhe, the Lutheran casuistry literature was especially marked by the gathering of cases of conscience from many sources, which is precisely the method followed by Dede-kenn in his *Thesaurus*.

The Lutheran casuists in general did not intend to be normative in individual cases. Instead, this casuistry was understood as “evangelical counseling of conscience” for Christians. The guidelines of this casuistry were to be given according to the measure of Holy Scripture. They did not intend to be anything more.\(^\text{167}\)

\(^{165}\) Ludwig Dunte’s *Decisiones mille et sex casuum conscientiae* (Lübeck: Janovius, 1643; reprint, Ratzeburg: Ulrich Wetstein, 1664) is an example. Walch, *Bibliotheca theologica selecta*, 2:1128.

\(^{166}\) Löhe, “Der evangelische Geistliche,” 273.

The extent of this Lutheran casuistry is also notable. The Lutheran casuistry was a broad-based literature drawn in part from case-law, but not restricted to matters tried in German Lutheran courts and consistories. The responses given by theological faculties dealt both with questions of ethics and with questions of doctrine. Therefore, the Lutherans published questions of right belief as well as ethical questions in their cases of conscience. This emphasis on a casuistry not only of works but also of faith is linked to the Lutheran view of the conscience, especially the erring conscience. Johann Olearius, for example, divided the erring conscience into one that errs with regard to faith and one that errs with regard to behavior. Likewise, a quotation from Johann Gerhard helps to show why Lutheran casuistry focused so much on right faith and not just on right behavior: “Therefore nothing is to be believed or done by a Christian unless he is certain from

of Conscience,” 20 n. 59 takes the view, however, that Friedrich Balduin in his De casibus conscientiae did intend to speak authoritatively.


Scripture, as the only norm of faith and behavior, that God wanted us to believe it or to do it."

Conscience-Theology

As noted above, Lutheran casuistry has been called an “ethic of conscience,” a third kind of ethic beside philosophical ethics and moral theology. In some works of Lutheran casuistry, a treatise on the nature and function of the conscience precedes the actual discussion of cases of conscience. In other works, such as Dedekenn’s Thesaurus, no treatise on conscience is included. Yet even in these works, the Lutheran doctrine of the conscience is assumed, and the questions are aimed at instructing a doubting conscience, whether the word “conscience” is mentioned in the case or not. Dedekenn


171. See above, p. 6.


makes clear in his dedicatory epistle that the purpose of his counsels is to orient the Christian conscience.¹⁷⁴

In the *Thesaurus*, the terms “conscience” (*Gewissen, conscientia*) and “casuistry” (actually “cases of conscience,” *Gewissensfälle, casus conscientiae*) are distinct but related. A “case of conscience” is a difficult situation which a person faces or in which one must make a moral decision. It affects one’s conscience to the extent that one’s conscience is uncertain or doubtful as to what the right course of action is. In these cases of conscience, the conscience is restless until it has been informed more fully. That is what the *Thesaurus* is intended to do: inform a doubting conscience in the various cases of conscience that arise in life. In order to illumine this connection to the conscience in the Lutheran casuistry literature, we shall here examine briefly the doctrine of the conscience in Lutheran Orthodoxy.

For Melanchthon, the conscience is a practical syllogism in the intellect, in which the major premise is the law of God or the Word of God; the minor premise and conclusion are the application, approving something done rightly or condemning a transgression; and this approval is followed by happiness in the heart, and the condemnation is followed by grief. [This happens] in the natural order sanctioned by God; he wants this knowledge of his judgment to be in his rational creature and he wants the perfor-

mance [of it] to be added, so that there might be a testimony concerning him, showing that God exists, commands righteousness, and prohibits and punishes unrighteousness.175

It was especially Melanchthon who would be influential on the the later development of Lutheran casuistry.176

For Luther, the situation is a little less clear, yet we find that his teaching on the conscience is essentially the same as Melanchthon’s.177 In 1521, Luther wrote,

The conscience . . . is not a power to work, but a power to judge, which judges concerning works. Its proper work is (as Paul says in Romans 2) to accuse or to excuse, to make guilty or absolved, fearful or secure. Wherefore its office is not to do, but to dictate about deeds done and deeds to be done, which makes it either guilty or saved before God.178


177. Conscience was an important aspect of Luther’s theology, as can be seen in SA III Introduction (Triglotta, p. 477; K-W, p. 310): “Concerning the following articles we may treat with learned and reasonable men, or among ourselves. The Pope and his government do not care much about these. For with them conscience is nothing, but money, honors, power are everything.” For accounts of Luther’s thought on the conscience, see Michael G. Baylor, Action and Person: Conscience in Late Scholasticism and the Young Luther, Studies in medieval and Reformation thought 20 (Leiden: Brill, 1977); Emanuel Hirsch, Drei Kapitel zu Luthers Lehre vom Gewissen, Lutherstudien 1 (Gütersloh: Bertelsmann, 1954).

178. “Conscientia . . . non est virtus operandi, sed virtus iudicandi, quae iudicat de operibus. Opus eius proprium est (ut Paulus Roman 2 ait) accusare vel excusare, reum vel absolutum, pavidum vel securum constituere. Quare officium eius est, non facere, sed de factis et faciendis dictare, quae vel ream vel salvam faciant coram deo.” Martin Luther, “De Votis Monasticis Martinii Lvtheri Ivdicivm,” 1521 (WA 8:577–669, here at
That is, it is a power or faculty of the mind to judge one’s deeds, and it makes one con-
demned or saved before God. This corresponds well with the view of the conscience set
forth by Melanchthon and, as we shall see, by Balduin as well.\footnote{179}

Some Luther scholars claim a discrepancy between Luther and Melanchthon on
the conscience. Emanuel Hirsch states that for Luther, only the conscience which receives
faith is truly itself. This sort of conscience has peace, is strengthened, freed, and
redeemed. Above all, faith purifies the conscience.\footnote{180} Hirsch goes even so far as to say
that “faith is, according to its essence, the good conscience in everything which man
does, and is the only good conscience there is.”\footnote{181} As this statement stands, it does not
quite explain the fact that Luther speaks of faith as having an effect on the conscience.

For faith to affect conscience, the two cannot be the same.

\footnote{606.32ff.; cf. LW 44:298}.\footnote{179. Michael Baylor and Roderick Martin claim that Luther described the con-
science using the expression “practical syllogism,” and they point especially to Luther’s
“Lectures on Romans,” 1515–16 (LW 25:157; WA 56:177.14), where the expression
However, in the “Lectures on Romans,” Luther speaks of the “practical syllogism” with
respect to the natural knowledge of God, not with regard to the functions of the con-
science. One could perhaps argue that the natural knowledge of God is centered in the
conscience, but Luther does not make this explicit in the passage cited, nor does he ever
describe the functions of the conscience using the word “syllogism” in any of his writ-
ings. Our contention is not that Luther used the expression “practical syllogism” in
describing the conscience, but that for him the conscience functioned in the same way as
for Melanchthon, judging an individual’s actions on the basis of the law of God.}\
\footnote{180. Hirsch, \textit{Lutherstudien}, 164–65.}\
\footnote{181. Hirsch, \textit{Lutherstudien}, 170. The following writers express similar views: Kitt-
steiner, \textit{Die Entstehung des modernen Gewissens}, 216; Dittrich, \textit{Geschichte der Ethik},
4/1:97–98.}
For Luther, as for Melanchthon, the conscience is not an autonomous legislator. Its function is, instead, judicial; it judges on the basis of law external to itself. Luther can speak of conscience judging on the basis of natural law, the work of the law written on the heart, and on the basis of Scripture. The law and the conscience are distinct entities for him.\footnote{182}

The Orthodox Lutherans of the 17th century debated the nature of the conscience, as to whether it is a power, act, or a habitus. Looking back on this debate, Johann Georg Walch declares that it is not necessary to determine the nature of the conscience, since all three parts—power, act, and habitus—can have their place, in a certain respect. When people are in such a condition that they can easily judge their actions, then the conscience is a habitus. Others do actually judge their actions, whether or not they have a habitus, and for them the conscience is an act. Others do not judge their actions, but they could, and so in them the conscience is a power.\footnote{183} From Walch’s explanation, it becomes clear that it is not as easy to define the nature of the conscience as it is to define the con-


science’s function. Fortunately, for a consideration of casuistry one does not need to know precisely what it is, but instead, what it does.

In the various presentations of conscience in the age of Lutheran Orthodoxy, we see always nearly the same functions. The consciences of all people judge, or at least can and should judge, their actions. The conscience judges on the basis of the law of God, either from the book of Scripture or the book of nature, and this law is external to the conscience. As the place of man’s judgment of himself, it is often described as a “forum.” Often the functions of reading the law of God and of judging are put together in the form of a practical syllogism, as Melanchthon had defined the conscience. Not only does the conscience judge one’s past actions, but it admonishes one to act in accordance with the law in the present.

According to Roderick Martin, Friedrich Balduin viewed the conscience as a communal, supra-individual property shared by the members of the church. Emphasizing the etymology of conscientia, Martin says,

where Luther and Lutherans had earlier referred to “conscience” and “consciences” indifferently, tending to regard conscience as a faculty synonymous with the heart, self, or moral essence of the individual human being (or at least the

184. We are using “actions” here in the broad sense to include human thoughts, words, and deeds.

individual Christian), Balduin was inclined to regard the conscience as a faculty synonymous with the moral essence of the human community—or, more precisely, the Christian community—as a whole, emphasizing the inclusion of all its members as parts of one body.\footnote{186}{Martin, “Reformation of Conscience,” 50; cf. viii, 43–44, 178, 219–20, 273, 275–76, 279–80, 367, 510, 570.}

Martin has observed that Balduin usually, but not always,\footnote{187}{Martin, “Reformation of Conscience,” 96–97 n. 36.} speaks of conscientia in the singular. However, rather than positing one communal, supra-subjective conscience (whose extent is left ambiguous), Balduin’s language can be better explained as being due to a focus on the individual and the individual’s cases of conscience. This focus on the individual would not undermine Balduin’s various social norms for the conscience, which Martin has correctly identified.

A distinction here can help one to appreciate the social aspect in Balduin’s thought that Martin has discovered: The basis or source for the major premise of the practical syllogism (which, as we shall see, Dedekenn, the Gerhards, and Christian Grübel describe aristocratically as that which should be learned from the “best men”\footnote{188}{See below, pp. 98–103.}) is communal, but the minor premise and conclusion of the practical syllogism (where the actual judging takes places) is personal and individual. For example, the major premise says, “Murder is culpable.” This is known aristocratically (or perhaps communally). The minor premise says to the individual, “But you have murdered,” and the conclusion says to the individual, “Therefore you are culpable.” These function individually. If this distinction...
is retained, then both the communal/aristocratic aspect and the personal/individual aspect of the conscience will be preserved. This also helps to explain how the Lutheran Orthodox, going back to the Book of Concord,\(^{189}\) could speak of every individual as having a conscience, yet at the same time could expect that universal norms were binding on all these consciences.\(^{190}\)

Another aspect of the conscience, common among Orthodox Lutheran presentations, was the distinguishing of the conscience into various kinds, such as antecedent, consequent, persuading, dissuading, good, bad, true, false, doubting, scrupulous, probable seared, right, erring, opinionative, secure.\(^{191}\) To define each of these is outside the scope of this dissertation, but the doubting conscience deserves a few words of explanation.

Lutherans such as Friedrich Balduin and Georg Dedekenn compiled their works of casuistry to help instruct “doubting consciences.” Dedekenn speaks of situations in which one’s conscience is unsure about what is the right thing to believe or to do, and that in these situations (especially if a case is not explicitly handled in Holy Scripture),

\(^{189}\) “Preface to the Book of Concord” 4, 22; AC XV 2; XX 15, 19, 22; XXIV 7; XXV 4 (Triglotta, p. 9, 21, 23, 49, 55, 65, 69; K-W, pp. 6. 14, 48–49, 54–55, 68–69, 72–73); and passim.

\(^{190}\) On the connection of natural law and of the revealed law of God with the conscience according to the Lutheran Orthodox, see Holtz, Theologie und Alltag, 364–65, 368–69; Kittsteiner, Die Entstehung des modernen Gewissens, 20, 181; Martin, “Reformation of Conscience,” 208.

one should seek the counsel of the wise, either in person or in books such as his *Thesaurus consiliorum et decisionum.*

Friedrich Balduin defines a doubtful conscience as “one that judges nothing as certain about a work, but remains suspended between the two, not knowing whether what comes to mind is to be done or omitted.” He explains that a doubting conscience can arise from several sources: ignorance of the subject matter, contrary opinions, and doubtful outcomes. The issue of contrary opinions leads Balduin to touch on the subject of probability. He writes,

> Opinions are *either probable* [or “approvable”], which are based on a reason of some importance or on serious authority, *or improbable*, which have neither sufficient reason nor serious authority. *Nothing is to be done on the basis of an improbable opinion*, for such a deed would be completely reckless.

This statement seems related to tutiorism, the strictest of the positions with regard to moral decision making, or to probabiliorism, in which one may follow an opinion that has some risk of sin as long as it has the best arguments and authority supporting it. Balduin is not so rigorous as to require absolute certainty in all situations. Sometimes, when one


193. “*Dubia conscientia est, quae de opere aliquo nihil certi judicat, sed suspensa haeret inter utrumque, ignorans, an quod occurrit, faciendum sit, vel omissendum.*” Balduin, *De casibus conscientiae*, 1.8, p. 19.


195. “*Opiniones sunt vel probabiles; quae vel ratione alicujus momenti, vel gravi autoritate nituntur: vel improbabiles, quae nec rationem sufficientem nec autoritatem gravem habent: Ex improbabilibus opinione nihil faciendum est, tale enim factum plane esset temerarium.*” Balduin, *De casibus conscientiae*, 1.8, p. 20.
has two conflicting obligations and the conditions for one of these obligations is doubtful, one can safely obey his other obligation. Balduin describes this as being “in doubt speculatively,” but being “certain practically.” For example, as long as a soldier is in doubt as to whether it is a just war, he may fight in it and thus fulfill his obligation to obey his sovereign, until such time as he becomes certain that it is an unjust war. Balduin makes clear that his work of casuistry will be devoted not to the questions of a scrupulous conscience, nor those that arise from Roman Catholic superstition, nor those that arise from error. Instead, he plans to investigate cases of conscience in the difficult and doubtful actions of human beings and to decide them according to Scripture’s guidance so that the conscience will be able to rest.

196 Balduin makes clear that his work of casuistry will be devoted not to the questions of a scrupulous conscience, nor those that arise from Roman Catholic superstition, nor those that arise from error. Instead, he plans to investigate cases of conscience in the difficult and doubtful actions of human beings and to decide them according to Scripture’s guidance so that the conscience will be able to rest.

197 Thus, for Balduin, as well as for Dedekenn, the compiling of casuistry was especially undertaken to instruct, give certainty, and pacify the

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196. Balduin, De casibus conscientiae, 1.8, p. 20. Balduin also includes eight rules for determining how to proceed in doubtful situations: “In rebus fidei una scripturae sententia, praeferenda est opinionibus doctorum etiam gravissimorum, ipsis etiam conciliorum & Pontificum decretis. . . . Inter duas probables opiniones, ea magis est eligenda, quae nititur aut legis aut juris sensu, quam quae consuetudine & usu recepto. . . . In opinionibus duabus vel pluribus, de rebus poenalibus & odiosis, amplectenda, quae benignior & mitior est . . . . Cùm opiniones duo sunt pares, quoad tutorum numerum, sequenda ea est, quae tutor . . . . Opinio strictè & propriè sumpta est cum formidine & dubitatione partis oppositae, & tunc eligendum id, quod tutius est. . . . Si opinio minus tuta, probabilior & communis est, eam in agendo nobis sequi licet. . . . Opinio probabilior in agendo praeferenda est communis . . . . Sententia, in quâ plures unum aliquid sentiunt, in foro conscientiae non est probabilior judicanda.” De casibus conscientiae, 1.9, pp. 21–24.

197. Balduin, De casibus conscientiae, pp. 43–44. As examples of Roman Catholic superstition, Balduin mentions implicit faith, doubt about God’s grace and remission of sins, and the invocation of the saints.
doubting conscience. The doubting conscience is the background against which all cases of conscience are written, whether those cases mention the word “conscience” or not. 198

CHAPTER 2. THE DEDEKENN-GERHARD THESAURUS IN GENERAL

In this chapter we will set forth the state of the question concerning Georg Dedekenn’s *Thesaurus*, identify the compilers of the 1623 and 1671 editions, and describe the physical configuration of the *Thesaurus*.

**State of the Question**

C. F. W. Walther, the 19th-century father of The Lutheran Church—Missouri Synod and a scholar of Lutheran Orthodoxy, said of Dedekenn’s *Thesaurus consiliorum et decisionum* that it is the most detailed casuistry work produced within the Lutheran Church. He says, “Scarcely any question of conscience could arise on one of the aforementioned topics, which does not find its answer by famous theological colleges or individual well-known theologians, occasionally out of their rarest works and manuscript documents which never appeared in print, which university and consistorial archives contained.”

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Yet the number of those who have studied Dedekenn’s *Thesaurus* is not great. Many have used the documents contained in the *Thesaurus* as part of their own historical investigations rather than as an object of study in itself. The *Thesaurus* gives these historians a window into the ecclesiastical practice of 17th-century Lutheran Germany.  

The *Thesaurus* also finds a place in descriptions of 17th-century Lutheran literature. Eighteenth-century bibliographical works mention it briefly, and 19th-century Lutheran pastoral literature includes it.

Yet not many have written about Dedekenn’s work on its own merits. Udo Sträter has written one of the few essays dealing with the written responses and opinions of the theological faculties, focusing on Wittenberg in the 17th century. According to Sträter, collections of theological counsels were published for various reasons. All were printed

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as reference works for pastoral practice. This is especially clear in the case of Felix Bidembach and Dedekenn.\textsuperscript{5} Others, such as the collections of Philipp Melanchthon and Philipp Jakob Spener, were written with the additional motive of being an apologia,\textsuperscript{6} while the Consilia Theologica Witebergensis served a church-political role. It positioned the Wittenberg faculty as an authority in the church, in succession from Luther, especially against the syncretism of Georg Calixt and his colleagues.\textsuperscript{7} Both Dedekenn and the Wittenberg faculty, which wrote an approbation for it, regarded the Thesaurus “as a praxis-oriented collection of cases of conscience (casus conscientiae), which was to assist in theological study and especially in everyday pastoral work.”\textsuperscript{8} Hans Leube examined the contents of the two editions of Dedekenn’s Thesaurus (1623 and 1671) and was able to determine that the new content in the 1671 edition has mainly to do with religious and churchly matters.\textsuperscript{9} Leube also compared Spener’s counsels with those included in Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum, 4 vols.

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5. Bidembach and Bidembach, Consiliorum Theologicorum Decas, 10 vols.; Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum, 4 vols.

6. Philipp Melanchthon, Berathschlagungen und Bedenken (Neustadt a. d. Hardt: Petzel, 1601); Philipp Jakob Spener, Theologische Bedencken, 4 vols. (Halle, 1700); idem, Consilia et iudicia theologica latina, 3 vols. (Frankfurt am Main, 1709); idem, Letzte Theologische Bedencken, 3 vols. (Halle, 1711).


kenn and the *Consilia Theologica Witebergensia*, determining that the former emphasizes ethics, and the latter, dogmatic questions.\(^\text{10}\) Martin Honecker corroborates Leube’s view, describing the contents of volume two of the Dedekenn-Gerhard *Thesaurus* in this way: Political questions are included only to the extent that they have to do with the church. Economic themes are completely marginalized. For Honecker, this explains why it is so difficult to speak of a Lutheran social ethic in the 16th and 17th centuries.\(^\text{11}\)

Yet what are these dogmatic questions that Dedekenn’s *Thesaurus* emphasizes? And while it may be true that Dedekenn focuses on dogmatic questions in comparison to Spener, how do the dogmatic and ethical questions compare with each other within the *Thesaurus* itself? Until now, no research has shown this in detail.

**Information on the Compilers**

*Georg Dedekenn (1564–1628)*

Before proceeding to an examination of Dedekenn’s *Thesaurus* itself, it will be helpful to consider who the compilers of this anthology were. Georg Dedekenn was the

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\(^{10}\) Leube, “Die Sozialideen,” 151. Here there should also be mentioned the older literature that gives lists of theological literature helpful to a Lutheran clergyman: Johann Franz Buddeus, *Isagoge historico-theologica ad theologiam universam singulasque eius partes, novis supplementis aucta* (Leipzig, 1730), 719–20; Löhe, “Der evangelische Geistliche,” 270–86; Walch, *Bibliotheca theologica selecta*, 2:1127–40; Walther, *Pastoraltheologie*; idem, “Lutherisch-theologische Pfarrers-Bibliothek,” 345–49. These all mention the *Thesaurus* as an important work of Lutheran pastoral practice.

\(^{11}\) Honecker, “Sozialethik,” 321.
compiler of the original 1623 edition. Born in Lübeck in 1564, he attended various universities before being called as preacher to Schönberg (Fürstentum Ratzeburg), where he served for five years. After taking his master’s degree in Frankfurt in 1594, he became preacher at Neustadt (Holstein). In 1606, he was called to be a preacher at St. Catharine’s Church in Hamburg—the same congregation which, five years previously, had received Philipp Nicolai as its head pastor. Dedekenn and Nicolai ministered together at St. Catharine’s until Nicolai’s death in 1608. Dedekenn died in Hamburg on May 29, 1628.

Dedekenn’s relationship with Nicolai seems to have been close. Much of Dedekenn’s publishing was directed toward publicizing Nicolai’s work. In addition, Dedekenn wrote a defense of Nicolai against Reformed theologians on the subject of God’s will to save all human beings, and himself wrote a treatise on predestination, for which Nicolai

12. In the literature, his name is variously spelled as “Georgius Dedekendus,” “Georg Dedekennus,” “Dedekenn,” and “Dedeken.”


provided the preface. Dedekenn was the editor of Nicolai’s collected Latin and German works (1617), and three years later, in 1620, he published Nicolai’s “Praxis vitae aeternae.” Dedekenn composed Nicolai’s grave inscription and preached his funeral sermon.

Other works by Dedekenn include a *Tractatus de peccatorum caussis* (Hamburg, 1611), a *Praxis conscientiarum*, and *Das Frewden Paradeiß der Gnaden/ Für angefochtene/ schwermütige und trawrige Hertztn*: *In welchem denselben/ wie sie sich zu verhalten und auffzurichten haben/ Auß Gottes Wort/ Ingleichen deß Herrn Lutheri und anderer alten Lehrer Schrifften gezeiget wird.* The titles of these works show that Dede-

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19. Georg Dedekenn, *Tractatvs De Peccatorum Causis Quo Demonstratur, Non Esse Scelerum Et Iniquitatis Causam Deo, Sed Diabolo Et Depravatae hominum naturae asscribendam* (Hamburg: Ex Bibliopolio Frobeniano, 1611); Georg Dedeken, *Praxis conscientiarum*: Das ist; Gründliche Beschreibung nach allem unterricht, Lehr und Trost,
kenn’s interest in matters of the conscience and casuistry was not limited to the *Thesaurus*. Indeed, Carl Bertheau noted that “his own experiences and the tendency of the age led him to casuistry.”

**Johann Ernst Gerhard (1621–68)**

Johann Ernst Gerhard, the oldest son of Johann Gerhard’s second marriage, was the main editor of the 1671 edition of Dedekenn’s *Thesaurus*. He is remembered for his knowledge of oriental studies, his large bibliothecal interests, his piety, and his peaceable character. Born in Jena on December 15, 1621, J. E. Gerhard visited Helmstedt as part of a study trip, where he renewed his acquaintance with Georg Calixt. He studied theology at Jena and Wittenberg, becoming *adjunctus philosophiae* at Wittenberg in 1649. In 1652, he became *professor historiarum* at Jena, and the following year the university promoted him to doctor of theology. In 1655, he was called to a *Lehrstuhl* for theology at Jena. He wrote no devotional works, nor a complete dogmatics, though he wrote much in the field of oriental studies and published many writings of his father and of others.

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Christian Grübel (1642–1715)

Christian Grübel edited the appendix volume of the 1671 edition of the *Thesaurus* and was responsible for the publication of this work after the death of J. E. Gerhard in 1668. Grübel was born on December 24, 1642, at Cala (Thüringen) into a preacher’s family. After an education at Saalfrid, Altenburg, and Jena, he became the *informator* (“instructor”) for J. E. Gerhard’s sons, Johann Ernst Gerhard the younger (1662–1707) and Johann Friedrich Gerhard (1654–1705). Jöcher reports that J. E. Gerhard the elder “loved” Grübel and had Grübel present at his death. At the time of the publication of the 1671 edition of the *Thesaurus*, Grübel was an *adjunctus* for the philosophical faculty at Jena. Later he served as rector of schools in Dortmund, Osnabrück, and Minden. Besides his editing of the new supplement to the 1671 edition of the *Thesaurus*, Grübel published an edition of Flacius’s *Clavis Scripturae Sacrae* and wrote scholarly disputations on political, ethical, and philosophical topics.

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22. The town is mentioned by Jöcher, but could not be identified.


24. Jöcher, s.v. “Gruebel (Christian).”
Physical Configuration of the *Thesaurus*

Dedekenn’s *Thesaurus* is an enormous work. The original edition of 1623 was printed in folio in four volumes. The first three volumes deal with ecclesiastical matters, political matters, and “mixed, and especially matrimonial matters,” respectively. The fourth volume is an appendix, containing materials that belong with the first three volumes but that were not included in them for some reason. Martin Honecker points out insightfully that the Dedekenn-Gerhard *Thesaurus* is organized according to the “three estates” (or the three *Stände*, *Orden*, or *Hierarchien*): *ecclesia* (church), *politia* (civil government), *oeconomia* (marriage, home, and work). Honecker calls the “three estates” the “*Lebensanschauung*” of Lutheranism.  

If we consider only the first three volumes, volume one contains 1,572 pages, which is 60.0 percent of the total 2622 pages; volume two contains 505 pages, which is 19.3 percent of the whole; and volume three contains 545 pages, which is 20.8 percent of the whole.

The 1671 edition of the *Thesaurus* is even bigger. This, too, was printed in four volumes, entitled *ecclesiastica, politica, mixta & inprimis matrimonialia*, with an *appendix nova*. Volume one has 1189 pages, which is 61.7 percent of the total 1927 pages; volume two contains 363 pages, which is 18.8 percent of the whole; and volume three contains 375 pages, 19.5 percent of the whole. Thus, the topics we today would consider to

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be part of ethics (volumes two and three—the second table of the law), do not even form a majority of the *Thesaurus*.

The title page to volume one of the 1671 edition says this about the work of Johann Ernst Gerhard, the editor: “In a more correct order, augmented with entire sections, many questions, permissions,” and responses, and improved with more complete indices, put into print by Johann Ernst Gerhard.” Indeed, the *Thesaurus* is well-organized.

26. “Remissoria,” as a postclassical word, does not appear in the standard Latin lexic, not even in the *Thesaurus Linguae Latinae*, according to Wolfgang Stammler, Karl Langosch, Kurt Ruh, Burghart Wachinger, and Christine Stöllinger-Löser, eds., *Die deutsche Literatur des Mittelalters: Verfasserlexikon*, 2nd ed., Veröffentlichungen der Kommission für Deutsche Literatur des Mittelalters der Bayerischen Akademie der Wissenschaften, vol. 7 (Berlin: de Gruyter, 1989); *Thesaurus linguae Latinae*, Editus auctoriitate et consilio academiarum quinque Germanicarum Berolinensis, Göttingensis, Lipsiensis, Monacensis, Vindobonensis (Lipsiae: In aedibus B.G. Teubneri, 1900–). *Remissorium* was a title for several legal reference works in the late Middle Ages, but in discussions of canon law it appears to have the meaning of a written permission or exemption. Albert Sleumer and Joseph Schmid, *Kirchenlateinisches Wörterbuch* (Hildesheim: Olms, 2006), define “remissorialis” as “ein Zugeständnis, eine Erlaubnis enthaltend.” They also note that the expression “litterae remissoriales” is used as a technical term for a written permission that opens the way for the process of the canonization of saints. In the context of the Dedekenn-Gerhard *Thesaurus*, the term may refer to official opinions which gave approbation to a course of action that was previously doubtful. “Remissoria” may be seen in context in Wolrad von Waldeck, *Des Grafen Wolrad von Waldeck Tagebuch während des Reichstages zu Augsburg 1548*, ed. C. L. P. Tross, Bibliothek des Litterarischen Vereins in Stuttgart (Stuttgart u. Tübingen, 1861; reprint, Hildesheim: Olms, 1980), 197; Anacletus Reiffenstuel, *Jus canonicum universum complectens tractatum de regulis juris*, novissima ed., vol. 3 (Parisii: Apud Ludovicum Vivés, 1866), 50; “Continuation des décrets inédits de la S. Congrégation des Rites, du 10 février 1685 au 8 mai 1700,” *Analecta Juris Pontificii: Dissertations Sur Divers Sujets De Droit Cano nicque, Liturgie Et Théologie* 8 (1866): 1265–1388, here at 1269.

nized. The first volume, being the largest, is organized into several “parts,” most with multiple “books,” some of them having multiple “members.” Beyond this, each “member” (or also each “book” without “members”) has multiple “sections,” and each section has multiple “numbers.” When we cite the *Thesaurus*, we will be careful to give not only the edition and page number, but also the volume, part, book, member, section, and number (as applicable), separated by periods. For example, “3.3.1.2, no. 2” refers to volume 3, part 3, book 1, section 2, number 2.

The 1671 edition of the *Thesaurus* is not only a sourcebook for Lutheran casuistry and pastoral practice, it is also a reference work. After many of the “numbers,” several “questions” are listed along with a bibliographical reference to direct the reader to the location of the answer to the question. For example, on the last page of volume one, a question is listed, and for the answer, the reader is directed to “D. Balduin, C.C. p. 77,” that is, Dr. Friedrich Balduin, *Casus Conscientiae*, p. 77, which was published in 1628, five years after the first edition of the *Thesaurus*. As another example, volume 1, p. 8 refers to the “*Consil. Theol. Witteb.*” (1664).28 Most of these “questions,” which are

really bibliographical cross-references, refer to literature printed after 1623. They are enclosed by asterisks and parentheses *(...) in the text.

But the situation is more complicated yet. The 1671 editor (presumably Johann Ernst Gerhard) did not just add cross-references. He also added fully printed counsels and decisions, though he did not mark in his edition what he had added. As a result, it is often impossible to tell exactly what Dedekenn contributed and what J. E. Gerhard contributed, except by carefully comparing the two editions. Moreover, both Dedekenn and Gerhard included cross-references, that is, mere references to other works, without printing out the counsel in full.

Section 1.2.3.2, “Communion under one kind and both kinds of the Papists and the Calvinists,” is a good example of how J. E. Gerhard expanded Dedekenn’s work. Gerhard retained all of Dedekenn’s 13 questions, but added 13 of his own, plus 28 cross-references which are not represented in this chart. It is clear that the 1671 edition of the *Thesaurus* is in many respects a new and different work from Dedekenn’s 1623 edition.

Table 1. Gerhard’s expansion of Dedekenn’s section 1.2.3.2

<table>
<thead>
<tr>
<th>1623 Thesaurus</th>
<th>1671 Thesaurus</th>
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<tr>
<td>1. Do Papists and Calvinists have the full Lord’s Supper?</td>
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2. Answer of Wolfgang Waldner to the question: Since the Papists have the power to administer the Sacrament of Baptism, do they not also have the power to administer the Sacrament of the Altar under one kind?

3. Judgment of Dr. Balduin: Do they sin who ask for the administration of the sacraments from heretics in a case of necessity?

3. Master Hieronymus Pfnoër's answer to the question: Can a right-believing Christian with a good conscience and without offense receive the Supper from a Calvinist administrant or preacher?

5. Judgment of Dr. Leonhart Hutter: If someone is held by such a desire to receive the sacrament of the Supper that without it he would scarcely admit any consolation, can he commune with the Calvinists or Papists?

6. Judgment of Dr. Polycarp Leyser: Is it better for a preacher to have his parishioners distribute the Holy Supper to him or to commune himself?

7. Response of Dr. Balduin: Do evil ministers and heretics also bestow true sacraments?

8. Judgment of the theological faculty of Tübingen: A preacher is deposed due to immodesty in his service. Question: Even during his evil and unchaste life, did his confessants [BeichtKinder] and communicants receive the true Absolution and Supper, to assure them of their certain reconciliation with God?


11. Is it right for us in the administration of the Holy Supper to use not whole and coarse loaves, but circular ones, which are commonly called “hosts”?

12. Judgment of Dr. Henricus Eckard: In place of wine in the Eucharist, can simple water be used (even just enough for the abstemious) or another kind of drink, likewise another food in place of bread?

13. Of the same: Must the white robes, which ministers in some churches put on, necessarily be taken off and put away?
14. May a preacher during the administration of the Holy Supper in extreme cold and with many people receiving Communion, cover his head, in such a way that no one would have a cause of offense in this?

4. Judgment of Dr. Andreas Osiander: What does the church in the papacy receive under one kind?

5. Answer of Dr. Martin Luther to the following five questions: (1) Is it sufficient to take the Sacrament under the form of bread alone and not necessary to drink from the chalice, since it has been forbidden to drink from the chalice?

(2) If someone desires it in both forms and no one will distribute the chalice to him, is he excused before God to take the Sacrament only under the form of the bread, or should he travel to someplace where it may be given to him?

(3) Can one take it secretly in a room and not have to confess publicly?

(4) Since drinking from the chalice has been so strongly forbidden by the government in many places, is a person excused before God to omit this, due to obedience or the fear of punishment, and to take it only under the form of the bread?

(5) If one does not have a particular desire to receive it in both forms, is it enough for him to stay with the common use of it under the form of the bread?

6. Deliberation of the same: May one preach the Gospel purely and yet omit the Sacrament under both forms, due to fear of tyrants?

7. Counsel of Dr. Martin Luther: May a Christian commune under one form for the sake of his government?

8. Explanation of Dr. Balthasar Mentzer: Can a Christian take the Holy Supper only under the form of the bread without injury to his conscience?

9. Answer of Master Wolfgang Waldner to the two following questions: (1) For the salvation of souls, which would be most advantageous: To commune with both forms in the mass, or if one is supposed to stay with one form, for which of these would it be easier to answer before God? (2) Is not the whole Christ also under the one form?
10. Counsel of Dr. Hieronymus Schurff: On the holy Communion of the body and blood of our Lord Jesus Christ under one form.

11. Decision of the questions: Can a Christian, to whom the truth of the pure Gospel is rightly known, receive both forms of the Sacrament from a papistic priest [Sacrificulo] in the celebration of the papistic mass with a sound and uninjured conscience?

12. Master Johannes Brenz’s deliberation on two questions: (1) May a Christian with a good conscience follow the priests when they, according to papistic custom in the week or at other times, process with the monstrance? (2) May one take both forms of the Sacrament in the papistic mass?

13. Deliberation of Dr. Martin Luther: May a Christian take both forms at home?

14. Can Communion under one [form] be referred among the adiaphora?

15. Should nobles be allowed to use the Eucharist at home outside of a necessity?

As we have seen, the 1623 edition of the *Thesaurus* was large, and the 1671 edition was even larger. Here, the majority of the work deals with doctrine and churchly matters, with the rest devoted to issues of Christian life in the civil realm and in issues of marriage and sexual ethics. The *Thesaurus* is mainly an anthology of cases and official opinions, but it is also a reference work, directing readers to a growing body of literature outside its volumes; this fact extends its usefulness. Johann Ernst Gerhard and Christian Grübel added much to Georg Dedekenn’s original work. Dedekenn’s ministry made him sensitive to cases of conscience, and his other works show his interest in such cases as well. His work brought about what was likely the largest, most detailed Lutheran casuistry produced up to that time. J. E. Gerhard and Grübel then added to it and expanded it with the experiences and wisdom of the next half-century.
But how did Dedekenn, Gerhard, and Grübel do their work? What principles guided them? What needs were they trying to address? And how did they envision the *Thesaurus* being used? In our next chapter we shall examine the prefatory material for both editions of the *Thesaurus* and attempt to answer questions such as these.
CHAPTER 3. DEDEKENN AND FRIENDS ON CASUISTRY AND THE THESAURUS

The dedicatory epistles and prefaces for the *Thesaurus consiliorum et decisionum* give us a window into the nature and use of this work and of theological counsels and casuistry in general. In this prefatory material, Georg Dedekenn, Christian Grübel, the sons of Johann Ernst Gerhard, and their friends explain why they did their work, how the work is configured physically, and what each compiler contributed to the work.

**Dedekenn’s Dedicatory Epistle for Volume One (1623)**

Each volume of the Dedekenn-Gerhard *Thesaurus* has a motto printed at the bottom of the title page, taken from either the apocryphal or canonical Scriptures. For volume one, the motto chosen is Sirach 39:1–2: “Whoever intends to learn the law of the Most High must research the wisdom of all the ancients, and study in the prophets; He must note the histories of the famous people, and consider the same.”¹ This motto supports the necessity of a broad knowledge of the teaching of the past, which is what Dedekenn

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¹ Regarding the status of apocryphal books such as Sirach among the Lutherans, see Gerhard, *On the Nature of Theology and on Scripture*, §§ 174–240 (=1625 *Exegesis*, locus 1, §§ 174–240).
kenn intends to set forth. With the reference to the “ancients” and the “famous people,”
Dedekenn’s particular kind of moral reasoning is touched upon, which we shall discuss
below. The mottoes chosen for each of the four volumes of the 1623 Thesaurus remain
the same for the 1671 edition.

Dedekenn’s dedicatory epistle, written for the first volume of the 1623 Thesaurus,
addresses King Christian IV of Denmark (1577–1648), among whose many titles there is
included: “Duke of Schleswig, Holstein, Stormarn, and Dithmarschen.” The various
provinces making up modern-day Schleswig-Holstein bordered Hamburg on all sides but
the south. Denmark under Christian IV was the most powerful political entity in the
region. The governance of Schleswig-Holstein at the time was divided into areas ruled by
the ducal house of Schleswig-Holstein-Gottorf, areas ruled by the king of Denmark, and
areas ruled jointly by duke and king. Five years before the Thesaurus was published,
what later became known as the Thirty Years War had broken out. War had not yet come

2. Regarding “aristocratic moral reasoning,” see below, p. 98.

3. See maps in Johannes Schilling, “Schleswig-Holstein,” s.v. in TRE, here at
30:204, and in Wolfgang See grün, “Schleswig-Holstein,” in Die Territorien des Reichts
im Zeitalter der Reformation und Konfessionalierung: Land und Konfession 1500–1650,

Dänemark und Norwegen,” s.v. in NDB; See grún, “Schleswig-Holstein,” 140–64; Hille,
“Friedrich III., Herzog von Schleswig-Holstein-Gottorp,” s.v. in ADB; Zedler, s.v.
“Fridericus III., ein Sohn Hertzogs Joannis Adolphi.” The shared governance with
Friedrich can be seen in the title of a law code for Schleswig-Holstein: Der Durch-
leuchtigsten . . . Herrn Christian des Vierdten zu Dennemarcken . . . Und Herrn
Friedrichen/ Erben zu Norwegen/ beyder Hertzogen zu Schleßwig-Hollstein . . . Policey-
Ordnung. Wornach sich dero Fürstenthumbe/ Schleßwig-Hollstein . . . Eingeseßine zu
achten: verfasset und publiciret Anno 1636 (Glückstadt: Koch, 1667).
to Dedekenn in Hamburg, yet questions of loyalty and just war theory were in the air.⁵ At the time when Dedekenn wrote this epistle, on August 27, 1623, he was a pastor in Hamburg.⁶

This dedicatory epistle serves to explain: (1) the usefulness of the book, (2) how the counsels are to be used, and (3) how Dedekenn went about constructing the work. For his theme, he chooses wisdom as a light lost to humankind in the fall: Ever since the fall into sin, human understanding remains darkened until God brings fallen man into his grace and gives him the way to recognize his will. That way is the Word of God, which to us is a light for our path. In order for us to see the Light which is God Himself and wisdom, we must use the light of the Word. Thus, “in your light, we see the Light” (Ps. 36:9).⁷

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⁷ Dedekenn, *Thesauri Consiliorum Et Decisionum Volumen I*, fol. (a)ij r – (a)iiij r.
The revealed Word of God, the bright light, consists in “theory” and “practice” (“in Theoriâ und Praxi”). “Theory” teaches the necessary parts of knowledge according to the chief articles of the Christian faith and everything that belongs to them. “Practice” instructs one in the actual exercise of the divine will, according to the rules and commandments of Holy Scripture. The purpose of this is so that,

just as from the former they are able to know and comprehend on what they are to make a foundation for themselves in faith, and are to make their eternal salvation certain, so also from the latter they may grasp and learn to bear fruits of faith and to order their life in such a way that they do not strive against their salvation and bring upon themselves swift condemnation [2 Pet. 2:1].

“Theory” and “practice” are a fitting summary of the contents of the Thesaurus. Not only are questions of ethical behavior included, but there are just as many questions of right belief, if not more.

There are many cases where we do not have an explicit Word of God with regard to a situation that arises.

However, one cannot deny that in this “practice” of human life many cases occur daily and are brought into experience of which one cannot have an express Word nor find them decided and discussed in Holy Scripture. Therefore, whenever one or more of these things are brought to a good Christian or even set before him—that is, that it either has happened or should happen—and in his conscience he can neither orient himself nor determine where to go, then, in a timely manner, he should let himself be directed with Christian instruction and good advice by his established teachers, whom God Almighty has given him and ordained, as well as by other highly gifted, understanding, and experienced men.

8. “... wie sie auß jenem wissen und fassen können/ worauf sie sich im Glauben zu gründen/ und jrer ewigen Seligkeit zu verwissern: Also auß diesem lernen und begreifen mügen/ des Glaubens früchte zu tragen/ und jrer Leben dergestalt anzustellen/ daß sie nicht selbst wider jhre Seligkeit streiten/ und eine schnelle Verdammß über sich führen.” Dedekenn, Thesauri Consiliorum Et Decisionum Volumen I, fol. (a)iij r.

9. “Man kan aber nicht in abreden seyn/ daß in solcher Praxi und ubung Mensch-
It is interesting to note that for Dedekenn these situations where the Word is not explicit are not for that reason morally neutral and subjective. Instead, they are matters of conscience, and one must seek advice to determine the correct course of action. This advice should be sought, he says, from one’s pastor and other wise people. Yet Dedekenn makes clear that one must not follow these people blindly, for this would be “far too dangerous and would not accomplish much good.”

Why does Dedekenn encourage people to consult their pastors? Dedekenn stresses that God has also ordained “the holy and venerable preaching office” so that the Word may come to its true goal and purpose. Indeed, God gives teachers to his church to help guide his people in the difficult questions and cases that inevitably arise in this life. Yet

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liches Lebens sich täglich viel Fälle begeben/ und in erfahrung bracht werden/ darvon man nicht eben ein außdrücklich Wort haben/ noch sie in H. Schriftt decidiret und erörtert finden kan/ Darumb/ wen sich etwa bey einem guten Christen derselben ein oder mehr zugetragen hette/ oder noch vorhielet/ das ist/ daß es entweder geschehen were/ oder noch geschehen solte/ und er sich in seinem Gewissen nicht darein finden noch richten oder schicken kônde/ so sol er von seinen vorgesatzten Lehrern/ die jhm Gott der Allmechtiger gegeben und verordnet hat/ wie auch sonst von andern hochbegabten/ verstandigen und erfahren Männern/ sich mit Christlicher Information und gutem rath zeitlich unterweisen lassen.” Dedekenn, Thesauri Consiliorum Et Decisionum Volumen I, fol. (a)iiij v.

10. Dedekenn, Thesauri Consiliorum Et Decisionum Volumen I, fol. (a)iiij r.

11. “... welchs gar zu gefehlich seyn/ und nicht viel gutes schaff en würde.” Dedekenn, Thesauri Consiliorum Et Decisionum Volumen I, fol. (a)iiij r.

12. “das heilige und hochwürdige PredigAmpt.” Dedekenn, Thesauri Consiliorum Et Decisionum Volumen I, fol. (a)iiij r.
since the gifts of the Holy Spirit to pastors are not equal, one should seek advice from especially wise and prudent teachers of the church.\textsuperscript{13}

Dedekenn’s instruction for advisors is of the same nature as what he wrote about those who seek advice. How is a counselor supposed to decide on ethical questions? Dedekenn’s answer is neither individualistic nor communal, if “communal” is left unmodified. Instead, Dedekenn says that the best, most-qualified persons should be consulted either in person or in their writings.\textsuperscript{14} Dedekenn says:

Among these counselors, one must also consider that each one should not lightly undertake to decide and counsel something for his person alone—especially in high, difficult matters—but that he should draw to himself other well-qualified persons, as many of them as he can have, or should imitate the written and approved counsels of leading theologians, which were previously given in the same cases and have the same circumstances with the present case.\textsuperscript{15}

So according to Dedekenn, one should not pursue an individualistic kind of moral reasoning by deciding such cases alone. Instead, one should follow the best men, especially the best theologians, in deciding these difficult cases. Perhaps Dedekenn is responding to an abuse, and encouraging people not to judge matters on their own, but to judge them in conversation with others, especially experts. (It is also of note in this quotation that in

\textsuperscript{13} Dedekenn, \textit{Thesauri Consiliorum Et Decisionum Volumen I}, fol. (a)ijj v.

\textsuperscript{14} Dedekenn, \textit{Thesauri Consiliorum Et Decisionum Volumen I}, fol. (a)iiiij v.

\textsuperscript{15} “Es ist auch bey solchen Consulenten wol zu bedencken/ daß sich nicht leicht ein jeglicher für seine Persone allein/ unterstehe etwas zu schliessen und zu rathen/ fürnemlich in hohen schweren Sachen/ sondern daß er andere wol-\textit{qualificirte} Personen/ so viel er derselben haben kan/ zu sich ziehe/ oder/ vorzüger Theologen geschriebene und \textit{approbirte Consilia}, so in dergleichen Fällen zuvor außgegeben sind/ und mit gegenwärtigem \textit{Casu} in umbständen gleich stimmen/ \textit{imitire}.” Dedekenn, \textit{Thesauri Consiliorum Et Decisionum Volumen I}, fol. (a)iiiij v.
order for a counsel to be instructive for the present case, it must agree with the present case in its circumstances. This is a point that will be made several times by Dedekenn and his friends.)

Dedekenn continues by emphasizing the impermissibility of individualistic moral reasoning.

And even if one thinks he understands the matter very well and has already found in himself that which is to be counseled therein [in the case], nevertheless, he should not trust himself alone, but should hear and read others on this [case], weigh their reasons, compare with his own, and so finally conclude what should be counseled, with carefully considered courage and harmony. For the old proverb remains true: Many eyes see more than one.16

Here one may also note how published counsels are to be used. Rather than simply taking their answers and putting those answers into practice rashly, one must consider and weigh their explanations and arguments. Thus, the counsels seem to play the role of advisors, not as final authorities in themselves. It is their arguments and reasoning which are the most important.

“Aristocratic Moral Reasoning”

Regarding moral decision making in Lutheran casuistry and theological counsels, two recent writers have come to opposite conclusions. In his dissertation on the casuistry of Friedrich Balduin, the first Lutheran to publish a work of “casuistry” or “cases of con-

16. “Und gesetzt/ daß einer meinet/ er verstehe die Sache gar wol/ und habe schon bey sich funden/ was darinn zu raten/ sol er jhm doch allein so gar allerdings nicht trawen/ sondern andere darüber hören und lesen/ jre gründe und rationes ponderiren, mit den seinen conferiren, Und also/ was endlich zu raten/ mit wolbedachtem muth und ein-tracht schliesse/ denn es bleibt doch war der alte Spruch/ Das viel Augen mehr sehen als eins.” Dedekenn, Thesauri Consiliorum Et Decisionum Volumen I, fol. (a)iiiij v.
science.” Roderick H. Martin argues that Balduin worked with a communal kind of moral reasoning. The communal consensus of the church was the basis for moral decisions.\(^{17}\) On the other hand, Heinz-Dieter Kittsteiner often points out the difference between the norm-giving classes of society and the common people. That is what is at play, he says, when there is talk of an “erruง conscience” in the works of Lutheran writers such as Balduin. That is, the norm-giving class views the faith of the common people as erroneous.\(^{18}\) Kittsteiner recognizes that for Lutherans, moral reasoning was not democratic or fully communal. But he defines the “best men” as a social class and reads the moral injunctions set forth by Lutherans in their casuistry as the imposition of one class’s moral opinion upon another, rather than the efforts of divinely called shepherds to lead all the flock (including others of their same social class, and even those “above” them, such as magistrates) to willing self-submission to external norms, such as those set forth in Scripture.

Kittsteiner’s view is in line with those who would see the ethical instruction of Lutheran pastors as nothing more than state-sponsored “social discipline” (Sozialdisziplinierung), where the pastors functioned as agents of the government in imposing the ruling classes’ norms upon the populace. Martin Brecht has shown that the model of Sozialdisziplinierung does not correspond with how Lutheran pastors tried to carry out church discipline. He shows that in the 16th and early 17th centuries, the clergy (espe-

\(^{17}\) Martin, “Reformation of Conscience,” 314. Martin may not have intended to speak this way, since elsewhere he acknowledges that “probability” in casuistry was based on the approbation of the wise, not the will of the majority (pp. 293–94).

\(^{18}\) Kittsteiner, Die Entstehung des modernen Gewissens, 196.
cially Gnesiolutheran clergy) were especially motivated to practice church discipline, but were quite often hindered by the government. Instead of imposing the ethics of the rulers upon the people, Lutheran pastors strove to enforce a *theologically normed* ethic drawn from Scripture—an ethic that was sometimes at odds with that of the nobility.\(^\text{19}\)

What Brecht says about church discipline can also be applied to Dedekenn’s *Thesaurus*. According to the preface writers for the *Thesaurus*, the “best men” who should be consulted are not considered as a social class, but as gifted individuals, even if these individuals all come from a particular level of society. This is what might be called “aristocratic moral reasoning,” a moral reasoning where one listens to those who are most wise, most learned, most prudent, or, in a word, ἄριστοι. “Aristocratic moral reasoning” seems an apt expression to describe this nonindividualistic and yet not fully communal way of ethical decision making.

In the first generation of the Reformation, Philipp Melanchthon had described the visible church on earth as corresponding most nearly to an aristocracy, not to a monarchy nor to a democracy. Melanchthon wrote in his sermon notes for the second Sunday after Trinity:

Some compare the church to a political government, that is, by considering the diverse species of government, which are democracy, aristocracy, and monarchy. Therefore, if anyone wants to retain this comparison, it is necessary for him to think that the visible church can be compared to an aristocracy. But if we want to

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include Christ, the head, then it is truly a kingdom, in which the Son of God is King.  

Ludwig Dunte, another Lutheran compiler of theological counsels, whose *Decisiones mille et sex casuum conscientiae* were published in 1643, twenty years after the first edition of Dedekenn’s *Thesaurus*, also demonstrated this “aristocratic” manner of moral reasoning, in which one follows the guidance of the “best men,” not one’s own preference or public opinion. Dunte includes a counsel which addresses how decisions of law and of Christian faith and behavior should be made.

In council chambers and courts there are often many yes-brothers who can do nothing else but agree with the leading and largest crowd. In Micah 7[:3], the prophet complains, “Whatever the prince wants, that is what the judge speaks, that he again may do him a favor. The powerful give counsel according to their arbitrary whim in order to cause damage, and they turn it as they want.” “The people fall to their side in crowds like water,” Ps. 73[:10]. This is what happened in the Sanhedrin at Jerusalem when they were taking counsel about Christ and the high priest declared that he was a blasphemer and then said, “What do you think?” Likewise, when Ahab wanted to march to Ramoth-Gilead, and he had the opinions of four hundred prophets on his side, all of whom assented to the king,

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John Calvin, writing about civil government, viewed aristocracy bordering on democracy as the preferable form of government. His view of the church could also be described as aristocratic, since he sees “seniors” as a New Testament office filled by election from the people, “to unite with the bishops in pronouncing censures and exercising discipline.” He bases this on Rom. 12:8. This “senate” of each church existed from the beginning, he says: Calvin, *Institutes*, 4.20.8; 4.3.8; 4.4.1.
and only Michaiah, who could not give his voice in agreement, had to be killed, 1 Kings 22.

2. The causes and reasons in the decisions [votis] must be considered more than the decisions themselves, for God often has given more gifts of wisdom, understanding, and good character to one man than to ten others who sit beside him. Opinions are to be pondered, not numbered. Pliny complains about this in bk. 2, Epist. 12, “In public councils nothing is so unfair or unequal as equality itself. For though the prudence of all is unequal, the right of all is equal.”

3. If it had to be like this, then innocent Susanna would have had to be punished due to the many voices, though the decision and wisdom of the one Daniel had been seen. Then at the council of Nicea in 320 AD, which 318 bishops attended, they would have had to look to the many voices and not, rather, to the important reasons; then the good bishop Paphnutius would never have maintained his opinion on the marriage of priests.21


“W enn es solte gehen/ so hette die unschuldige Susanna wegen der Stimmen vielheit müssen herhalten/ da doch des einigen Daniels votum und Weißheit angesehen worden. Hette man auff dem Concilio zu Nicaea Anno Christi 320. gehalten/ den 318. Bischöff beygewohnet/ auff die vielheit der Stimmen/ und nicht vielmehr auff erhebliche Ursachen gesehen/ nimmer würde der fromme Bischöff Paphnutius seine Sententz von der Priester Ehe erhalten haben.” Dunte, Decisiones mille et sex casuum conscientiae, 779–80. We have quoted from the 1664 edition. An earlier edition from 1636 had “more than 600” cases of conscience, but this earlier edition has not been available for consulting: Ludwig Dunte, Decisiones casuum conscientiae Sexcentorum et ultra; e Diversis Theologorum scriptis colleeactae, contractae. . . ac juxta ordinem Locorum Theologicorum positiae: Das ist: Kurtze. . . Erörterung Sechshundert und etzlicher Gewissens Fragen, auff vielerley, in Theologischen Schulen, Predigtamte. . . fünffallenden Sachen (Lübeck: Martinus Janovius,
Dunte makes clear that God gives his gifts of good judgment unequally, and therefore a democratic process of decision making is less than optimal.

It should be noted that when we speak of “aristocratic” decision making, this is not meant as a designation for a particular ruling class. Instead, by “aristocratic decision making” we mean a decision-making process that follows the “best” people—those whom God has especially gifted with wisdom, prudence, and theological understanding. Dedekenn has made clear that this capability for decision making is not limited to pastors and that the gifts for this are unequal even among pastors. Dunte makes clear with the quote from Pliny that he and other Lutherans sought to have the most prudent people making the decisions.

**Dedictory Epistle for Volume One, Continued**

Returning to Dedekenn’s dedicatory epistle, we find Dedekenn describing how one is to judge cases. He says that the one giving counsel (the *consulens*, “consultant”) must not allow preconceived opinions to shape his judgment. Instead, he should follow the best arguments and let himself be directed by them in humility. The consultant must also make sure that he gives his counsel “from Holy Scripture, and with a rich understanding of it.” He must be able to say, “Thus says the mouth of the Lord.”

Thus, Holy Scripture must inform his decision making. But just as the Word is not always explicit for 1636).

the ordinary Christian with regard to cases that arise in life, so also it is not always explicit for those who resolve questions and cases. How are consultants to proceed if they do not find a case answered explicitly in Scripture? These cases are not, just for that reason, morally neutral. Dedekenn says that

The counsel and explanations of such cases and questions are sought primarily from highly gifted men and faithful teachers. Likewise, in such cases and questions when there is no explicit Word according to which one can direct his ways, let nothing be suggested, counseled, given as an answer, or decided that conflicts in the very smallest part with the holy Word of God, or that has the least appearance of conflicting, since this would be building not only without foundations but even against the foundation [1 Cor. 3:10–15]. This would be irresponsible for the consultants and useless to those seeking the counsels; indeed, it would be a disadvantage and would burden the consciences of both.23

So even if a case is not explicit from the Scriptures, it is still a matter of conscience, and one must still be careful in deciding such cases, so that no part of Scripture is transgressed.

Aside from this scriptural principle, there are other principles which a Lutheran consultant should use in deciding doubtful cases. Dedekenn explains that these include logical consequences drawn from Scripture, church law and civil law, local custom, and

natural law. These are used “according to the character of the matter” at hand.24 Yet sometimes even all these are not enough for determining a doubtful case. Here, Dedekenn explains the entire process for deciding doubtful cases:

In [such cases], if they are not apt and accurate enough for one to make them his foundation and rely on them, then this is what he should do. First, he should pray persistently, and then follow the Christian conscience’s leading, the light of nature, and the gifts which God has implanted in and granted to nature. He should also pay attention to the experience and annotation of other previous, similar cases. When he has at hand all kinds of reasons for and against, he should examine and ponder them, in true fear of God, on both sides (according to the characteristics, circumstances, and occasion of the matter, as its condition shows). Only then should he let Christian equity be the mistress. When she has heard all the arguments, reasons, circumstances, and whatever belongs to the matter, and has weighed them on her scale exactly and sharply, he should rightly proceed according to her, recognize what to do or not to do, seek from her the counsel and the answer that he should give, and thus finally decide in the name of God.25


25.“Solte es aber auch an denen [i.e. solchen Fällen] entstehen/ daß man sie so gar füglich und eigentlich nicht haben künde/ sich auff sie zu gründen und verlassen/ so lesset man auff vorgehendes embsiges Gebet/ und nach des Christlichen Gewissens anleit- tung/ das Liecht der Natur/ und die Gaben/ so jhr Gott eingepflantzet und verliehen hat: wie im gleichen die erfahrung und auffmerckung anderer voriger gleicher Fälle/ allerhand rationes pro & contra dictiren und an die hand geben/ examiniret und ponderiret dieselbisige/ in wahrer forcht Gottes/ auff beyden Theilen (nach den eigenschafften/ umbständen und gelegenheit der Sachen/ wie es jhre beschaffenheit gibt und anweiset) und lesset allßdenn Christianam aequitatem, die Christliche billigkeit/ Richterin seyn/ daß man nach derselben (wann sie alle Argumenta, rationes, circumstantias, und was zu der Sachen gehöret/ gar gnaw und scharff auff jhre Wage geleget) richtig fahre/ was zu thun oder zu lassen/ erkenne/ den Rath und das Antwort/ so man geben sol/ auß jhr suche/ und also im Nahmen Gottes endlich schliesse.” Dedekenn, Thesauri Consiliorum Et Decisionum Volumen I, fol. [(a)5] v.
So if one can get no exact instruction from Scripture, ecclesiastical law, civil law, and local custom, then he should rely on prayer, the direction of his Christian conscience, the light of nature, and the gifts God has given to nature. Thus, natural law is present as a factor in Dedekenn’s decision making, though it is not prominent in this description. Precedent also appears here as a principle for resolving cases and giving counsel. One should also note the attention paid to the circumstances of a situation. Not just once, but twice in this statement, Dedekenn emphasizes that the consultant must take into account all the circumstances when making his decision. This is a sentiment that will be repeated by the other dedicatory epistles and prefaces to Dedekenn’s *Thesaurus.*

In this quote, Dedekenn also ascribes a decision-making function to “Christian equity.” Here, *aequitas* seems to mean not “equality” or “parity,” but rather “just or equitable conduct toward others, justice, equity, fairness, epieikeia (governed by benevolence, while justitia yields to another only what is strictly due).” According to John Witte, it was especially the Marburg jurist Johann Oldendorp (1488–1567) who had developed a Lutheran theory of equity. Judges were not simply to apply laws rigidly, but were to consider the circumstances of cases, getting to the core of the matter, reasoning from precedent and analogy, and considering natural law and conscience. This view of equity required judges to be just and merciful to the parties in a case, as well as to serve the let-

ter and spirit of the law.27 The concept of Christian equity had been discussed in Germany just a few years previous to Dedekenn’s *Thesaurus* in Matthias Martinius’ *Christiana pietas et aequitas* (1618).28

As to how this particular work, the *Thesaurus*, came into being, Dedekenn admits that events at the beginning of his ministry caused him to pay close attention to the deciding of cases. He says, “For [God], according to His most gracious arrangement and ordering, was pleased to put me under somewhat heavy labor and peculiar ministerial cares.”29 He says that he himself, in the thirty-four years of his ministry, had been in anxiety due to important matters and cases which had arisen. In these cases, his goal was to keep his conscience uninjured.30 Therefore, he sought advice.

Thus, in important matters and difficult cases, as likewise in doubtful questions which at times were brought to me, I did not want to proceed without the counsel of those to whom, above others, God had given great gifts for this purpose, but wanted to be instructed and directed rather than to trust in myself too much and perhaps not hit the target.31


28. Matthias Martinius, *Christiana pietas et aequitas: sive Lex divina naturae, gratiae, politiae. . . ad privatos publicósque usus apposíte explicata* (Bremae: Thomas Villerianus, 1618). In 1610, Martinius was rector and professor at the Bremen gymnasium. In 1618, he was sent to the Synod of Dort. There, according to Zedler, he strenuously opposed the supralapsarians but also subscribed the acts of the Synod: Zedler, s.v. “Martinius (Matthias).”


31. “Als hab ich in wichtigen Sachen und schweren Fällen/ wie imgleichen in zweif-
Note once again the role of the conscience. In order for one’s conscience to be uninjured, he must determine the right thing to do, even in doubtful cases. This deciding is fraught with danger, because there are objective right and wrong choices, even in doubtful cases. This deciding, however, is the responsibility of the individual, even though he does not want to trust himself too much. He seeks to be instructed by the best people so that he can make a right decision.

When Dedekenn ran into difficult cases in his ministry, he says he often would seek the counsel and opinions of the theological faculties at the universities. Sometimes he would seek counsel from jurists, according to the subject matter. Likewise, he diligently searched the writings of highly gifted men in order to find light which could be shed upon the case at hand. Therefore, through the course of his ministry he assembled a large amount of “counsels, judgments, decisions, and answers of many difficult matters and important questions.” This collection became known to others, and many people requested that he publish this collection so that others could benefit from it. Once he had decided to publish such a Thesaurus, Dedekenn traveled to the most eminent theological colleges of the most famous universities and searched through their archives. In addition, he filled out the gaps in his Thesaurus by posing new questions to various theologians.
Finally, he also included “a few” theoretical questions and some entire treatises, in order to preserve these treatises to posterity.\(^{32}\)

To sum up, in this dedicatory epistle Dedekenn emphasizes the authority of the Word of God in moral decision making. Where cases have not been specifically answered by Scripture, one is still not free to take just any position. Such cases, though difficult, are not morally neutral. In order to decide difficult cases where neither Scripture nor positive human law speaks specifically, Dedekenn recommends an “aristocratic” process of decision making, where one consults the “best men.” These may be one’s pastor, university theologians, or other wise and prudent people such as jurists, depending on what manner of case is at hand. Even natural law can play a role in this decision-making process, though Dedekenn does not indicate here how it would function. Finally, Dedekenn emphasizes that one must always be careful to examine the circumstances of a case and compare them to the circumstances of the counsels he reads. In the end, one must weigh the arguments pro and contra and finally make a decision in the name of God. Here in the dedicatory epistle to volume one, we have already met nearly all of the themes that Dedekenn will further expound in his other dedicatory epistles.

Following Dedekenn’s dedicatory epistle, a congratulatory letter by Christian Matthiae, dated August 11, 1623, is printed. Matthiae (1584–1655), who had earned his doctorate in theology from Giessen, was the “royal chief [pastor]” of the churches in

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Dithmarschen, a territory on the Jutland peninsula about 100 km northwest of Hamburg, a region which was ruled by Denmark at the time.33 Matthiae praises the *Thesaurus* as useful for pastors in combatting Satan, the “Lion” and “Dragon.”34 Following Matthiae’s letter, several congratulatory poems in Latin and Greek are printed, mainly from neighboring pastors. The final one was by Dedekenn’s son, Josias.35

**Preface by the Leipzig Theological Faculty (1623)**

Next, prefaces are included from three Lutheran theological faculties: Leipzig, Greifswald, and Wittenberg. Counsels from these faculties, as well as from others, were included in the *Thesaurus*. The first preface is by the theological faculty at the University of Leipzig. Its theme is from 1 Cor. 8:1, “Knowledge puffs up, but love edifies.” Pastors must have “salutary knowledge” as their goal, and love will be a moderating factor in their acquisition and application of knowledge.36 Yet, according to the theological faculty of Leipzig, the use of Dedekenn’s *Thesaurus* is beneficial not only for preachers but also for the laity.37


34. Dedekenn, *Thesauri Consiliorum Et Decisionum Volumen I*, fol. (?) r (that is, [a7] r).


36. Dedekenn, *Thesauri Consiliorum Et Decisionum Volumen I*, fol. (b) r – (b)ij r.

37. “daß damit nicht allein Lerern vnd Predigern/ sondern auch andern Christlichen Hertzen könne gedienein werden.” Dedekenn, *Thesauri Consiliorum Et Decisionum Volu-
This preface echoes what Dedekenn wrote earlier about how he constructed the *Thesaurus*. The Leipzigers report that he traveled to many universities to search their archives for questions and responses and then also posed many questions to the university theologians, in order to fill in the gaps of his work.\(^{38}\)

Most of this Leipzig preface is of a general nature. However, in the second-last paragraph several observations are made specifically about the *Thesaurus* and how it should be used. First, the Leipzigers note that much of the *Thesaurus* is of a theoretical nature. Already in 1623, this was seen as deserving of comment.

Aside from this, we have considered it necessary to bring this to the attention of the Christian reader: First, because knowledge and practice are not properly and usefully divided in our theology, also in this work much theoretical content can be found, which the author wanted to insert because in the course of time such treatises become lost, and in such a work they can be properly preserved and retained.\(^{39}\)

That is, due to the connection of knowledge and practice in their theology, they approve of Dedekenn’s inclusion of much “theoretical” material—the material dealing with questions of right belief.

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\(^{38}\) Dedekenn, *Thesauri Consiliorum Et Decisionum Volumen I*, fol. (b) v – (b)ij r.

Their second observation has to do with censorship. “Second, in this work one can also find many previously printed and approved writings and resolutions; with this censorship, we have refrained from too readily changing anything, so long as we have found it to accord with the analogy of faith.”

The Leipzig faculty also wanted to point out in 1623 why the counsels of religious “adversaries” (such as Calvin) would be included in the *Thesaurus*. “Third, sometimes the decisions of the adversaries are also quoted; and because it is said, ‘Truth even in an enemy is to be praised,’ we have not wanted to remove them.”

The last two observations by the Leipzig faculty have to do with the correct use of these counsels.

Fourth, let the Christian reader also read the reasons [*Rationes*] in the resolution of the questions with a spirit of discretion, and diligently weigh and consider that sometimes the proverb belongs here: “Many things, which individually are not useful, together help,” seeing that in the labors of other authors we have rightly hesitated to change the order or to alter the reasons, etc.


41. Wilhelm Löhe also noticed this fact and commented on it with regard to the Lutheran casuistry literature in general: “Der evangelische Geistliche.” 270–86, 273. A counsel of John Calvin appears in Georg Dedekenn and Johann Ernst Gerhard, eds., *Thesauri Consiliorum Et Decisionum Volumen Primum, Ecclesiastica Continens* (Jena: Zacharias Hertel, 1671), pp. 1172–73 (1.3.3.1).

42. “Zum dritten/ Es werden auch bißweilen der Adversariorum jhre Decisiones angeführt; und weil es heisset/ Veritas etiam in hoste laudanda est, haben wir solche nicht außsetzen wollen.” Dedekenn, *Thesauri Consiliorum Et Decisionum Volumen I*, fol. (b)ij r.

43. “Zum vierdten/ wolle auch der Christliche Leser spiritu discretionis die Rationes in resolutione quaestionum lesen/ und fleissig erwegen/ und gedencken/ daß hieher auch
Here, they are saying, it is important to look at the explanations or rationales behind the decisions, not just at the decisions themselves. The Leipzig faculty wants these decisions to be studied and considered, if possible, in multiple cases. They do not want the readers to select one case and apply that decision across the board.

Finally, the Leipzig faculty sets forth their view of the nonbinding nature of the counsels. This is important, since there is a degree of variance among the answers given, especially among the marital counsels.

Fifth, if, among the counsels which define disputable cases and questions—especially matrimonial—a variation may be noticed, then let the Christian reader observe that the practice and observance is not the same in all places, and that the counsels do not obligate necessarily, and accordingly, let him not err on account of this, but let it serve to instruct him better.44

Here it should be noted that among some of the questions there is a variation among the answers. This is especially the case for matrimonial cases and questions: practice with regard to those matters was not uniform in all places. Therefore, the counsels do not obligate with necessity. Yet even so, the counsels serve to inform the reader, not to cause error. One should also note here what is not said. The Leipzigers do not say that there is

bißweilen gehöre & quae non prosunt singula, multa juvant: sintemahl in anderer Autorum laboribus eine andere Ordnung/ rationes &c. zu machen/ und setzen/ wir billich bedencken getragen haben.” Dedekenn, Thesauri Consiliorum Et Decisionum Volumen I, fol. (b)ij r.

44. “Zum fünfften/ Solte sich auch unter den Consiliis, welche disputirliche Casus und Quaestiones, sonderlich matrimoniales definiren/ eine Variation mercken lassen/ so wolle der Christliche Leser in acht nehmen/ daß die Praxis und Observantz an allen Orthen nicht einerley/ und die Consilia nicht necessariò obligiren, und demnach sich solches nicht jrren/ sondern zu seiner bessern information dienen lassen.” Dedekenn, Thesauri Consiliorum Et Decisionum Volumen I, fol. (b)ij r.
variation in all matters, nor do they say what kinds of laws give rise to the variation. That is, they do not say whether the variation is due to a difference in understanding the moral law or a difference in the positive human law that goes beyond the moral law.

Preface by the Greifswald Theological Faculty (1623)

The next preface is by the theological faculty at Greifswald and is dated May 24, 1623. This preface takes the connection of theory and practice as its theme. The Greifswalders especially emphasize that practice is important, not just theory.45

Just as Dedekenn had written, so also the Greifswalders say that the reason the Thesaurus is so helpful is that not every case of conscience is determined and settled in Scripture. “Likewise, it cannot be denied that in God’s Word not all descriptions of events [species facti]46 and particular cases are determined which can happen to a Christian in general in the conduct of his Christian walk, and then also in particular to office-bearers in the expeditions and execution of their office.”47 Here it should be noted that not all cases are determined in Scripture “in particular.” They are not saying that Scripture

45. Dedekenn, *Thesauri Consiliorum Et Decisionum Volumen I*, fol. (b)ij v – (b)iiij r.

46. Udo Sträter explains that these *species facti* were written descriptions of the situation that were submitted with a question to consultants (such as individual theologians or theological faculties). The consultants were then supposed to judge the case strictly on the basis of the *species facti*. Sträter, “Wittenberger Responsen,” 292.

47. Gleichwol mag nicht geläugnet werden/ daß nicht alle species facti, Casus, und sonderbare Fälle/ so einem Christen ins gemein/ in führung seines Christlichen Wandels/ und denn auch insonderheit Amptspersonen/ in ihren Ampts expeditionen und verrichtungen/ können fürkommen/ in Gottes Wort determiniret seyn.” Dedekenn, *Thesauri Consiliorum Et Decisionum Volumen I*, fol. (b)ij v – (b)iiij r.
has nothing to say about them. Perhaps Scripture still gives the general principles, but they have not been applied to every situation. Indeed, the counsels offered in the *Thesaurus* are “grounded in God’s Word.”

This shows that, for the Greifswald faculty, cases not determined specifically by Scripture can still affect the conscience and be answered on the basis of scriptural principles.

Because these cases not determined by Scripture are still matters of conscience, God gives the gift of prophecy to his church, and especially to teachers and preachers.

This gift helps them to decide on cases.

On the other hand, among his other manifold gifts of the Spirit for the common benefit, the kind and merciful God has also given the gift of prophecy to his church, as well as the gift to speak of knowledge, and thereby he has given the men of God, faithful teachers and preachers (though, according to the measure of the gifts of Christ, differently: to one more, to another less), so that they may counsel all weak consciences in such manifold cases which, according to circumstances, are misleading and are not determined specifically.

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The Greifswald theological faculty also notes a variance among the answers given to marriage cases, just as the Leipzigers had noticed. “And though it may happen that sometimes differing responses appear for one or the other doubtful question, especially in the marital cases, let the Christian reader call upon God for the grace and gift of distinguishing the spirits [1 Cor. 12:10], and let him give good attention to the practice of his locality.” As we shall see below, the counsels related to divorce and remarriage presented this disagreement, and the disparity of counsels also extended to differing views on how the Scriptures were to be interpreted. This sort of disagreement was seen as a problem by the Greifswalders.

From the Greifswald preface, we see a repetition of themes already discussed by Dedekenn and the Leipzigers. Not all cases are determined specifically in Scripture, but this does not make them morally neutral. Also, the reader must be aware of disagreements among some of the counsels included by Dedekenn, particularly in the matrimonial counsels.


52. See below, pp. 257–329.
Preface by the Wittenberg Theological Faculty (1623)

The Wittenberg theological faculty, writing on April 22, 1623, took their theme from Matt. 13:52, “Every scribe who has been trained for the kingdom of heaven is like a master of a house, who brings out of his treasure what is new and what is old.” They apply this passage especially to Dedekenn’s *Thesaurus* (“Treasury”).\(^{53}\) The Wittenbers help explain why this *Thesaurus* is important for pastors.

For though a preacher who wants to edify himself and others for the kingdom of God is not fully obligated to answer each and every question of other people (for many questions come from curiosity and do not edify), nevertheless he should always be prepared to answer devout and pious hearts—for whom the exploration of the truth in important matters is serious, especially for those who need counsel and consolation in difficult and doubtful cases of conscience—in such a way that doubt is taken away from them and they can be pacified in their conscience.\(^{54}\)

Thus, according to the Wittenbers, the preacher’s duty is to take away doubt and thus to restore peace to the conscience of a Christian. It is for this reason that a preacher should familiarize himself with such written counsels as Dedekenn’s *Thesaurus* provides.

Another noteworthy feature of this preface is its view of the authority of theologians.

\(^{53}\) Dedekenn, *Thesauri Consiliorum Et Decisionum Volumen I*, fol. (b)iij v – (b)4 r.

\(^{54}\) “Denn ob zwar ein Prediger/ der sich und andere zum Reich Gottes erbawan wil/ nicht eben schüldig ist/ auff alle und jede Fragen anderer Leute zu antworten/ (Denn viel Fragen kommen aus fürwitz her/ und bawen nichts.) so sol er doch allezeit gefast seyn/ gottseligen und frommen Hertzen/ denen es in wichtigen Sachen mit erkündigung der Wahrheit ein ernst ist/ sonderlich aber/ die in schweren und zweifelhaften Gewissens Fällen rath und trost bedürfen/ also zu antworten/ daß jhnen der Zweifel benommen werde/ und sie sich im Gewissen zu friedon geben können.” Dedekenn, *Thesauri Consiliorum Et Decisionum Volumen I*, fol. (b)iij v.
Many such questions come before those who are in the preaching office, and they give especially the inexperienced much to do. These people are served greatly when they know what other leading, experienced, devout theologians answered in the same cases, and they prefer to subject themselves to their judgment rather than to trust their own thoughts. 55

This statement shows the attitude that made works such as Dedekenn’s *Thesaurus* popular. This is another example of what we are calling “aristocratic moral reasoning.” The Wittenbergers here are recommending that preachers subject themselves to the best and wisest theologians when making decisions on difficult cases. This does not take away the individual’s necessity of deciding; it directs him outside of himself and thus mitigates subjective judgments. Note also that some cases are “the same” as other cases. Cases or situations are not radically unique. This makes precedent possible. One can apply the reasoning from past cases to future cases.

In summary, aside from the “aristocratic” theme, the Wittenbergers also emphasize the pastoral function of the counsels included in Dedekenn’s *Thesaurus*. By using these counsels, pastors are to help heal consciences by removing their doubts.

**Dedekenn’s Dedicatory Epistle for Volume Two (1623)**

The second volume of Dedekenn’s *Thesaurus* deals with political matters. However, the biblical motto for this volume, printed on the title page, has to do with learning

55. “Solcher Fragen kommen denen/ die im PredigAmpt sind/ viel vor/ und machen sonderlich den Ungeübten viel zu schaffen/ denen dann mercklichen gedienet wird/ wann sie wissen/ was andere fürnehme und geübte gottselige Theologi in dergleichen Fällen geantwortet/ derer judicio sie sich auch lieber unterwerffen/ als ihren eigenen Gedancken trauen.” Dedekenn, *Thesauri Consiliorum Et Decisionum Volumen I*, fol. (b)iij v.
from the past in general, and not specifically with political matters. The motto is taken from Job 8:8–10: “Ask the previous generations, and for your research take up your fathers, for we are but from yesterday and know nothing; our life is like a shadow on earth. They will teach it to you and tell you, and will bring forth their speech from their hearts.” Similar to the motto chosen for the first volume, this motto stresses that one should learn from history. The “fathers” serve as teachers, without whom we would be quite ignorant.

Dedekenn’s dedicatory epistle to this volume is addressed to Johann Friedrich (1579–1634), “Erwähltem unnd Postulirtem/ zu Ertz: unnd Bischoffen der Stiffen Bremen und Lübeck/ Erben zu Norwegen/ Hertzogen zu Schleßwig/ Holstein/ Stormarn und der Ditmarschen/ Grauen zu Oldenburg und Delmenhorst.”56 This was Dedekenn’s prince when he was pastor and director of the consistory at Neustadt in Holstein from 1594 until 1606.57 As a member of the House of Gottorf, Johann Friedrich possessed the


57. Dedekenn, Thesauri Consiliorum Et Decisionum Volumen II, fol. (a)iiij v; Jöcher, s.v. “Dedekennus (Georg).”
title of “duke of Schleswig, Holstein, Stormarn, and Dithmarschen.” In addition, he possessed several ecclesiastical territories. In 1596, he was elected as archbishop by the cathedral chapter of Bremen, taking over this position from his brother Johann Adolf, who had recently married. Strife arose for Johann Friedrich, however, when this Evangelical prince-bishop announced his intention to marry. The nobility of Bremen became enraged, fearing that the archdiocese would become a hereditary principality. This fear was well-founded, for in 1586, Johann Adolf had become bishop of Lübeck, and from that time Eutin (part of the diocese of Lübeck) became a hereditary land of the House of Gottorf. Therefore a legal dispute arose between Johann Friedrich and the nobility of Oldenburg which, in effect, blocked his marriage.\textsuperscript{58} Thereafter, Johann Friedrich responded by living a domestic life with a number of concubines, a fact which was a scandal to many. In 1607, his brother Johann Adolf gave up Eutin and the diocese of Lübeck, preparing the way for Johann Friedrich to become bishop there as well. (Eutin was only a few kilometers west of Neustadt in Holstein, where Dedekenn spent the early years of his ministry.) Johann Friedrich held all these offices until his death in 1634.\textsuperscript{59}


\textsuperscript{59} Karl Ernst Hermann Krause, “Johann Friedrich, Herzog von Schleswig-Holstein-
The theme of this dedication is that God has given his gifts unequally to Christians, and these gifts must be used to edify Christ’s body, the church. In this dedication, Dedekenn makes clear that he considers Lutheran university theologians, along with theologians in the leading cities, to be among the most highly gifted people in the church. Their counsels and decisions in particular are edifying to the church, and therefore Dedekenn collected these counsels and published them in his *Thesaurus*, so that these edifying counsels could be available to all. He then says that he counts Lord Johann Friedrich among the highly praised regents whom God has exalted with rich spirit and excellent understanding. Not only has Johann Friedrich received an excellent light, and high and special gifts from God Most High, “but he has also let [this light] gleam and shine forth brilliantly in many respects.” (Perhaps Dedekenn chose the words “in gar vielen stücken” instead of “in allen stücken” in view of Johann Friedrich’s concubinage.)

The reasons why Dedekenn dedicates volume two to Johann Friedrich are these:

First, Dedekenn wants to praise his former prince’s many gifts—justice, honesty, and the like. Second, during his time as pastor and director of the consistory in Johann Friedrich’s city of Neustadt, he made a considerable beginning of the counsels and attendant matters


60. Dedekenn, *Thesauri Consiliorum Et Decisionum Volumen II*, fol. (a)ii r – (a)iiiij v.

of the *Thesaurus*. The final reason for the development of the *Thesaurus* and its dedication to Johann Friedrich is the problems that Dedekenn encountered in Neustadt. He writes:

And then finally, I remember well what benefits I experienced from Your Princely Grace, and what honor and kindness were shown to me by all godly and honor-loving inhabitants of noble and civil estate—those who were my much-loved parishioners. I would have left them as unwillingly as they me if some highly doubtful matters of conscience had not moved me to abdicate my parish in the year 1606 and to follow the true, divine call here to Hamburg. I was also moved by what happened from one man’s improper administration of the hospital and the poor-funds, which I could not just sit back and watch, due to my office of inspection, but rather was compelled to bring into a better condition. On account of this, not only did that one give up further administration, upon the order of Your Princely Grace’s brother, of highly lauded memory, but also through God’s wonderful judgment, soon, due to several other crimes, he had to be brought to even higher punishments by Your Princely Grace yourself, because the sighing of the poor abides long with God and is not soon extinguished. Because of all this, I hereby want to make known to Your Princely Grace a sign of my thankful heart.


63. Johann Friedrich’s brother, Johann Adolf von Schleswig-Holstein-Gottorf (1575–1616), was bishop of Lübeck until 1607. From Dedekenn’s words, it appears that Neustadt in Holstein was under the ecclesiastical supervision of the bishop of Lübeck. Krause, “Johann Adolf,” 412–13.

64. “Und dann entlisch/ weil ich gar wol eingedeneck/ was von E. F. Gn. mir für Wolthaten widerfahren/ Im gleichen/ in derselben vorerme lens Stadt mir von allen Gott- seligen und ehrliebenden eingesessenen/ Adeliches unnd Bürgerliches Standes/ meinen gewesenen vielgeliebten Pfarkindern (die ich ja so ungerne/ als sie mich verlassen hette/ wann mich nicht hochbedenckliche Gewissens Sachen/ und was auß eines Mannes unrichtiger verwaltung der Hospital unnd Armen Güter/ welcher ich meiner habenden Inspection halber nicht zusehen können/ sondern in bessern standt zu bringen genot- zwungen worden/ daher auch nicht allen derselbe/ auff E. F. Gn. Herrn Bruders hochlö- licher Gedechnuß verordnung/ sich fernerer verwaltung begeben/ sondern auch durch GOTtes wunderbares Gericht ohnlengst auff mehre und andere verbrechung von E. F.
This statement seems to be saying that Johann Friedrich brought the hospital administrator to higher punishments. Dedekenn gives this as one particular problem he encountered at Neustadt.\textsuperscript{65}

In this letter, aside from the interesting details about Dedekenn’s ministry in Neustadt, he has emphasized the “aristocratic” theme that appeared in the dedicatory epistle for volume one. God has given excellent men, especially university theologians, to edify his church.

**Dedekenn’s Dedicatory Epistle for Volume Three (1623)**

The third volume of the *Thesaurus* deals with marital matters. Once again, the biblical motto chosen for the title page is of a general character relating to the *Thesaurus* as a whole rather than to marital matters specifically. The motto chosen is from Sirach 37:19–20: “In all things, call upon the Most High that he may cause your activity to succeed and not fail. Before you begin anything, first ask; and before you do anything, first take counsel.” Here, the emphasis is placed on the importance of seeking counsel before undertaking an action. Such counsel, of course, is what the *Thesaurus* offers.

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The dedicatory epistle for this volume, dated September 6, 1623, is addressed to Friedrich III of Schleswig-Holstein-Gottorf (1597–1659), called here “Heir to Norway, Duke of Schleswig, Holstein, Stormarn, and Dithmarschen,” etc. Friedrich shared the title of duke of Schleswig-Holstein, etc., with King Christian IV of Denmark. Their families were intertwined, as was their governance of the many territories that make up most of modern Schleswig-Holstein. Friedrich III was the nephew of Johann Friedrich, to whom Dedekenn dedicated volume two of the *Thesaurus*. After explaining the sufficiency of Scripture, Dedekenn proceeds to discuss God’s good gift of teachers and their writings.

It also follows this that God, according to his immeasurable kindness, through the hand and pen of his faithful servants has always granted many devout and excellent writings to his holy Christian church, in which writings his saving Word is explained, its pure truth is defended, and its edifying use and advantage are indi-

66. See above, p. 93.


cated, in order to instruct consciences, to guide the erring, and to distinguish the good from the bad, as these are quite richly and frequently apparent.69

Although Scripture is sufficient, God also has other gifts to give: the private writings of teachers. And these writings have a function to play with regard to the conscience. Among these writings which are useful for instructing the conscience, there are the theological counsels.

But among others there belongs here the written consilia theologica, counsel, deliberation, and instruction of excellent, highly learned men, with which (either in controversial religious matters, or also in cases that arise, which occur daily in the aforementioned calamitous condition of this last age, or in the same ways) the church of God and her members, such as teachers and hearers, are given good Christian counsel and are shown the right way which pleases God.70

These written consilia are useful not just after a case arises but also before. By reading and considering them, Christians can prepare themselves for the tough cases that may arise later. This applies especially to preachers who do not have colleagues nearby.

Hereby [with the consilia theologica], such a one who is diligently concerned about this can instruct himself quite thoroughly and respectfully, especially the preachers and teachers who are stationed in places where one or the other [situ-
tion] comes up, but they do not have colleagues right near them where they may obtain counsel for themselves; and even if someone has good aptitude, understanding, and gifts, still in new cases of his practice he must continue to learn daily if he wants to teach and counsel others.\textsuperscript{71}

For the sake of obtaining wisdom from many counselors, as well as for one’s own continuing education, Dedekenn argues that the written counsels are beneficial.

The written counsels of theologians are also helpful in discouraging people from trusting their own subjective judgment too much. For those who can work independently and come to the right decision, Dedekenn argues, the \textit{consilia} will help by confirming their decision. For those who come to the right decision on their own but have doubts, the theological counsels will likewise be helpful. For these people, the counsels of highly gifted men will take away their doubts and give them certainty. Then, for those who think they have come upon the right decision on their own, but have not, if they read other counsels they are reminded of a better way in which they can keep their conscience unburdened.\textsuperscript{72}

Dedekenn also gives instructions on how these counsels are to be used. For one thing, one is to put away his own “imagination and will” (\textit{Wahn und Wille}), fleshly affec-

\textsuperscript{71} “Hierdurch kan ein solcher/ der jhm dieselbe also fleissig angelegen seyn lesset/ sich selbst gantz gründ- und stattlich informiren/ Insonderheit die Prediger unnd Lehrer/ welche an solchen örtern gesessen/ da wol eins und ander vorfelt/ sie aber ein solch Col- legium nicht stracks bey sich haben/ da sie sich raths erholen mügen/ und wann schon jemand seine gute geschicklichkeit/ Verstand und Gaben hat/ muß er doch in neuen Fällen seines \textit{Praxeos} noch immer und täglich lernen/ wo er andere recht lehren und rahten wil.” Dedekenn, \textit{Thesauri Consiliorum Et Decisionum Volumen III}, fol. (3)iij r.

\textsuperscript{72} Dedekenn, \textit{Thesauri Consiliorum Et Decisionum Volumen III}, fol. (3)iij r – v.
tions, and thoughts. The flesh is completely corrupted, and therefore it can easily deceive. Yet no matter how highly Dedekenn may value the counsels of professors and other church leaders, he advises people not to follow their counsels blindly. His view of moral reasoning, it appears, does not take responsibility away from the individual. If it is aristocratic and not individualistic, at least it is not tyrannic.

But this is not meant in such a way as if in these important matters the reputation of the person were enough and everyone had to be content with the opinions of great people due to their authority. No, not at all! Instead, every Christian who wants to read and use them should, after first praying, examine everything that he reads and that is commanded him with great diligence according to the holy rule of the divine Word. Whatever he finds to conform to this he should accept, but the other, which is contrary to the Word of God, he should reject, even if the author had the reputation of an angel from heaven or of a great apostle.

This passage is important because it shows us what kind of authority Dedekenn ascribed to the counsels. They do not have independent authority, according to him. The authority for moral reasoning is the Word of God. The individual should listen to the counsels, of course, and remove his fleshly prejudices, but with prayer he must compare the counsels to the Word and let the Word be the highest judge.

73. Dedekenn, *Thesauri Consiliorum Et Decisionum Volumen III*, fol. (3)iiij v – (3)iiij r.

74. “Diß aber ist nicht also und dahin gemeinet/ als wann in solchen wichtigen sachen das ansehen der Person genug were/ und ein jeder sich an den bedencken grosser Leute/ umb ihrer authoritet willen müste begnügen lassen/ Nein mit nichten/ sondern ein jeder Christ/ der sie lesen und gebrauchen wil/ sol auff vorgehendes Gebet/ alles was er liest/ und jhm vorgeschrieben worden/ mit grossem fleiß nach der heiligen Richtsnur Göttliches Worts examiniren/ und was er demselben gleichförmig findet/ annehmen/ das andere aber/ so dem Worte Gottes zu wider/ verwerffen wann schon der Autor eines Engels vom Himmel/ oder eines grossen Apostels ansehen hette . . . .” Dedekenn, *Thesauri Consiliorum Et Decisionum Volumen III*, fol. (3)iiij r.
Dedekenn also discusses what should be done when reading about a case that is not determined in Scripture. “But if cases came up which could not have been decided exactly from Holy Scripture, then the reader must pay close attention to the reasons for whose sake ‘yes’ or ‘no’ was spoken, and must indeed put them on the scales (as they say). Then the foundation will appear and the right position will come forth.” This statement is interesting because it acknowledges that Scripture does not speak specifically to every case. Yet such cases are not, for that reason, neutral. Rather, instruction is given on how to come to the “right” decision. Also, attention must be paid to the reasons given, not just the answers.

In addition to examining the reasons behind the answers given in the written counsels, one must also examine the circumstances of the case. Then, to see whether this or that counsel is applicable to any other case, one must see whether the circumstances correspond.

But here especially one must note carefully that whoever wants to imitate and use the written counsels must give exact attention to the circumstances of the cases on both sides—the one that has been long decided and the other that must still be decided. For it is not enough for the cases which are compared with each other to be the same in title, name, and appearance, or even in some circumstances. Rather, altogether they must correspond equally and rightly, seeing that a small circumstance can change the whole matter and make it completely unequal to the

75. “Solten aber Fälle vorkommen seyn/ die nicht eben auß der heiligen Schrifft hetten können decidiret werden/ so muß der Leser auff die rationes, umb welcher willen mit ja oder nein darein gesprochen worden/ grosse achtung haben/ und sie gar wol (wie man sagt) auff die wege legen/ alßdann wird sich der grund geben/ und eine gute richtigkeit herfür thun.” Dedekenn, *Thesauri Consiliorum Et Decisionum Volumen III*, fol. (3)iiiij r.
other one. Therefore, here good consideration and great concern are highly necessary.\footnote{76}

Once again, circumstances are of high importance to Dedekenn. But it should also be kept in mind that despite the many circumstances that are part of each case, Dedekenn’s view is that cases can indeed be equal to each other. Cases and circumstances are not so radically unique as to make casuistry impossible or to render theological counsels useless.

In the last part of this dedicatory epistle, Dedekenn proceeds to say a little about the subject of this volume—marital cases. The author commends Friedrich for his good regulation of marital matters within his territory, and he prays that this grace would be increased. Furthermore, these marital cases are divine and they pertain to the conscience.

But truly, this is nothing trivial for high potentates, considering that marital matters are especially matters of God and of conscience: matters of God, because marriage was instituted by God himself, and also, due to this, it concerns His divine glory and holy name; matters of conscience, because they bind people directly to God’s order and will, in such a way that whoever knowingly acts against it burdens his conscience greatly and will have to\footnote{77} answer for it on the Last Day.\footnote{78}

\footnote{76} “Sonderlich aber ist hierbey gar scharff in acht zu nehmen/ daß/ wer die geschriebene Consilia imitiren und gebrauchen wil/ derselbe je gar eigentliche und gnawe achtung habe auff die umbstende beyderseits Sachen/ der einen/ so lengst decidiret gewesen/ der andern/ so da noch sol decidiret werden. Denn es ist nicht genug/ das die Casus, welche gegen einander gehalten werden/ im Titul/ Namen und ansehen/ oder auch in etzlichen umbstenden jhnen gleich seyn/ besondern/ das alles in allem fein gleich und richtich correspondire, angesehen/ das eine geringe circumstantia die gantze Sache verendern/ und sie der andern gantz ungleich machen könne/ darumb hier gute bedacht-samkeit/ und grosse sorgfaltigkeit sehr von nöten.” Dedekenn, \textit{Thesauri Consiliorum Et Decisionum Volumen III}, fol. (3)iiij r.

\footnote{77} Read “wird” instead of “nicht wird.”

\footnote{78} “Solches aber ist warlich an hohen Potentaten kein geringes/ in betrachtung/ das
This dedicatory epistle has repeated most of the themes introduced in the dedication for volume one. Aside from these repeated themes, Dedekenn has emphasized that ecclesiastical literature aside from the Bible is a divine gift, given by God to His people to edify the church.

**Dedekenn’s Dedicatory Epistle for the Appendix Volume (1623)**

For the appendix volume, there are two biblical mottos printed on the title page: first, Job 6:24: “Teach me; I will be silent. And what I do not know, instruct me concerning that.” Second, Sirach 32:24: “Do nothing without counsel; then you will not regret it after doing it.” Again, the necessity of learning from outside oneself with regard to one’s actions is stressed.

Dedekenn’s dedicatory epistle to the appendix volume is addressed to the Lutheran provost, dean, seniors, and all the canons of the “Stifts Raceburgk” (Ratzeburg chapter). The city of Ratzeburg was located within the Herzogtum Sachsen-Lauenburg.

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Ehesachen seynd sonderliche Gottes und Gewissenssachen: Gottes sachen/ weil die Ehe von Gott selber gestifftet/ und auch derwegen seiner Göttlichen Ehr und heiligen Nahmen angehet: Gewissens sachen/ weil sie die Menschen stracks an Gottes ordnung und willen verbinden/ also/ daß/ wer wissentlich dagegen handelt/ seine Conscientz mercklich beschweret/ und es an jenem Tage nicht wird zu antworten haben.” Dedekenn, Thesauri Consiliorum Et Decisionum Volumen III, fol. iiiij v.

a reichsunmittelbares Gebiet on the western border of Hamburg. Dedekenn was familiar with the church ordinance of Sachsen-Lauenburg and cited it as an authority in the Thesaurus.

The dedicatory letter is dated September 24, 1623. The theme is “wisdom crying out” from Proverbs 4. This epistle describes many benefits of using the written counsels of distinguished theologians and also gives a brief explanation for the appendix to the first edition of the Thesaurus.

Wisdom calls out (Prov. 4:10) through the clear words of Holy Scripture, Dedekenn writes. Scripture addresses many cases which, for us, are doubtful. But there are some cases which Scripture does not explicitly address. In these cases, the counsels of excellent men are a gift from God.


81. See below, p. 284.


83. In this personification of wisdom, it is not clear whether God is meant or an abstract human ability under the Holy Spirit’s direction.
For doubtful matters which are not discussed clearly and properly enough in Holy Scripture, the counsel, deliberation, and instruction of many glorious and excellent men is at hand (which they have given at the request of good people, which can also be used well and with certainty in similar [cases]). Therefore, we regard them in no other way than as people in whom and through whom wisdom, by virtue of the Holy Spirit, . . . calls, teaches, instructs, counsels, leads, and guides, so that in the church of God everything takes place well.84

Thus, Dedekenn thinks that the counsels that he presents in his Thesaurus are a gift of God and that the Holy Spirit speaks and works through these counsels.

Young preachers benefit from using the counsels of excellent men. When they do so, it is as if they themselves had so many years of personal experience to draw on. Even old and experienced preachers can benefit from the counsels, however. Such people would find that the counsels always add something to their gifts and understanding, sharpen and improve their judgment, confirm their correct thoughts, and bring their doubtful thoughts to certainty.85 The counsels also help preachers to avoid following their own affections and will. Dedekenn emphasizes the duty of preachers to uphold discipline within the church.

Now, just as one must not permit everything to happen in the church, so also each preacher must not be allowed to proceed with his congregation and church


85. Dedekenn, Thesauri Consiliorum Et Decisionum Appendix, fol. (4)ijj r.
according to his own head in cases that arise, nor to follow either his bad thoughts or his affections and his own will. For what kind of governance and polity would develop? (Everyone should judge rationally.) Doing this would often be shooting far from the target and the good would be perverted.86

Written counsels can also be a protection for a preacher when factions in the congregation are at odds with each other.

Now when such [cases] are brought before preachers and curates, it is then truly a greatly useful thing for them to have at hand well-founded and approved counsels of excellent people, which apply precisely to such matters and questions, not only to inform themselves from them and to learn what to counsel and propose to both groups or how the case should be decided, but also to lay such written deliberation, recognition, counsel, and explanation before those who are of differing opinions about it and in this matter are in conflict, so that they themselves may see and decide where their position finally ends and what kind of verdict they would finally receive. By doing this, the minds which stand against each other can be mollified, bitterness can be made mild, the conflict can be decided peacefully, and thus a long continuation of the conflict—especially much wrath, hate, envy, and grumbling—may be quite pleasantly set aside. Apart from these means, this would perhaps have been difficult to suspect.87

86. “Wie nun alles in der Kirchen gehen zu lassen/ nicht sein muß/ also wil es sich auch nicht thun lassen/ das ein jeder Prediger bey seynner Gemein und Kirchen nach seinem Kopff in fürfallenden Sachen fahre/ und entweder seinem schlechten gedurckten/ oder seinen affecten und eigenem willen folge/ denn was darauf für ein Regiment und wesen entstehen wolte/ hat ein jeder vernüfftiglich zu ermessn/ es würde vielmahl dadurch weit vom Ziel geschossen/ und das gute verkeret werden.” Dedekenn, Thesauri Consiliorum Et Decisionum Appendix, fol. (4)iij v – (4)iiij r.

87. “Wann nun solche für die Prediger und Seelsorger gebracht werden/ Ist es warlich ein sehr groß nützlich ding/ das sie allbdann wolgegründete und bewerte Consilia vornehmer Leute zur hand haben/ die sich eben auff solche Sachen und Fragen schicken/ nicht allein sich selbst darauf zu informiren/ und zu lernen/ was beyden theilen zu raten und vorzuschlagen/ oder wie der Casus zu decidiren/ sondern auch den jenigen/ so darüber in ungleicher meynung stehen/ und dßfals darüber streitig worden/ solche Bedencken/ Erkännnuß/ Rath und Erklärung schriftlich vorzulegen/ auff das sie selbst sehen und schliessen können/ zu was ende ihere sache endlich außschlagen/ und was für einen abspruch sie zu letzt bekommen würde/ wordurch denn die Gemüter/ welche wider einander stehen/ können gelindert/ die bitterkeit gemiltet/ der streit güttlich entscheiden/ und also grosse weitleufftigkeit/ insonderheit viel Zorn/ Haß/ Neidt und Grollen/ gantz bequemlich verhütet werden/ wie sonsten ausser diesem mittel vielleicht schwerlich zu vermuten gewesen . . . .” Dedekenn, Thesauri Consiliorum Et Decisionum Appendix, fol.
Last but not least, the written counsels are an aid to the conscience, both of the consultant and of the questioner. By using the counsels, they are better able to avoid innovation and arbitrary choices.

Likewise, such written counsels also do the conscience much good, both for those who give counsel as well as for those who ask counsel. You see, those who give counsel are always much better equipped and defended in their conscience when they have good, well-grounded counsels before themselves, which were given in exactly the same matters, than when they, without these counsels, walk as in the dark and take counsel in themselves with regard to what was asked (which universally and without distinction no one will lightly and willingly undertake).  

Here again we see the rejection of radical situational uniqueness. By saying that the cases must be exactly the same, Dedekenn reveals his view that identical cases do arise from time to time. One can also see here the rejection of individualistic moral decision making as being too subjective and arbitrary.

This benefit to the conscience also applies to those who ask for counsel.

In the same way, one who asks counsel is secured in his conscience so much more when he sees and knows that his curate, whom he consults, deals with his matters prudently and scrupulously and does not undertake to decide in it without sufficient reason, which was also carried out previously by other highly learned and excellent writers with particular diligence. Moreover, when he sets before himself for reading such discussions which took place long before and were published in

(4)iiij r.

88. “Im gleichen thun auch solche geschriebene Consilia den Gewissen sehr viel guts/ so wol derer die rath geben/ als derer die rath fragen. Denn/ die rath geben/ seynd allezeit viel besser in ihrem Gewissen gerüst und verwahret/ wann sie gute und wolgegründete Bedencken für sich haben/ die eben in gleichen sachen gegeben worden/ als wann sie sonst ohn und ausserhelb denselben/ gleich im tunckeln wandeln/ und was gefraget wird/ bey jhnen selbst erraten sollen/ welches doch inß gemein und ohn unterschied jm nie-mand leicht und gerne unterstehen wird.” Dedekenn, Thesauri Consiliorum Et Decisionum Appendix, fol. (4)iiij r.
writings, then he is completely at rest and knows that he can trust the response, counsel, and instruction that he receives all the more.\textsuperscript{89}

From this quotation we see that Dedekenn intended his \textit{Thesaurus} not just for the clergy but also for the laity. All the benefits discussed in this dedicatory epistle could perhaps be summed up in a verse from Prov. 11:14: “In an abundance of counselors there is safety.”

Dedekenn explains why he included an appendix rather than incorporating that material into the three main volumes of the \textit{Thesaurus}.

Indeed, after I had finished the three volumes, all manner of necessary questions and cases were coming to me, and so I decided to make an appendix, but not right away. Instead, (if God would grant me life) I wanted gradually to gather so much that from beginning to end of this entire work I could add something certain and excellent to every title and section. However, the publisher had his reasons for requesting of me that it be as it is here published. On account of this, I was dissuaded from my previous plan and was moved to give in to him.\textsuperscript{90}

\textsuperscript{89}“Ebener massen ist auch ein rathfragender so vielmehr in seinem Gewissen gesichert/ wann er siehet und weiβ/ das sein Seelsorger/ den er consuliret, bedachtsam und sorgfältich mit seinen Sachen umbgehet/ und darein ohn gnugsamen grund/ so auch hiebevor von andern Hochgelarten und Vornehmen Scribensen mit sonderm fleiß außgeführt/ zu schliessen/ sich nicht unterfahet/ Auch noch wol über das/ jhm solche lengst zuvor geschehene/ und in Schriften publicirte erörterung/ selbst zu lesen vorlegt/ da geruhet er gentzlich/ und weiβ/ daß er zu seinem empfangenen bescheid/ rath und unterricht so viel mehr trawen.” Dedekenn, \textit{Thesauri Consiliorum Et Decisionum Appendix}, fol. (4)iiij r – v.

\textsuperscript{90}“Ich bin zwar von demhero/ da mir nach schluß der dreyen Voluminum noch allerhand feine Sachen/ von notwendigen Fragen und Fällen zu gekommen/ entschlossen worden/ einen Appendicem zu machen/ aber nicht jtz also fort/ sondern habe wollen (da mir GOtt das Leben fristen mögen) allgemech so viel zusammen bringen/ das ich von anfang biß zu end diß gantzes Werck/ einem jeden Titul und Section etwas gewisses und vornemes hette hinzu thun können/ aber es hat der Verleger seine Ursachen gehabt/ warumb er diesen/ so als er jtzo herfür kombt/ von mir begeret hat/ darumb ich dann von meiner vorigen meynung bin gebracht/ und jhm zu wilfahren bewogen worden.” Dedekenn, \textit{Thesauri Consiliorum Et Decisionum Appendix}, fol. (4)iiij v.
In summary, the dedicatory epistle for the appendix to the 1623 edition of the *Thesaurus* has emphasized many of the themes we have already experienced in the dedicatory epistles for volumes one through three. What is new here is the information about why the appendix was published and the emphasis on the counsels’ usefulness for settling disputes within a congregation. Here we see the counsels being set forth as precedent, to which pastors and others can appeal when dealing with conflict.

**Dedicatory Epistle for Volume One (1671)**

The main editor for the 1671 edition of Dedekenn’s *Thesaurus* was Johann Ernst Gerhard. Gerhard died in 1668, just a few years before the re-publication of the *Thesaurus*. For this reason, apparently, it fell to his sons, Johann Friedrich Gerhard (1654–1705) and Johann Ernst Gerhard the younger (1662–1707), to write the dedicatory

91. Jöcher says that Johann Friedrich Gerhard received his magister degree at Jena in 1661. Jöcher, s.v. “Gerhard (Johann Friedrich).” But if his father was first married in 1653, it seems unlikely that his son would have been old enough to receive his degree at that time. Erdmann Rudolph Fischer’s *Life of John Gerhard* gives a more plausible chronology. Johann Friedrich Gerhard was born March 17, 1654, enrolled at the Gymnasium of Gotha in 1670 and spent two years there. He defended a historical-juridical dissertation at the Salana Academia (the University of Jena) in 1675 and served in various political offices until his death on June 30, 1705, at Frankenhausen. Erdmann Rudolph Fischer, *Vita Ioannis Gerhardi Qvam E Fidis Monvmentis, Magna Ex Parte Nondvm Antea Editis, Atqve Ex Instrvctissima Serenissimi Dycis Gothani Bibliotheca Benignissime Secvm Commvnicatis, Lvcvltener Copioseqve Exposvit, Et Ad Illvstrandam Historiam Ecclesiasticam Eivs, Qva Ille Vixit, Aetatis Direxit Erdmann Rvdlph Fischer Ecclesiae Cobvrgensis Diaconvs* (Lipsiae: Coerner, 1723), 277–78 (ch. 14.7); cf. Erdmann Rudolph Fischer, *The Life of John Gerhard*, trans. Richard J. Dinda and Elmer Hohle (Malone, TX: Repristination Press, 2001), pp. 231–32.

epistle. The dedicatory epistle is dated March 28, 1671. Johann Friedrich Gerhard was age seventeen and J. E. Gerhard the younger was age nine at the time. Both boys had been pupils of Christian Grübel,\(^93\) though at this time Johann Friedrich was a student at the Gotha Gymnasium. Johann Ernst the younger had likely just been taken into the care of his uncle, Johann Andreas Gerhard, following the death of his mother.\(^94\) Despite the young age of its authors, the style of the Latin in this letter is not juvenile. It is flowery, intentionally ambiguous, and filled with references to classical and contemporary literature; it shows knowledge of casuistry literature from all over Europe and speaks with authority on how such literature is to be used. It is, thus, unlikely that the boys were the main writers of this dedicatory epistle. They had some help, perhaps a lot of help. One could guess that Christian Grübel, who wrote the dedication for volume four, was the ghost writer, but the style of Grübel’s dedicatory epistle seems to be different than this one.\(^95\)

\(^93\) Jöcher, s.v. “Gruebel (Christian).”

\(^94\) Fischer, Life of John Gerhard, pp. 231–36 (ch. 14.7–8); Fischer, Vita Ioannis Gerhardi, pp. 277–86.

\(^95\) A similar case of young people supposedly writing a dedicatory epistle can be seen in Jacobus Arminius, “Amica cum D. Francisco Ivnio De Prædestinatione per litteras habita Collatio,” in Opera Theologica (Lygdvi Batavorvm: Apud Godefriðvm Basson, 1629), 447–619, here at 447–54. The dedicatory epistle is signed by “D. Iacobi Arminii Theologi Liberi orphani novem.”
This epistle is addressed to Moritz (1619–81), duke of Sachsen-Zeitz and “administrator of the episcopacy of Naumburg.” This dedicatory epistle deals first with Johann Ernst Gerhard’s work in producing the 1671 edition of the *Thesaurus*, and then also with casuistry and theological counsels in general—what casuistry is, how it should be used, and the like.

According to this epistle, the plan for the cross-references which the 1671 edition inserted into the original *Thesaurus* belonged to J. E. Gerhard, and he himself published it.

But this is the *Treasury of Theological Decisions and Counsels*, published by the collector Georg Dedekenn, a churchman of Hamburg forty-eight years ago. Our father recommended it to the booksellers to satisfy the desires of the many who sought it in vain, but they were terrified by the magnitude of the work and of the costs. But when his intentions succeeded, our father brilliantly interpolated it with an elegance of order and an increase of a great many responses, questions, annotations, or references; moreover, he published it (and how happily!) as another new work.  

96. Georg Dedekenn and Johann Ernst Gerhard, eds., *Thesauri Consiliorum Et Decisionum Volumen Primum, Ecclesiastica Continens* (Jena: Zacharias Hertel, 1671), fol. a3 r. Regarding Moritz, see Alfred A. Strnad, “Moritz Adolph,” s.v. in NDB; Karlheinz Blaschke, “Johann Georg I,” s.v. in NDB. All the Ernestine Saxon dukes to whom dedicatory epistles are written in the 1671 *Thesaurus* share the same title, even though they ruled different territories: “Dux Saxoniae, Iuliaci, Cliviae, Et Montium, Landgravius Duringiae, Marchio Misniae, Principis Hennebergiae, Comes Marcae Et Ravensbergae, Dynastes Ravensteinii.” Each prince has additional titles or variations on these titles, but they all maintain a claim of honor to these same territories.

97. “Is verò THESAURUS est CONSI LOR IUM & DECISIONUM THEOLOGICA RUM, collectore M. GEO R GIO DE DEKENNO, Ecclesiastae Hamburgico, ante hos octo & quadraginta annos apertos; at à nostro Parente, ad explenda plurimorum eum frustra requirement desideria, à multo tempore non solùm commendatus Bibliopolae, quem operis sumtuumve magnitudo terrebat, sed, ubi destinata provenerunt, etiam concinnitate ordinis, ac incremento plerorumque Responsorum, Quaestionum, Anotationum, Indicumve luculentu non tam interpolatus, quàm velut alius de integro (ac utinam feliciter!) in lucem editus.” Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen*
This dedicatory epistle also speaks of Gerhard’s sources.

Indeed, he also rendered the individual parts of the old edition much more useful: So that one might consult the mountain of reference works, he briefly noted the interpreters of parallel and related questions, that is, those theologians and lawyers among our men most expert on this question. He also interspersed here and there the responses of our grandfather of pious memory, Johann Gerhard. Likewise, he placed the authors’ citations more conveniently, which a comparison of the editions will demonstrate.98

J. E. Gerhard collected and selected additional cases for inclusion in the Thesaurus, cases which were distinct from the cross-references mentioned earlier.99 Moreover, the appendix to Dedekenn’s work is mentioned. Apparently, Gerhard took the counsels in Dedekenn’s original appendix and incorporated them into the three main volumes of the new edition.

He further saw to it that entire acts of the theological faculties in the academies of Electoral [Saxony’s] Leipzig and in this Ducal [Saxony’s] Jena were collected, and he made sure that a selection was made so that many judgments of great importance, given by so many great men and dealing with situations that occur repeatedly, were published. Now this appendix to Dedekenn’s work—being equal to it in abundance, theme, and usefulness—was added. If we look at the things of Jena contained in it, not a meager part is of our grandfather from when he was a professor of theology here for many years. Thereafter, it will be ascribed to our father’s own diligence.100

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98. “Et veteris quidem editionis partes singulas, subnotatis breviter (ut moli operis consuleretur) parallelarum & affinium quaestionum interpretibus, illis, in hoc argumento & inter nostrates, Theologis & JCTi primaris; interspersis & alicubi Avi nostri p. m. JOHANNIS GERHARDI, responsis; simul allegatorum autorum commodiori positu, quem collatio exemplarium docebit, non paulo utiliores reddidit.” Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Primum, fol. a4 r.

99. See below, pp. 228–229.

100. “Id amplius curavit, ut integra Theologicarum, in Electorali Lipsicâ & Ducali hac Jenensium Academiis, Facultatum acta colligerentur, selectuæ habito in publicum exirent tot tantorumque virorum, ac pro temporum rerumque identidem occurrentium
Because mention is made here of the “appendix to Dedekenn’s work” rather than the “new appendix,” the preface-writers are probably not referring to Grübêl’s Appendix Nova.

Besides the theological counsels given by the theological faculty of Jena (including those by Johann Gerhard and Johann Ernst Gerhard), there were several other sources that J. E. Gerhard used in the 1671 edition.

We certainly remember that he wanted to have the best decisions and responses reviewed and to have the principle ones be collected and put together in a suitable order and published, namely, the decisions and responses of most of the consistories, theological colleges, ministeria, and also of illustrious teachers in Evangelical churches and academies ever since there was consent to the Lutheran Confession. To that end, he also thought it would be very useful for historical knowledge (according to the examples of the ancients) and for our practice. Certainly he was not false in his judgment.101

Besides speaking of J. E. Gerhard’s method in producing the 1671 edition of the Thesaurus, this dedicatory epistle also addresses how such counsels included in the Thesaurus should be used. First, the writers speak of how the law is applied to individual cases.

statu, judicia plurima & monumenti permagni. Ea jam APPENDIX Dedekennino Operi vel copiâ, vel argumento, vel usu par, accessit. Ejus, si Jenensia respicimus, non exiguâ pars Avi nostri, dum is Theologiam heic per annos complures profiteretur, inde Parentis proprio studio imputabitur.” Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Primum, fol. a4 r.

You see, we learned from our father that this universal prudence (either whole or partial) is needful for a skilled politician in a civil commonwealth. In addition, an acquaintance with individual matters is needful, not only of his republic in which he dwells but also of those matters which are neighboring to him. Moreover, he also needs to know how to apply universal rules of acting to each activity well and promptly. These things can be observed in a Christian to an even greater extent, and in a teacher of Christians.  

Thus, applying general laws to individual cases is set forth as an eminently Christian activity.

The writers of this epistle also speak of why casuistry is necessary for Christians:

For is it in the civil empire alone that the manner of quiet consideration is needed for determining the authority or command by which the seas, lands, peace, and wars should be ruled? Here [in the church] there is the same mass of matters—if not much more!—and the same care. Thus, such matters arise from the many duties of the ecclesiastical commonwealth; from the many kinds of antichristian gangs against which one must fight; in the most diverse cases of so many virtues, that one’s practice may turn out to be right and salutary.

That is, just as there are so many different pressing matters that must be considered in advance for the good of the state, so also, much more, in the church. The Christians’


spiritual enemies are at work in so many areas. Casuistry and theological counsels such as those which the *Thesaurus* offers are a way to be prepared. And not only does a consideration of the state show the importance of being prepared for the various cases that arise, but the teaching of Christ and the apostle Paul show this as well.

The facts of the matter can also be learned abundantly, first, from the admonitions of our Savior published for the instruction of His apostles; then, from St. Paul’s instruction, who with so much zeal (and so accurately) gave instruction on this matter to his Timothy, in whom he wanted the ideal of a truly good and prudent bishop to be expressed and to stand forth to Christian posterity forever. Therefore, if concern arises for the tools by which that Christian prudence is acquired (such as the mode and order of instruction and the teachers themselves whom we should hear), how useful will the counsels be, the sort which we now present?  

But there are also dangers in pursuing casuistry. Here, the epistle writers set forth a possible objection to the use of a work such as the *Thesaurus*.

Clearly, it is right and safe to advance from the knowledge of the universals of Christian life and faith to the individual things to be known and done. On the other hand, that knowledge, collected from individual cases at the beginning, is also said to bring about the art by experience. This experience, of course, since it is observed slowly, is also difficult and liable to several dangers of error, especially as long as judgment and youth have not yet been cultivated through experience and age. (Aristotle, too, once proved this with regard to the performance of political business, *Eth.* I. X. c. ult.) Thus, it does not seem fitting to take and hold the beginning of knowing and acting from this genre of writing. But when the meaning and reason of the common counselors, of which we have spoken, has been rightly understood and is to be applied to our actions in the pursuit of piety (which are of service for the business of the church), then certainly we would

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104. “Id quod cum res ipsa doceat, etiam abundè colligimus è Salvatoris primùm nostri monitis in Apostolorum suorum instructionem editis; inde D. Pauli, qui tanto studio, tamve accuratè de eà re praecepit Timotheo suo, in quo vere boni ac prudentis Episcopi ideam ad Christianam posteritatem exprimi & extare perpetuò volebat. Si ergò de adminiculis, quibus Prudentia illa Christiana comparetur, cura subit, uti sunt modus & ordo institutionis, ac ipsi, quos audiamus, magistri; simul, quis Consiliorum, qualia modò exhibemus, usus suppetat?” Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Primum*, fol. a4 v – a5 r.
have to submit either to the advice of the living and breathing teachers whom we should hear, whose example we should follow, or at least to the surviving notes of silent prudence, the governess. What the most wise Solomon pronounced will make both of them trustworthy: “He who walks with the wise will be wise; the friend of the foolish is made similar to them” [Prov. 13:20].

Thus, according to these writers, the true use of these counsels is to understand the underlying principles at work in the individual cases and to apply this wisdom to one’s own work in the church and Christian life. Casuistry, understood here as following the instruction of our teachers and the testimony of Christian prudence, is set forth as biblical.

In the previous statement, an objection was set forth against this genre of ethical literature. But the writers of this epistle answer that objection. Just as in civil jurisdiction, where one makes himself aware of all the principles and laws that were applicable in past cases in order to be able to apply those same principles and laws to similar cases that arise in the future, so also in cases that arise in the Christian life, one can learn principles from past cases and apply them to similar cases that arise in the future. It is important to

105. “Id primùm largiri promtum est, à cognitione universalium fidei vitæque Christianæ ad singularia cognoscenda agendaque rectè ac tutò procedi: licet illa ex his initio collecta, & artem experientia fecisse dicatur. Haec sanè, ut observatu sera, ita difficilis & non uni, praesertim judicio & aetate per usum & confirmatum aetatem nec dum subacto, periculo obnoxia est: uti vel de politicæ πράξεως observantiâ dudum probavit Aristoteles Eth. l. X. c. ult. Unde nec sciendi agendique initium ex isto scriptorum genere capi tenerique consentaneum videtur. Cum verò communium, quae diximus, monitorum vis & ratio probe intellecta, eaque in studio pietatis ad agendum, quae ad rem ecclesiae faciunt, transferenda sunt, tûm certè vel spirantis vivique doctoris monitu, quem audiamus, cujus exemplo insistamus, vel multi saltem superstítibus prudentiae moderatrice notis acquiescendum fuerit. Utrinque enim id fidem sui faciet, quod sapientissimus Salomon pronunciabat: quí cum sapientibus graditur, sapiens erit: amicus stultorum iis similis efficit.” Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Primum, fol. a5 r.
learn from past cases, they explain, because “neither age nor leisure nor abilities nor occasion would immediately move most people always to refer a doubtful matter to an exact examination and to just causes of acting, nor would move them to obtain the present counsels of those ‘who are better both in understanding and in judging . . . .’”

Having an understanding of past cases which were judged by the wise will help one to restrain his mind’s raging, to castigate preconceived opinions, to confirm reason by the authority of counsel, and to be “certain and secure to proceed.”

Thus, in order to judge any case, one must have in mind the principles that apply and the manner in which they should be applied to the case. One should give the case an “exact examination,” and one should also keep in mind similar cases that have already been decided. These “similar cases,” perhaps to be seen as precedent, help to restrain arbitrary judgments and error. By being familiar with them, one is able to judge with confidence.

New cases always arise, the Gerhard boys write, and therefore no casuistry can exhaust the possible situations with which a judge is faced.

106. “Certè cum in actu rerum positi negotii speciem jam ante deprehensam adverterimus, cum universalia, quibus illud altrinsecus determinatur, principia ipsumque, quo illa isti accomodari debeant, modum designari cernimus; id verò quàm ad rectum de similibus judicium opportunè, quàm nobis & proximo utiliter ceciderit? Praecipuè, cum nec aetas, nec otium, nec facultates, nec occasio id continuò plerisque largiatur, ut vel ipsi rem dubiam ad exactum examen justasque agendi causas semper revocent, vel praesentia consilia impetrent eorum, Οἱ δὴ φέρτεροι εἰσὶ νοῆσαι τε κρίναί τε, reprimet aestum animus aliquà prorupturus, his monitis, ceu freno, clam coërcitus; castigabitur praeccepta & in errorem ductura opinio; firmabitur ratio autoritate consilii & causis, quae certos ac seculos ad audendum pergendumve faciunt, veris & salutaribus constabilita.” Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Primum*, fol. a5 r–v.
And since nature always gives birth to new deeds and the defect of human life admits new difficulties, which the things recorded by the Roman Rota will not be sufficient to define—nor the decrees of the Toulouse Capella,\textsuperscript{107} nor the counsels of the senate of Bordeaux,\textsuperscript{108} nor the sentences of the parliament of Paris,\textsuperscript{109} nor the wagonloads of so many decisions and conclusions, so many myriads of observations—therefore it is right for those who intend to follow more secure footsteps when judging to expend new effort repeatedly in observing and annotating the things judged by curias, by the decrees of tribunals, and by the determinations of senates.\textsuperscript{110}

So though one cannot look to collections of counsels and expect to find every case answered there, nevertheless, a study of these very cases can give people more confidence that they are making the right judgment in their particular situation. Thus, the purpose of such a work as the \textit{Thesaurus} is to enable people to learn from the wise, not to be an exhaustive rule book.

In fact, this is how collections of theological counsels (and casuistry) should be used: “It is no different in theology—indeed, it is much more so the case!—that the value of the work consists in having decisions that have been examined by theologians accord-

\begin{itemize}
  \item \textsuperscript{107} E.g., \textit{Decisiones Capellae Tholosanae} (Francofurti: Richterus, 1614).
  \item \textsuperscript{108} E.g., Nicolas Boerius, \textit{N. Boerii Decisiones Burdegalenses. . . una cum eiusdem Boerii consili tractatibus de statu et vitae Heremitarum} (Lugdini: Frelon, 1603).
  \item \textsuperscript{109} E.g., \textit{Arrest De La Cour De Parlement De Paris, Contre Le Livre Du Cardinal Bellarmin, De la puissance Temporelle du Pape, &c.} (Paris, 1611).
  \item \textsuperscript{110} “Et cum natura semper nova gignat facta, novasque difficultates vitae humanae labes admittat, quibus definiendis non Rotae Romanae notata, non Tholosanae Capellae decreta, non Senatus Burdigalensis consilia, non Parlamenti Parisini Arresta, nec tot decisionum & conclusionum plaustra, tot observationum myriades suffecturae sint; illi observandis & annotandis Curiarum judicatis, Tribunalium decretis & Senatum placitis operam subindè novam meritò impedunt, qui securiora in judicando vestiglia pressum eunt.” Dedekenn and Gerhard, \textit{Thesauri Consiliorum Et Decisionum Volumen Primum}, fol. a5 v.
\end{itemize}
ing to circumstances, and having them collected, arranged in a fitting order, and published. From them we may gather what we ought to keep and follow in similar events.”

The word “ought” here is strong. It is understood that there is an objectively correct answer for these questions, and the consideration of similar questions and their answers will help us to find the correct answer in our situation.

Finally, one can ask what the value of this particular collection of theological counsels, the Dedekenn–Gerhard *Thesaurus*, is.

It is clear that Dedekenn, first, and our own father, now, composed the present instruction in accord with that plan. Those decisions ought to be thought of great importance when the following are rightly considered: the magnitude of matters that have arisen through so many judgments of the church, and the teaching, mind, and experience of men who helped in the matters that called for a solution.

That is, the Dedekenn-Gerhard *Thesaurus* is the sort of work just described. Here is contained the determinations of the church on disputed points, and the instruction and experience of wise teachers.

In summary, the two Gerhard boys (or whoever it is that wrote this dedication) say many things about theological counsels that are similar to what Dedekenn had written

111. “Non secus, quin imò multò magis in Theologiâ à Theologis pro re nata exactas congeri & ordine commodo digestas vulgari, undè colligere liceat, quid id similibus eventis servare sequique debeamus.” Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Primum*, fol. a5 v.

in 1623. In their difficult Latin, they especially emphasize that one can learn from past
counsels and apply the principles derived from them to future cases. This, of course,
assumes that cases and situations are not radically unique. Their view of the authority of
these counsels is likewise similar to what Dedekenn had set forth: the counsels are exam-
pies for our instruction, not exhaustive law.

**Prefaces by Leipzig, Greifswald, and Wittenberg Theological Faculties (1671)**

The prefaces to the reader by the Leipzig theological faculty, the Greifswald theo-

dlogical faculty, and the Wittenberg theological faculty are simply reprinted from the 1623
edition. The short preface by Christian Matthiae is also reprinted from the 1623 edition.\(^{113}\)

**Dedicationary Epistle for Volume Two (1671)**

The dedicationary epistle for volume two of the *Thesaurus* (1671) was again written
by Johann Friedrich Gerhard and Johann Ernst Gerhard the younger. This epistle is
addressed to Johann Ernst (1627–83), duke of Sachsen-Weimar; to Johann Georg (1634–
86), duke of Sachsen-Eisenach (1634–86); and to their brother Bernhard (1638–78), duke
of Sachsen-Jena. In 1671, Sachsen-Weimar had not yet been divided. The three brothers
ruled Sachsen-Weimar jointly and would have been the patrons of the University of
Jena.\(^{114}\)

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114. Ernst Wülcker, “Johann Ernst, Herzog zu Sachsen (Weimar),” s.v. in ADB;
This epistle especially includes the praise of these princes, statements on the usefulness of volume two (on political matters) for princes, and descriptions of personal matters: the death of their mother and the praise of their father and grandfather. They also speak of their father’s work in preparing the new edition and of the use of counsels in general.¹¹⁵

The Gerhards mention that Dedekenn’s work had been made “as new” by increasing the order, the content, and the indices, and by interspersing throughout the work many more references to Johann Gerhard’s writings.

For he subjected to the individual parts of the work, which previously existed, not only a useful forest of new and similar judgments and authors, but also he alone by his own care and labor subjected the apparatus of the Appendix to them as well. He did the former so that by its concise brevity it would lighten the bulk of


the work. He did the latter, however, to grant a full exposition in the arguments that were present.116

Thus, J. E. Gerhard added many cross-references, and he also took the old Appendix to the 1623 edition and incorporated those counsels into the body of the work (volumes one through three).

For some reason, the two Gerhards use this opportunity to speak of the “new appendix” to the Thesaurus here in the dedicatory epistle to volume two, rather than in the dedicatory epistle for the appendix. They write:

This will also provoke friendly or unfriendly readers more sharply, when they inspect the New Appendix from the acts of the faculties of this academy and of the theological academy of Leipzig. They are circumstances of matters and of arguments which arose in so many difficult calamities of the Lutheran Church since its first restoration. They are presented here so that from the nature, counsel, and outcome of similar events, not conjecture, but the truth of stable judgment may easily be obtained.117

There may be an allusion here to the syncretistic controversies surrounding Georg Calixt and his irenic position toward Roman Catholics and the Reformed, as well as to the ten-

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116. “Nam singulis ille, quae pridem suppetebant, partibus operis subjecit cum utilem similium novarumque & sententiarum & autorum sylvam; tum istum unus suaque maximè curâ laboreque APPENDICIS illius apparatum. Illa, ut concisa, brevitate sua molem operis levat. Haec verò plenam in argumentis objectis expositionem largietur;” Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Secundum, fol. a3 v.

117. “Id quod & acriùs irritabit lectores amicos inimicosve, cum Novam ex THEOLOGICAEE hujàtis & LIPSICAEE ACADemiaE FACULTATUM Actis APPENDICEM inspexerint. Ea sunt rerum, ea argumentorum momenta, quanta in tot tamve difficilibus Ecclesiae Lutheranae à prima instauratione fatis unquam vel incidere vel cogitari possunt, ut de similium eventuum indole, consilio successuque non conjectura, sed stabilis judicii veritas faciè possit obtineri.” Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Secundum, fol. a3 r.
sions that arose between the universities of Jena and Wittenberg regarding how the perceived threat from the syncretists should be combatted. The Appendix Nova contains a long position paper regarding these syncretistic controversies.\(^{118}\) It is also obvious here that for the writers of this letter, events can be similar enough that one could obtain the truth from them for stable judgement. Then, these collected counsels are applicable to future cases that may arise and can help give certainty of what the true decision is. They also say that the sources of the appendix are especially taken from the acts of the Jena and Leipzig faculties. The Gerhards’ describe Johann Ernst Gerhard as having, alone, incorporated the old appendix into the body of the new edition of the Thesaurus, but they have not addressed the editorship of the new appendix.

The writers touch on the difficulty of applying general principles to the specificities of life:

Now the more sublime that divine revelation is, and the more difficult a skillful application of it is (as of a directive principle to life or to our estate), the greater the value will be for the counsels and sentences of teachers of the church to stand forth, whose zeal in piety with knowledge is prominent. These counsels and sentences were worked out without hatred or love, with the utmost care and circumspection, as much as the human mind is able.\(^{119}\)

\(^{118}\) See below, pp. 235–240.

\(^{119}\) “Quo nunc revelatio divina sublimior, & ejus, ceu principii directivi, dextra ad vitam statumve nostrum applicatio difficilior est, tantò majus pretium erit, extare Doctorum ecclesiae & aliorum, quorum zelus in pietate cum scientiâ eminet, ea consilia ac sententias, quae procul odio & amore, cum curâ & circumspectiòne, quantam humana mens possit, maximâ elaboratae sunt.” Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Secundum, fol. a3 r.
The Gerhards are saying that revelation gives the principles which must then be applied to life. This application is difficult, and it ought to be done dispassionately and carefully. Finally, we can learn well of this from the teachers of the church that have gone before us.

The contents of this letter are similar to what we have seen previously. Applying general principles to individual situations is set forth as a Christian activity. Johann Ernst Gerhard's role in producing the new edition of the *Thesaurus* is also discussed.

**Dedictory Epistle for Volume Three (1671)**

The dedicatory epistle for volume three of Dedekenn’s *Thesaurus* (1671) is addressed to Friedrich, among whose titles is *Comiti Principali Eminentia Hennebergico*. In this dedication, the Gerhards speak in general about the good of marriage for the state, they praise their father (Johann Ernst Gerhard) and grandfather (Johann Gerhard), and they express their grief at the death of their parents. Of interest to our study

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120. Perhaps this is Friedrich I. (1646–91), duke of Sachsen-Gotha and Altenburg. Friedrich studied in Jena in 1666 and had married just two years before this volume, on marriage, was published. August Beck, “Friedrich I., Herzog von Sachsen-Gotha u. Altenburg,” s.v. in ADB.

121. Georg Dedekenn and Johann Ernst Gerhard, eds., *Thesauri Consiliorum Et Decisionum Volumen Tertium, MIXTA ET INPRIMIS MATRIMONIALIA CONTINENS*: Das ist: Vornehmer Universitäten/ Hochlöbler Collegien, wohlbestaffter Consistorien auch sonst Hochgelahrter Theologen und Juristen Rath/ Bedencken/ Antwort/ Belehrung/ Erkennmüß/ Bescheide und Urtheile in und von allerhand schweren Fällen und wichtigen Fragen/ belangend so wohl Religions- Glaubens- Gewissens- Kirchen- Ampts- und Ehe-/ als Bürgerliche und andere Sachen/ wie dieselben täglich fürfallen und gereget werden mögen: Theils aus vielen Archivis erhalten; theils von ziemlichen Jahren biß daher auffgenommen; theils aus andern Schrifften mit grossem Fleiß zusammen bracht/ in gewisse Titulos, Sectiones und Numeros verfasset/ Der Dritte Theil: In welchen insonder-
is the utterly negative view of celibacy set forth in this dedicatory epistle. Speaking of the necessity of the teaching contained in this volume, the Gerhards liken celibates to murderers, blasphemers, and traitors.¹²² (Later in this same volume, a counsel from Hieronymus Cypraeus would be included, likening the celibate, again, to murderers.)¹²³ This bit of rhetoric has classical precedent. Caesar Augustus, worried about the future strength of his empire in the face of declining birthrates, reproached unmarried men, likening them to murderers.¹²⁴

**Grübel’s Dedicatory Epistle for the Appendix Volume (1671)**

The fourth volume of the 1671 edition of the *Thesaurus* is entitled “New Appendix of the Thesaurus of Counsels and Decisions, containing certain things that are to be

¹²² “at reipublicae tam necessarium hinc subsidium est, ut caelibatus affectatores dicantur obstringi homicidio, cum negligent dignere, quos existere fas erat; impietate, cum majorum decus ad mortem agant; sacrilegio, quod humanum genus, celimum donarium divinorum, aboleant, eoque templae Dei arasque evertant; perdullione & excidio reipublicae, quum, adversus leges, patriam, quae viris, non domibus, porticus & foris hominum inanimis, constat, sterilitate prodant & orbam destituant.” Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Tertium*, fol. a2 r – [a4] v.

¹²³ “Qui fructum ex se non edit, assimulatur effusori sanguinum.” Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Tertium*, 192B (3.2.13, no. 10).

inserted into the work of Dedekenn and Gerhard.”125 The dedicatory epistle was written by Christian Grübel, the editor of this volume. It was addressed to Friedrich Wilhelm (1657–72), duke of Sachsen-Altenburg, a young prince who was the ward of Moritz of Sachsen-Zeitz at the time.126

This dedicatory epistle has much information on the origin of the Thesaurus and the function of casuistry and is also written in a clearer style than the dedications for volumes one through three of the 1671 edition. It does not seem to obfuscate artificially, though it is still written in an elegant, classical style.

Grübel’s first theme is creation, revealed law, and natural law. Speaking of the ignorance that proceeded from humanity’s fall into sin, he says,

Scarcely one trace of such good—and it very small—did the ineffable goodness of God leave to man, in order that at least it would appear how much it was that we lost. But that [trace] consists in certain foundations of acting, either inscribed by the very finger of God Himself in capital letters on the human heart or revealed more fully in Holy Scripture.127


126. August Beck, “Friedrich Wilhelm III., Herzog zu Sachsen-Altenburg,” s.v. in ADB.

127. “Vix unum idque exiguum tanti boni vestigium ineffabilis Dei bonitas homini reliquit, ut appareret saltem, quantum id fuerit, quod amimus. Illud verò in certis agendi
Thus, natural knowledge of the law is all that is left of the image of God after the fall, and it is there mainly to show us how much we lost. Also, the natural knowledge of the law consists of foundations or fundamentals of acting; and the natural law and the revealed law agree, though the latter reveals it more fully.  

Together with the law, God also left us the conscience. Therefore, lest [the laws] be given in vain, God, the best and greatest, made the conscience the leader of our actions and the executor of penalty, according to the severest mandates and explicit penalty.” This conscience, then, will be the reason for casuistry in general and Dedykenn’s Thesaurus specifically. The conscience and the natural law are mentioned separately here. The conscience functions here to remind people of what the law says and to punish them for breaking that law.  

Grübel also speaks of the relation of human laws (such as from a human government) and the divine law. “But thus I judge it will be, that the spirit is secure and the mind tranquil if we live according to God’s command and follow the precepts of superi-
ors carefully. For as God’s command flows from the infinite fount of wisdom, so the precepts of superiors are derived from God’s command.”\textsuperscript{131} That is, the divine law serves as the source of the laws of our superiors. Of course, to say that the laws of superiors are derived from the divine law is one thing, but to actually apply the law to the difficult situation is another. Here, Grübel discusses this difficulty and characterizes the faculty opinions, such as he includes in his Appendix Nova, as “casuistry,” that is, “cases of conscience.”

But the matter is quite difficult, granted that situations occur every day for which neither divine nor human law (in the way we would use either the Little Dipper or Big Dipper [for navigation]) seem to have been given, and granted that we would rather not experience a harsher judge. Indeed, the matter is more difficult still when it comes to applying divine laws or, with the benefit of [another’s] judgment, deriving from them what it is in which judgment should rest, what it should claim as certain and—that which the trouble of conscience was causing—what it should avoid. And finally, it is commonly called by the name “cases of conscience,” which more rightly, perhaps, should be “judgment concerning a case of conscience.”\textsuperscript{132}

Grübel next proceeds to characterize the casuistry literature of his time. “But the writings which are publicly for sale testify abundantly how various people recommend

\textsuperscript{131} “Ita verò futurum arbitror, ut securus animus & mens tranquilla sit, si juxta praeceptum Dei vivamus, & praecepta superiorum exequamur sedulo. Ut enim illud ex infinito sapientiae fonte profuit, ita haec ex illo derivantur.” Grübel, Thesauri Consiliorum Et Decisionum Appendix Nova, fol. a3 r.

\textsuperscript{132} “Sed cum quotidie accidant, quibus ob variantes circumstantias nec divina nec humana lex lata videtur, qua cynosurâ aut helice utamur, ea expedire, ne severiorem judicem experiamur, res difficillima est, difficilior, applicare leges divinas, aut beneficio judicii ex iis deducere, in quo judicium acquiescat, quid certi statuat, &, quod conscientiae negotium facesset, decline. Atque id demum vulgò casuum conscientiae nomine appellatur, quod rectius forsan judicium de conscientiae casu audit.” Grübel, Thesauri Consiliorum Et Decisionum Appendix Nova, fol. a3 r.
their work to us in writing cases and resolving them. Yet there is no doubt but that one equals the other, or surpasses, either in the rarity of questions, or in the keenness of resolving, and the genre and order of writing.”

That is, the casuistry literature of his time was of uneven quality. Grübel notes that most of the extant casuistry literature was Roman Catholic, this being almost the only concern of the Jesuits, and he gives a long list of the chief Roman Catholic casuistry writers in his opinion. He then assesses the problems with Roman Catholic casuistry. “Yet it is certainly right for me to think that we should read them cautiously (to say nothing of following them!), since, without exception, all of them follow human traditions rather than the Holy Scriptures; and some have

133. “Quàm verò in conscribendis Casibus & resolvendis iisdem varii nobis suam probarint operam, scripta quae prostant publicè, abundè testantur. Nullum tamen dubium est, quin aut raritate Quaestionum, aut resolutionis acumine & scribendi genere ac ordine unus alterum aequet aut superet.” Grübel, Thesauri Consiliorum Et Decisionum Appendix Nova, fol. a3 r.


135. For this translation of an . . . dubito, see Karl Ernst Georges and Heinrich Georges, Ausführliches lateinisch-deutsches Handwörterbuch: Aus den Quellen zusam-
been so curious in examining cases that sometimes they seem to have invented new wicklenesses rather than to have resolved cases.” Thus, the problems with Roman Catholic casuistry, according to Grübel, are that it is based on human traditions more than on Scripture and that the curiosity of those writers led them to invent new sins. Perhaps this indicates that casuistry not based on real life is problematic. This is where the Dede-kenn-Gerhard Thesaurus and Grübel’s Appendix Nova will prove superior. These cases are taken from real pastoral experiences.

Next, Grübel highlights and assesses the main Reformed casuists known to him.

From the Calvinists, Johann Heinrich Alstedt constructed his “Theology of Cases”; William Perkins published his “Golden (as he calls them) Decisions of Cases of Conscience” in three books; Ames not only praised him but also followed him in his book on the conscience. But scarcely will one commit himself to a raging and untrustworthy sea when he can use a sea that is tranquil and quite safe. He must be stupid who would prefer honey mixed with poison to that which is pure.

So here, Grübel seems to agree with their method and some of their results, but the “poison” mixed in still makes their work unsuitable for Lutheran use.

136. “Eos tamen an tutò legamus, nedum sequamur, haud immeritò dubito, cum ad unum omnes traditiones humanas sequantur potius, quam sacras scripturas; nonnulli verò ita curiosi in inquirendis casibus fuerunt, ut aliquando nova potius scelera invenisse, quàm casus resolvisse videantur.” Grübel, Thesauri Consiliorum Et Decisionum Appendix Nova, fol. a3 v.

137. “E Calvinianis Theologiam casuum concinnavit Johannes Henricus Alstedius, aureas verò ut ipse vocat, casuum conscientiae Decisiones libris tribus comprehensas edidit Gulielmus Perkinsus, quem non laudavit modò, sed secutus quoque in suo de conscientia libro Amesius est. Verum vix se aestuoso & malè fido pelago commiserit, qui tranquillo & satis tuto mari uti potest. Stolidus sit oportet, qui veneno permista mella pruis praetulerit.” Grübel, Thesauri Consiliorum Et Decisionum Appendix Nova, fol. a3 v – a4 r.
Next, Grübel turns his attention to Lutheran casuistry. His account is especially interesting because he traces Lutheran casuistry back to Luther.

You see, our people do not lack those who are fond of this pursuit. And indeed, our *Megalander* [“great man”] Luther himself made the beginning of this genre of writing. On account of this, here and there in his works cases of doubt occur which he himself satisfied with a fully divine spirit, in which he abounded. Nor are less found in his letters, which the literate world expects from the magnificent and greatly reverend master Johann Christfried Sagittarius, doctor of sacred theology.\footnote{Grübel, *Thesauri Consiliorum Et Decisionum Appendix Nova*, fol. a4 r.}

After the acceptance of the Book of Concord (1580), Lutherans moved away from emphasizing Martin Luther as a formal, secondary authority in theology (the Bible being the primary authority). The Book of Concord now played this role, and Luther became one teacher among several. Yet in this passage, we see that as late as 1671 Luther was central among the teachers and was seen as prophetic—having a special gift of the Holy Spirit that enabled him to give sure advice on controversial questions.\footnote{Kolb, *Prophet, Teacher, and Hero*, 54, 67, 74. Kolb also notes that Luther was sometimes called a *Wundermann* (pp. 110, 116, 123).}

From there, Grübel goes on to list the other Lutheran casuists.


Many others soon followed him, in whose number are: Balduin, Dunte, Menger-
ing, Avianus, Mamphrasius, Kessler, Dannhauer, Brückner, Steuper, and Dr. König. ¹⁴¹ Not so long ago, Carpzov acquired a fame for himself, which will never die, by his distinguished work of ecclesiastical jurisprudence;¹⁴² if he is consid-
ered by merit, there is scarcely anyone who would approach him; but if by use-
lessness, he yields much to Dedekenn’s Counsels. For they conquer him by the vari-
ety of titles, the number of responders, and the multitude of questions, nor perhaps
do they yield him anything in keenness of resolving. But I speak a little too freely.
Let it be in the hands of the candid reader to consider the matter fairly, whether

¹⁴¹ Balduin, De casibus conscientiae; Dunte, Decisiones mille et sex casuum con-
scientiae; Arnold Mengerin, Suscitabulum conscientiae evanglicum: Evangelischer
Gewissens-Wecker (Altenburg: 1638); idem, Refectorium conscientiae evanglicum: 
Evangelischer Gewissens-Ruhe (Altenburg: 1638); idem, Scrutinium conscientiae cat-
echeticum; ibid, Informatorium conscientiae evanglicum: Evangelisches Gewissens-
Recht, Rath und Unterricht (Altenburg in Meissen: Otto Michael, 1644); Christianus Avi-
anus, Praxis Ecclesiastica Circa Confessionem, Absolutionem & conciones Legales in
suggestu (Leipzig: In verlegung Eliae Rehefelds und Johan Grossen, 1624); idem, Altera
Pars Praxeos Ecclesiasticae De Spiritualibus Tentationibus (Leipzig: In Verlegung Eliae
Rehefelds und Johan Großen, 1620); idem, Tertia Pars Praxeos Ecclesiasticae De Ora-
tione, Gratiarum Actione, usu Musices, tandemque de Votis Questiones (Leipzig: In Ver-
legung Eliae Rehtfelds & Johan Großeii, 1628); idem, Qvarta Pars Praxeos Ecclesiast-
icae, De Jurejurando (Leipzig: In verlegung Eliae Rehefelds und Johan Grossens, 1622);
Wolfgang Mamphrasius, Praxis Theologica Sev Panoplia Et Militia Christiana, In Qva
Monstratur, Qvomodo Miles Christianus omnes hostes spirituales & corporales vincere
possit (Leipzig: Johannes Bornerus, 1612); Andreas Kessler, Theologia casuum conscienti-
tiae, hodierno cumprimis temporis accomodatum, ed. Joh. Chris. Seldius (Wittenberg,
1658); Johann Konrad Dannhauer, Liber conscientiae sive theologa conscientiaria, 3
vols. (Strasbourg, 1662); Andreas Brückner, Manuale mille quaestionum illustrium theo-
logicarum, praecipe practicarum, X centuriis inclusarum et succincte. . . decisarum
(Norimbergae, 1668); Johann Steuber, Theologiae Moralis Tractatus, De Conscientia
Recta, Erronea Et Probabili (Marburg: Chemlinus, 1642); Georg König, Casus conscien-
tiae, qui in sex capitibus doctrinae catechetizae, una cum tabula oeconomica subinde
solent occurrere, erudite et fideliter decisa (Altdorf, 1654; reprint, 1676). Some of these
volumes—Balduin, Avianus, Kessler, König, and Carpzov—were in J. E. Gerhard’s own
library and could have been easily used. Johann Anselm Steiger and Alexander Bitzel,
Bibliotheca Gerhardina: Rekonstruktion der Gelehrten- und Leihbibliothek Johann Ger-
hards (1582–1637) und seines Sohnes Johann Ernst Gerhard (1621–1668), Doctrina et
pietas I/11/1–2 (Stuttgart-Bad Cannstatt: frommann-holzboog, 2002).

¹⁴² Benedict Carpzov, Jurisprudentia Ecclesiastica: Seu Consistorialis Rerum & 
Quaestionum In Serenissimi Ac Potentissimi Principis Electoris Saxon. Senatu Ecclesi-
astico & Consistorio (Leipzig: Kühnen, 1649).
judgment is more exact when one person responds than when judgment is confirmed by the suffrage of several.  

This is precisely what the Dedekenn-Gerhard *Thesaurus* and Grübel’s *Appendix Nova* offer. Unlike casuistry works by one author, where one answer is given for each question, this large anthology has multiple answers by several different groups or persons for each question. It should also be noted that one major Lutheran casuistry work has been omitted in Grübel’s summary: the *Consilia Theologica Witebergensis*. Grübel could not have been ignorant of this work, for it is cited in J. E. Gerhard’s 1671 cross-references numerous times. Since the *Consilia Theologica Witebergensis* were printed just a few years previously, and since that work was of a similar size and extensiveness as the *Thesaurus*, it is curious that Grübel did not mention it. Sales could have been a factor, as the *Consilia Theologica Witebergensis* likely would have been a direct competitor for the *Thesaurus*.

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144. Calov, Meisner, Quenstedt, and Deutschmann, *Consilia Theologica Witebergensis*.

145. For example, Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Primum*, 1.1.1.1, no. 8, p. 29.
Moreover, the tensions between the theologians of the universities of Jena and Wittenberg at the time could have played a role.\textsuperscript{146}

Grübel explains the origin of the responses included in the *Thesaurus*.

\begin{quote}
It is received by custom in our church that whatever doubtful matter occurs, it is referred for decision to the theological faculties in the academies or to the entire colleges, by very old custom. Blessed Biedembach observed this first, whom the reverend master Georg Dedekenn, a churchman of Hamburg, followed shortly afterward. Accordingly, since God the thrice best and greatest placed him into that station where things often occur that touch the conscience, being compelled by necessity he first sought out the counsels in the academies; but in the course of time, the necessity having been overcome, for the sake of teaching he invented cases in order to increase his responses.\textsuperscript{147}
\end{quote}

As Dedekenn had noted in his dedicatory epistle to volume one of the 1623 edition, he himself had written some of the questions and submitted them to various faculties to get their responses.\textsuperscript{148} In this way he was able to fill out the gaps in his anthology and make it a casuistry that would truly be useful for all the various cases a 17th-century Lutheran clergyman could face.

Grübel continues by explaining the origin of the appendix to the 1623 edition of the *Thesaurus*. “But because the author had received several things too late for each of

\begin{quote}
\textsuperscript{146} See below, pp. 235–240.
\textsuperscript{147} “More receptum est in nostrâ Ecclesiâ, ut quicquid dubii occurrat, id ad Facultates Theologicas in Academiis aut integra Collegia pervetusto planè more deferatur. Observavit id primum B. Biedembachius, quem paulo post secutus est Vir Reverendus Dn. M. GEORGIUS DEDEKENNUS Ecclesiastes Hamburgensis. Unde cum ipsum in eam stationem posuisset Deus ter opt. max. ubi non rarò occurrebat, quae conscientiam tangerent, necessitate compulsus primum consilia in Academiis quaesivit, successu verò temporis superata necessitate doctrinae gratia casus finxit, ut sua augeret Responsa.” Grübel, *Thesauri Consiliorum Et Decisionum Appendix Nova*, fol. a4 v.
\textsuperscript{148} Dedekenn, *Thesauri Consiliorum Et Decisionum Volumen I*, fol. [(a)6] r.
\end{quote}
them to be inserted in its own place, from that, the Appendix was born at that time, which
first came forth together with the work in the twenty-third year of this century, to be
inserted in its place.”¹⁴⁹ Then, after the Thesaurus had been out of print for many years,
the need for a new edition was felt.

Blessed Johann Ernst Gerhard, doctor of sacred theology and professor publicus¹⁵⁰ at Jena, a man born for labor and one serving the advantage of the church and of others above all, was considering a new edition of Dedekenn’s work, which would be like a library of cases. To that end, he acquired for himself the best authors in that genre, so that from them he might insert titles into the work, if any were lacking, and add new cases from time to time. But the plan, though very salutary, had to be changed. You see, the work seemed to grow so much into such bulk that the bookseller would be unequal to bearing the costs. Therefore, lest Gerhard be completely lacking to the reader, he was indicating the chief questions which are found elsewhere, was adding the authors, and was inserting them into their proper place together with the old appendix. But fate too quickly overturned that attempt and eagerness to serve the church. For scarcely was half of the first volume finished when blessed Gerhard ceased to be among the living.¹⁵¹

¹⁴⁹. “Quoniam verò serius acceperat nonnulla Autor, quam ut suo quaeque loco inseri possent, inde nata tum temporis Appendix est, quae una cum opere primum prodiit anno hujus seculi tertio & vigesimo, suo loco inserenda.” Grübel, Thesauri Consiliorum Et Decisionum Appendix Nova, fol. a4 v – [a5] r.

¹⁵⁰. “Wenn P.P. heutiges Tages nach eines Namen stehet, heisset es Professor Publicus.” Zedler, s.v. “P.”

This statement seems to say that J. E. Gerhard did not even finish the first volume. If this is the correct reading, it would contradict the dedicatory epistle to volume one (1671), as well as what Grübel says below, that the new work of Dedekenn had already been sent to the press when J. E. Gerhard died. Another possibility is that the phrase “scarcely was half of the first volume finished” means “scarcely had half of the first volume been printed.” If this is correct, then J. E. Gerhard did send all three of the main volumes of the 1671 edition off to the printers, and then died in 1668 before even half of the first volume had been “finished” (absoluta), that is, printed.

After explaining how the older Johann Ernst Gerhard had joined Grübel to himself, and after explaining the sad circumstances of J. E. Gerhard’s death, Grübel then goes on to explain his own role in producing the new edition of the *Thesaurus*.

Among the more serious concerns which he had left behind, there was the new work of Dedekenn, which Gerhard had committed to the press not too long before. My age and my plan of studies were dissuading me from undertaking it, but the advantage of the church and reverence toward the blessed remains of my good preceptor and host were persuading me. Wherefore, in that order in which it had been begun, I brought the work to its end.152

It thus appears that J. E. Gerhard had finished at least a part of the *Thesaurus* and sent it off to the printers before his death. Perhaps he already had worked out the plan (ordo) for the Appendix Nova. In any case, since Gerhard’s name remained on volumes one through

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three as the editor, and Grübel’s name did not appear on any of the volumes until the
Appendix Nova, it is best to assume that Grübel’s responsibility for the series did not
extend to the first three volumes.

Grübel describes his work and his sources.

But as the counsels of very many theological faculties, consistories, and ministe-
ria are contained in the old work, which Dedekenn collected with great diligence
up to the twenty-third year of this century, so I considered that it would be worth
the effort if there were added to the above the counsels of the highly reverend the-
ological faculties of Leipzig, Wittenberg (several), and Jena, as well as of the
ministeria of Hamburg, Lübeck, Lüneburg, and others, both of theologians and of
lawyers, which have been elaborated up to this time. I redacted them into an order
which was not completely proper, but was the order that the work itself required.
And from that there was born the Appendix Nova Operis Dedekenno-
Gerhardini.153

In summary, Grübel’s epistle is unique in comparison with Dedekenn’s dedica-
tory epistles and those of the two Gerhards. Grübel speaks more about the role of natural
law and the conscience than the others, and he explicitly describes the theological coun-
sels as casuistry or “cases of conscience” (casus conscientiae). His assessment of con-
temporary casuistry literature is of interest, in that Luther himself is seen as the first
Lutheran casuist. Also, Dedekenn’s Thesaurus is set forth as the most useful work of

153. “Ut verò in veteri opere plurimarum Facultatum Theologicarum, Consistori-
orum & Ministeriorum Consilia continentur, quae ad annum hujus seculi tertium &
vigesimum usque magnō studio collegit Dedekennus, ita operae pretium esse duxi, si
superioribus accederent Pl. Rever. Facultatum Theologicarum Lipsiensis, Wittebergensis
nonnulla & Jenensis, Ministeriorum item Hamburgensis, Lubecensis, Lüneburgensis &
aliorum cum Theologorum tum JureConsultorum Consilia ad haec usque tempora ela-
borata. Ea redegi in ordinem non justum omnino, sed eum, quem ipsum opus requirebat.
Atque inde nata est Appendix Nova Operis Dedekenno-Gerhardini.” Grübel, Thesauri
Lutheran casuistry, and the *Consilia Theologica Witebergensia* are passed over in silence. Finally, Grübel’s description of what Johann Ernst Gerhard did in preparing the 1671 edition of the *Thesaurus* can be understood to mean that Gerhard had sent the edited manuscript for volumes one through three to the printers before his death in 1668 and that Grübel compiled and edited the *Appendix Nova* on his own, perhaps according to a plan by Gerhard.

**Conclusions**

Many topics were discussed in the prefatory material for both editions of the *Thesaurus*; these can be summarized in three questions. First, what is the *Thesaurus* for? That is, why was it published? Dedekenn, his friends, the Gerhard boys (or their ghost writer), and Christian Grübel explain that the work is intended to aid pastors in the conduct of their ministry, especially in their duty to instruct and console consciences. In the course of life, the consciences of Christians are not always sure about what to believe or what to do. Not all cases that arise in life are handled explicitly in Holy Scripture, yet such cases are still questions of conscience with right and wrong answers. The *Thesaurus* is supposed to aid pastors as they untangle these knotty problems. In addition, the *Thesaurus* is helpful to lay Christians as they encounter problems in their lives, and the work can help to settle disputes in congregations.

Second, what are the norms for casuistry? That is, how should one resolve cases of conscience, and how is the *Thesaurus* to be used? Holy Scripture is the highest norm.
Answers dare not conflict with Scripture, for this would burden consciences. When Scripture is not specific, then an “aristocratic” process of decision making is recommended. This “aristocratic moral decision making” is not based on the moral opinion of the ruling class, nor on the opinion of the majority, and it is quite different than deciding matters on one’s own. Instead, it directs people to learn from the wisdom of the wise. These wise people include pastors, experts in various fields of knowledge, and especially university theologians. These people decide difficult questions on the basis of Scripture, then on the basis of logical consequences drawn from Scripture, church law, civil law, local custom, and natural law. Christian equity plays a role in their decision making. When they give their verdicts, however, these verdicts are not to be seen as independent authorities. Their decisions are not obligatory; they are only meant to instruct. The arguments themselves are the most important and may obligate Christian consciences. In the end, however, each Christian has the responsibility of deciding what is the correct thing to believe or to do.

Third, what does the *Thesaurus* contain? It contains cases of conscience that arose from real-life experiences (for the most part). These cases are related not just to correct action but also to correct belief; they deal both with faith and life, theory and practice. The answers to the cases pay close attention to circumstances, and yet radical situational

154. This is quite different, of course, than Karl Barth’s view of casuistry, in which the casuist makes himself an authority between the conscience and God: Barth, *Church Dogmatics*, III/4: 10.
uniqueness is denied. Cases can be equal to other cases; precedent is a possibility. Disagreement among the answers given to identical cases is acknowledged and seen as a problem. Despite such disagreements, the overall attitude is one of confidence: there is a right answer, even if it is hard to find.

But what were these cases? What were the experiences of early modern Lutherans that led to so many questions and doubts? In our next chapter, we shall examine the contents of the *Thesaurus consiliorum et decisionum* in order to find out what questions Lutheran Christians were asking in the 17th century.
CHAPTER 4. A TREASURY OF CASES OF CONSCIENCE

In this chapter, we shall review the contents of the *Thesaurus*, noting its broad extent and its pastoral, doctrinal, and practical focus. To do this, we shall compare the numbers of questions and pages dedicated to individual topics, in order to assess what topics were most important for the compilers of the *Thesaurus*. Then, we shall give a survey of many of the remarkable questions and answers set forth in the 1671 edition of the *Thesaurus*. In so doing, we shall also show recurring themes that occur in many different sections. One cannot see these recurring themes by comparing only the numbers of pages and questions in each section. Instead, one must read through all the questions and note similarities across different sections.

Before beginning this examination, a few comments about the work in general are appropriate. The *Thesaurus* was obviously conceived not as a historical anthology (which is how many use it today), but as a casuistry—a work of specific ethical and doctrinal instruction based, as it were, on the case law of the church and subsequent analysis of the cases. It is unfortunate that the *Thesaurus* lacks the dates at which the various counsels were given. When the names of authors are given, one can often locate the quotation in its source or at least guess at the general time period from which it comes. But with many
judicial decisions, the name of the adjudicating entity is given, but not the date of the
decision or the names involved in the case.

Anthologies are not always uniform, and that is surely the case in the *Thesaurus*. For example, in the section on repudiation, a counsel is included which did not agree with prevalent practice. The question is: “Are marital vows dissolved because of the commission of homicide?” and the answer is given by Hieronymus Cypraeus for the theological faculty of Leipzig. The editor adds: “Here we want to make known to the reader that in this question and the following one, though Cypraeus approves the affirmative, nevertheless the negative is observed in practice.”¹ The presence of cases like this one indicates that in the realm of marital adjudication, there were ongoing differences of opinion and practice, no doubt due in part to the eclectic use of canon law and Roman law.²

As to the editorial policy in the *Thesaurus*, Dedekenn’s goal was apparently to present the decisions that had legal standing, even if they did not fully agree with his views. This can be seen with regard to the subject of marriages that were forbidden due to close relation. In the section “On the grades of consanguinity prohibited by provincial

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¹ “An sponsalia propter homicidium commissum dirimantur?” “Monitum hic volumus Lectorem, quod in hac & sequenti questione, licet Cypraeo affirmativa probetur, negativa tamen in praxi observetur.” Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Tertium*, p. 201 (3.2.13, no. 24). Cypraeus was a jurist at the *Reichs-Cammer-Gerichte* in Speyer in 1605, later was an ambassador for Swedish King Carl IX, and as late as 1642 was still living in Holstein. Jöcher, s.v. “Cypraeus (Hier.).”

² See below, pp. 257–329.
law,” title 1, “On the second grade of the equal line,” Dedekenn includes this “praemonitio”:

This title has diverse judgments on the second genus of affinity in the ascending and descending line, and the first collateral grade. Some simply concede it; some deny [a marriage] that is about to be contracted but do not rescind one already contracted; some require a dispensation, etc. In such great variety, I have left all, and though I am on the side of the more rigid, nevertheless the consistories approve the contrary.³

Thus, even though he disagrees with them, he sets forth their opinions. This is the only place where we have found such a praemonitio, but it is not the only place in the marriage counsels where conflicting views are set forth.

The Contents of the Thesaurus

In order to assess the questions and answers included by Georg Dedekenn, Johann Ernst Gerhard, and Christian Grübel, it is helpful to read through all the questions of the Thesaurus, counting the number of pages on which these questions and answers appear. This method will allow us to assess what topics received the most attention by the compilers of the Thesaurus. In this study, partial pages have been counted as a full page, unless there were only a few lines on a particular page. In the 1671 edition of the Thesaurus, Johann Ernst Gerhard included all of Dedekenn’s content from the 1623 edition, ³

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but he expanded the work by including cross-references and extra counsels in volumes one through three. We focused our examination on the 1671 edition of the *Thesaurus*. In volumes one through three of this edition, there are a total of 139 sections, each with a distinct topic.

In the 1671 edition of the *Thesaurus*, volumes one through three consist of 1,927 pages and contain 1,685 questions with their answers, plus 453 “questions” which are cross-references to outside literature. All these questions are distributed across 139 sections, each with its own topic. Table 2 is a table of contents for the *Thesaurus*, with the number of pages, questions, and cross-references for each section included. This table of contents shows summarily the breadth of the topics that Dedekenn found most important for pastoral practice and the lives of his readers.

**Table 2. Contents of 1671 Thesaurus, vols. 1–3**

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4. As a comparison, Balduin’s *De casibus conscientiae* handles 402 cases: Dittrich, *Geschichte der Ethik*, 4/1:387.
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<td>3.4.4 Divorce in the Case of Adultery</td>
<td>3:327–30</td>
<td>4</td>
<td>10</td>
<td>2</td>
</tr>
<tr>
<td>3.4.5 Divorce in the Case of Desertion</td>
<td>3:330–46</td>
<td>17</td>
<td>38</td>
<td>6</td>
</tr>
</tbody>
</table>
3.4.6 Divorce in the Case of Impotence and Denial of Marital Obligation
3:346–57  11  15  0

3.4.7 Divorce in the Case of Error
3:357–60  4  7  0

3.4.8 Divorce in the Case of Violence, Poisoning, and Magic
3:360–62  3  6  0

3.4.9 Divorce Due to Banishment
3:363–64  2  7  0

3.4.10 Divorce Due to Disease, Insanity, or the Sin of Onan
3:364–67  4  10  0

3.4.11 Penalty of Adultery, Fornication, Rape, and Pimping
3:367–72  6  13  0

3.4.12 Second Marriage for Adulterers and deserters
3:373–75  3  7  0

Totals  1,927  1,685  453

Of these 139 sections in the Thesaurus, on the average, each section has 14.5 pages and 11.7 questions. When we compare the sections to see which are largest in terms of pages and questions, many of the sections can be combined together since they deal with the same topic, though from different perspectives. For example, sections 1.2.3.1–8 all deal with the Lord’s Supper. Table 3 shows the biggest sections in the Thesaurus. These can be regarded as the most significant topics for Dedekenn, or the most difficult topics which, thus, would require more explanation.

<table>
<thead>
<tr>
<th>Section</th>
<th>No. of Pages</th>
<th>% of Vols. 1–3</th>
<th>No. of Questions</th>
<th>% of Vols. 1–3</th>
<th>Cross-References</th>
</tr>
</thead>
<tbody>
<tr>
<td>Betrothals (3.2.1–10)</td>
<td>134</td>
<td>7.0%</td>
<td>194</td>
<td>11.5%</td>
<td>6</td>
</tr>
<tr>
<td>Call and Ordination (1.3.1.1.1–1.3.1.2.8)</td>
<td>119</td>
<td>6.2%</td>
<td>80</td>
<td>4.7%</td>
<td>19</td>
</tr>
<tr>
<td>Lord’s Supper (1.2.3.1–8)</td>
<td>113</td>
<td>5.9%</td>
<td>132</td>
<td>7.8%</td>
<td>88</td>
</tr>
<tr>
<td>Baptism (1.2.2.1–6)</td>
<td>93</td>
<td>4.8%</td>
<td>82</td>
<td>4.9%</td>
<td>64</td>
</tr>
<tr>
<td>Legitimacy of Luther and the Lutheran Church (1.1.1.1–4)</td>
<td>81</td>
<td>4.2%</td>
<td>62</td>
<td>3.7%</td>
<td>40</td>
</tr>
<tr>
<td>Secular Power of Pope (1.1.2.4)</td>
<td>80</td>
<td>4.2%</td>
<td>12</td>
<td>0.7%</td>
<td>18</td>
</tr>
<tr>
<td>Prohibited Grades (3.3.1–9)</td>
<td>79</td>
<td>4.1%</td>
<td>140</td>
<td>8.3%</td>
<td>3</td>
</tr>
<tr>
<td>The Keys (1.3.1.3.3)</td>
<td>73</td>
<td>3.8%</td>
<td>62</td>
<td>3.7%</td>
<td>12</td>
</tr>
<tr>
<td>Sermons (1.3.1.3.2)</td>
<td>66</td>
<td>3.4%</td>
<td>36</td>
<td>2.1%</td>
<td>14</td>
</tr>
<tr>
<td>Divorce (3.4.2–10)</td>
<td>60</td>
<td>3.1%</td>
<td>112</td>
<td>6.6%</td>
<td>8</td>
</tr>
<tr>
<td>Care of Government toward Religion (2.3)</td>
<td>52</td>
<td>2.7%</td>
<td>28</td>
<td>1.7%</td>
<td>3</td>
</tr>
</tbody>
</table>
Exorcism (1.2.2.7) 52 2.7% 16 0.9% 1
Adiaphora (1.3.2.1–6) 49 2.5% 38 2.3% 14
How to Deal with Calvinists (1.1.3.6) 47 2.4% 18 1.1% 0
Roman Church’s Claim of Infallibility (1.1.2.2) 44 2.3% 10 0.6% 7
War (2.11–12) 35 1.8% 23 1.4% 0
Usury and Fortune (2.8) 35 1.8% 15 0.9% 1
Repudiation (3.2.13) 34 1.8% 57 3.4% 0
Canons (1.3.1.4.App.2) 32 1.7% 11 0.7% 2
Magistracy (2.1) 31 1.6% 16 0.9% 6

The first thing that strikes us when comparing the largest sections of the *Thesaurus* is how much space is dedicated to betrothals. A full 7 percent of the 1,927 pages of the *Thesaurus* and, perhaps more significant, 11.5 percent of the 1,685 questions posited are devoted to this topic. This points to betrothal as a huge problem for pastors and people at Dedekenn’s time, consuming the energy and intellect of Dedekenn’s sources—professors, consistories, jurists, and pastors—to determine what constitutes a betrothal and when it is binding. The sections on prohibited grades, divorce, and repudiation come alongside betrothals as major areas of concern for Dedekenn, his sources, and his readers (especially pastors). Issues related to marriage were considered especially important, or at least as fraught with difficulties, so as to require a great deal of attention. (Thus, by examining divorce and remarriage in chapter 5 of this dissertation, we will be addressing one of the main concerns of the compilers of the *Thesaurus*.)

The large sections on the call and ordination, on the Lord’s Supper, on Baptism, on the keys (i.e., church discipline and the pronunciation of forgiveness), and on sermons

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5. See the discussion on betrothals below, pp. 214–225.
point to the centrality of these issues—and their complexity—for Dedekenn and other 17th-century Lutheran pastors. Another cluster of sections can be noted, composed of the sections on the legitimacy of Luther, the secular power of the pope, exorcism, adiaphora (i.e., ceremonies neither commanded nor forbidden by Scripture but nevertheless retained in the Lutheran churches), how to deal with Calvinists, and the question of Roman Catholic infallibility. These sections suggest that questions regarding inter-confessional relations and Lutheran identity were central and yet complex for Dedekenn, his sources, and his readers.

The other cluster of major sections in the Thesaurus has to do with political topics, especially as these affect ecclesiastical and Christian life. The sections in this cluster deal with the care of the government toward religion, usury and fortune, canons (as an office of church governance and honor), magistracy (in general), and war. Issues of war would have had a special urgency when the Thesaurus was first published in 1623. With the outbreak of the Thirty Years War in 1618, Lutherans found themselves tangled in conflicting loyalties and duties toward the emperor, on the one hand, and the defense of the Evangelical faith, on the other. The war engendered controversies: support the Hapsburg emperor, oppose him, or remain neutral? Lutherans debated one other on these and other issues related to the war.6 When the Thesaurus was first printed in 1623, war had not yet come to Georg Dedekenn in Hamburg. King Christian IV of Denmark, who was

6. See, for example, Parker and Adams, Thirty Years’ War, 94–95. See also Kaufmann, Dreißigjähriger Krieg und Westfälischer Friede.
duke of Schleswig and Holstein and influential in Hamburg, managed to remain neutral until 1625. In the years following, northern Germany fared much better than Saxe-Weimar, for example, where Johann Ernst Gerhard and Christian Grübel would later bring forth their expanded edition of the *Thesaurus* in 1671.

As we have seen, the table of contents for the *Thesaurus* shows the wide extent of Dedekenn’s and J. E. Gerhard’s casuistic interest. The significant interest in marriage cases is noteworthy. Together with the other main areas of interest, such as the administration of sacraments and relations to Christians of other confessions, the area of marriage cases presents itself as a central area of concern for 17th-century Lutheran pastors and people.

### Sources of the Thesaurus

The sources of the *Thesaurus* are many. Besides individual theologians, Dedekenn’s and Johann Ernst Gerhard’s sources include theological faculties, juristic faculties, individual jurists, consistories, and other adjudicating entities, such as the *Scabinatus Lipsiensis*. The practice of having several different sources of adjudication, often within the


same principality, predates Dedekenn. For example, in Saxony during the Reformation era, there were several different bodies that adjudicated marital cases. Besides the Wittenberg Consistory, the Wittenberg Schöffenstuhl as well as the authorities of the Reformation, such as Luther and Melanchthon, continued to adjudicate cases or give official opinions.¹⁰

Johann Ernst Gerhard, in his 1671 edition of the *Thesaurus*, makes many references to the *Consilia Theologica Witebergensia*, another very large collection of theological counsels. This makes the 1671 *Thesaurus* an incredibly comprehensive source for Lutheran casuistry. Another of the important sources for the *Thesaurus* is Friedrich Balduin. Already in the 1623 edition of Dedekenn’s *Thesaurus*, Balduin’s writings served as a source of many cases of conscience. Through Dedekenn, we see that Balduin pursued his cases of conscience even outside of the lectures that became his posthumous *Tractatus de casibus conscientiae* (1628).¹¹ Also, we see that Balduin was recognized as an important source of casuistry during his lifetime, before his famous casuistry was published.

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⁹ That is, the city court of Leipzig. “Scabinos etiamnum, judices urbanos, seu aedilitios, appellamus . . .” Charles du Fresne Du Cange, *Glossarium ad scriptores mediae et infimae Latinitatis* (Frankfurt am Main: Ex Officina Zunneriana, apud Johannem Adamum Jungium, 1710), s.v. “Scabini.”


Dedekenn also does not shy away from using his own counsels. He includes one counsel “On two parents contracting marriage between themselves.” Nearly all of Dedekenn’s sources are Lutheran: either Luther himself, other individual theologians, Lutheran theological faculties, or Lutheran jurists. Collections of Lutheran ecclesiastical law are also cited. Only rarely does he include counsels from early church fathers.

Despite his inclusion of much anti-Calvinist material, Dedekenn also includes opinions of John Calvin. On the question “Whether a Christian who abstains from all defilements of superstitions may leave his fatherland, due to the fact that there he is deprived for the most part of the good of sacred assemblies, and since he lives in peril?” the answer is given by Calvin. Two other Calvin opinions are given to questions on the right way to confess one’s faith in public, and Calvin’s treatise on astrology is also included. Likewise, the 1671 edition of the *Thesaurus* contains at least one cross-refer-


13. E.g., of electoral Saxony and of “Niedersachsen,” that is, of Sachsen-Lauenburg (concerning which, see below, p. 284). Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Primum*, pp. 1011–12 (1.3.1.4.4, nos. 1–2).

14. For example, in his section on sermons, he includes counsels from Basil of Caesarea and Gregory Nazianzen: Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Primum*, pp. 799–800, 814–15 (1.3.1.3.2, no.1 and no. 19).

15. He answers that one may not leave if he is bound by a vocation; others may leave under certain conditions: Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Primum*, pp. 1172–73 (1.3.3.1).

16. Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Primum*, p. 1182 (1.3.3.3, nos. 1–2); Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Secundum*, pp. 348–60 (2.20, no. 2).
ence to William Perkins.\textsuperscript{17} Wilhelm Löhe noticed this inclusion of Reformed material in the Lutheran casuistry literature, and remarked:

\begin{quote}
One should also note that in all [casuistry books], even the Lutheran books, the answers to the questions posed are not always guaranteed. It can happen that in a very confessional book, an answer of a theologian of a completely different confession is to be found, because the answer of an orthodox casuist could not be found. Such answers, of course, serve no other purpose than to sharpen one’s reflection, just as one ought to recommend the entire casuistry of the Lutheran Church for study, rather than to boast about it.\textsuperscript{18}
\end{quote}

It can also be mentioned here that for Dedekenn, the term “reformed” does not have a strictly Calvinistic or Zwinglian sense. It can also be used of Lutheran churches.\textsuperscript{19} It may even be claimed as a term for the Lutherans which does not rightly apply to the Calvinists. Wherever the Calvinists are called “Reformed,” it is always with “\textit{sic dicti}” or some other qualifier.

**Inter-Confessional Disputes**

The first thing about Dedekenn’s \textit{Thesaurus} that strikes the reader, besides its enormous size, is that the majority of the work is not devoted to specifically ethical questions, but rather to dogmatic and polemical questions. For example, the work begins with the question, “Was blessed Luther an instrument of the Holy Spirit in the work of the

\textsuperscript{17} Dedekenn and Gerhard, \textit{Thesauri Consiliorum Et Decisionum Volumen Secundum}, p. 277 (2.13, no. 16).

\textsuperscript{18} Löhe, “Der evangelische Geistliche,” 273. See also Koch, \textit{Das Konfessionelle Zeitalter}, 309.

\textsuperscript{19} For example, Dedekenn and Gerhard, \textit{Thesauri Consiliorum Et Decisionum Volumen Secundum}, p. 100 (2.4, no. 2).
Reformation?” The section of which this question is a part consists of questions on whether the Lutheran Church is the true church, and whether Luther’s reforms were legitimate.\(^{20}\)

The fact that so much of the *Thesaurus* is dedicated to issues of right teaching instead of right acting gives at least one historian reason to cavil over the *Thesaurus* and similar works of Lutheran casuistry, since the Lutheran casuists, it is thought, made every point of theology a case of conscience by mechanically adding a mention of the conscience to a question of theological truth.\(^{21}\) However, Dedekenn does not do this. Quite often the conscience is not explicitly mentioned, nor need it be mentioned. Yet it remains true that for the Lutheran casuistry literature as a whole, questions of right belief are just as important as questions of right behavior. Doubting and erring consciences need instruction from Scripture both for faith and for the Christian life of love. Questions of right belief are fundamentally questions of conscience for them, whether or not the word “conscience” is ever mentioned.\(^{22}\)

\(^{20}\) Of course, they were. Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumn Primum*, pp. 1–29.


\(^{22}\) See above, pp. 64–65. When discussing the practical syllogism, which is how the conscience functions, Friedrich Balduin especially speaks of the law being applied to one’s deeds, but his discussion makes clear that “deeds” can include words and thoughts as well, which would make doctrinal questions into cases of conscience. See Balduin, *De casibus conscientiae*, 1.2, pp. 4–5; 1.3, pp. 7–8; 1.5, pp. 11–13; cf. Martin, “Reformation of Conscience,” 164–66; Dannhauer, *Theologia Casvalis*, 12–15. See above, pp. 65–75.
A recurrent theme in the Dedekenn-Gerhard *Thesaurus* is the religious disputes and divisions between Roman Catholics, the Reformed, and Lutherans.\(^\text{23}\) Not only is this theme dealt with in the section “On Religious Controversies” (section 1.3.2.1), it is also featured in the sections on baptismal sponsors, admission to the Lord’s Supper, church government, burial, avoiding the heterodox, how to act toward the heterodox, confession during persecution, magistracy (whether Calvinists should be allowed as counselors to the prince), the care of the magistracy toward religion, living among heretics, covenants with men of diverse religion, wars, oaths (some of which have to do with Turks, Jews, and pagans), and the priestly benediction in the wedding ceremony.\(^\text{24}\)

The section on the care of the magistracy toward religion is quite large, at 52 pages, or 2.7 percent of the entire work. Nearly every question in that section deals with whether religious pluralism should be allowed in Lutheran territories.\(^\text{25}\) Johann Ernst Gerhard posits the question, “Should the magistrate tolerate multiple religions in his commonwealth?” For an answer, he gives a cross-reference to Johann Gerhard’s *Loci theologici*.\(^\text{26}\) The answers to these questions of religious pluralism are detailed and greatly

\(^{23}\) Geffcken, “Ueber die theologischen Responsa,” 274, notes that a significant portion of the responses obtained in Hamburg in the 17th century dealt with toleration of the Jews and the Reformed.

\(^{24}\) Vol. 1, pp. 465–88 (section 1.2.2.6), 598–618 (1.2.3.6), 618–43 (1.2.3.7), 1150–72 (1.3.2.2.8), 1172–73 (1.3.3.1), 1173–81 (1.3.3.2), 1182–89 (1.3.3.3); vol. 2, pp. 1–31 (2.1), 46–97 (2.3), 106–20 (2.5), 207–26 (2.10), 230–32 (2.11, no. 6), 261–79 (2.13); vol. 3, p. 301 (3.4.1, no. 5).

\(^{25}\) Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Secundum*, pp. 46–97 (2.3).
nuanced. Nevertheless, the basic thrust of these answers is that a Lutheran magistrate must use his office to defend the true (Lutheran) faith. People cannot be forced to believe the truth and their consciences must be respected, but on the other hand they should not be allowed to compete with the established church.

The following example shows the basic pattern of thought reflected in the *Thesaurus* with regard to relations with Christians of differing confessions. In the section on preaching, there are many questions that deal with the right of evangelical Lutheran pastors to rebuke false doctrine and sin. One of the questions narrows its focus to *nominal-elenchus* (“reproof by name”) and whether the Reformed can be called “Calvinists.” The question reads: “Deliberation and proof from God’s Word that those who hold to the accursed doctrine of Calvin should be considered Calvinists and may be named ‘Calvinists.’”

The response argues its position from the example of Christ, who named the Pharisees as “Pharisees”; from Paul, who named himself a “Pharisee”; from John the Baptist, who in John 1 clearly confessed who he was; and from the early church, where descriptive titles were given to the Arians, Sabellians, and the like.

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27. The response is from Abrahamus Taurerus, *Hochnotwendigster Bericht wider den newen Bildstürmerischen Carlstadtischen Geist im Fürstenthumb Anhald, Wie derselbe zuvor in sieben Punct verfasset gewesen* (Eißleben: Gaubisch, 1597), thes. 1. Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Primum*, pp. 858–59 (1.3.1.3.2, no. 30).
Because this theme is so prevalent, it is worthwhile considering a few more examples. In the section on burial, the question is asked, “What should be done regarding the burial of obstinate Papists and Calvinists?” The answer is given by Philipp Hahn (1558–1616), who mentions that a Roman Catholic or Reformed person who dies without repenting (which, in the case of a “papistic cloister-brother,” could be demonstrated by the refusal to receive Communion in both kinds) should be buried without any Christian liturgy.28

These inter-confessional controversies are reflected in questions such as “Is the Roman pontiff today a bishop, properly speaking, as Holy Scripture and the ancient canons define it?” and “Do a bishop and a presbyter differ by divine right?”29 Other questions deal with the Jesuits’ approval of regicide, and with suicide.30 References to Luther’s works are given under the rubric “On syncretism with Calvinists,”31 and in the same section, Luther’s statements against Zwingli are extended to Calvin. Zwinglianism

28. “mit Christlichen Gesängen und Ceremonien nicht zu begraben.” Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Primum*, p. 1160 (1.3.2.2.8, no. 11). Regarding Hahn, see Zedler, s.v. “Hahn, oder Gallus (Philipp).”

29. The answer given to both questions is “no.” Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Primum*, pp. 208–9 (1.1.2.4, nos. 5–6).


and Calvinism are set forth as the same. For example, the heading for the second part of 1.1.3.6 is “On the second way, which is, to avoid Calvinists.” Then, the first counsel given is “Counsel and admonition of Dr. Martin Luther to beware of Zwinglian doctrine and teachers.”

Questions are also not lacking on eucharistic practice and the possibility or impossibility of intercommunion between Lutherans and the Reformed: “May a Lutheran preacher serve a church with a Calvinist, and [may they] distribute the Lord’s Supper with each other?” “May preachers commune Lutherans and Calvinists at the same time at one altar?” The former question is answered by Jacob Heilbrunner, who distinguishes between a teachable Calvinist and one who publicly confesses his Calvinism. With the first (defined as a pastoral colleague who does not explicitly teach or preach Calvinistic doctrines and shows a willingness to learn Lutheran doctrine), one can have some patience, but not with the second. The latter question is answered simply by a cross-reference to Luther’s Brief an die zu Frankfurt am Main, 1533.

An interesting counsel on this topic is included from Balthasar Meisner (1587–1626): “Can a Lutheran minister with a good conscience deliver an address from the

32. Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Primum, p. 330 (1.1.3.6, no. 1).


34. Walter Sparn, “Meisner, Balthasar,” in Biographisch-Bibliographisches Kirchenlexikon (BBKL) (Verlag Traugott Bautz), http://www.bautz.de/bbkl/m/meisner_b.shtml,
very pulpit which a Calvinist ascended, though [it was] for a time?“ Meisner then gives a detailed answer which takes into consideration the confession of the ruler and the congregation to which the Lutheran minister might preach.35

The inter-confessional disputes of the 16th and 17th centuries formed, as we have seen, a significant field of inquiry for Dedekenn’s and Gerhard’s Thesaurus. The theme of inter-confessional relations and disputes runs throughout the Thesaurus. A major focus of the Thesaurus is dogmatic, and perhaps the dogmatic element is even preponderant. Yet these, too, are cases of conscience. The questions are marked by confidence that the Lutheran teaching is true and firmly based on God’s Word. Lutheran pastors (who likely made up most of the readership of the Thesaurus) would have found here clear instructions on how to conduct their ministry in situations where Christians of other confessions were present, and it would have given them words to speak when princes or Christians of other vocations sought their advice.

35. If one is in an orthodox church, under an orthodox magistrate, a Lutheran pastor cannot allow a Calvinist or Papist to preach from his pulpit. But under a heterodox magistrate, when the church is suffering, then a Lutheran pastor can preach and administer sacraments “in the pulpit and temple of heretics.” Meisner explains this answer in detail and gives many reasons. Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volu-
men Primum, pp. 965–67 (1.3.1.3.5, no. 7).
Sacraments

The two sacraments of Baptism and the Lord’s Supper are the subject of many questions in the *Thesaurus*, and many of these questions may seem unexpected to one who is familiar with more modern Lutheran pastoral handbooks. Are we to think, for example, that questions related to the Baptism of human-animal crossbreeds reflect the actual experiences of Lutheran pastors or that these are questions of idle speculation?36

Other questions may be more recognizable to a modern pastor. Dedekenn includes a judgment of Leonhard Hutter on “How long the years of innocence last.” This question is not about postponing the time of Baptism until a child has reached the age of accountability, but rather, it asks about the age at which children who were already baptized as infants start to commit “actual sins,” that is, sins of thought, word, and deed. Leonhard Hutter prefers to remain silent on the issue, since Scripture does not answer the question.37

36. “An Campsoribus, aliisque monstris, ex bestialitate natis, Baptismus conferendus sit?” “De Baptismo monstri geminati, hominis speciem referentis.” These questions are taken from Johann Gerhard’s *Loci Theologici* and Georg König’s *Casus conscientiae*. Dedekenn and Gerhard, *Thesauroi Consiliorum Et Decisionum Volumen Primum*, p. 428 (1.2.2.3, no. 5). A similar question on the same page (no. 7), answered by the theological faculty of Jena, answers that living offspring from bestiality should be baptized if the head, being the seat of the rational soul, resembles a human being. If the upper body is not human in appearance, Baptism should not be given. The principle given is: “In monstris ex potiore & principaliore parte fit denominatio.” The wisdom of early Christian and medieval writers is brought forth for help in deciding this question.

37. “Quânam aetate Infantes baptizati incipient peccare actualiter, priori modo, qui est προαιρετικός, ita ut irae divinae judicium, damnatis & mortalis peccati reatum in se derivent?” Dedekenn and Gerhard, *Thesauroi Consiliorum Et Decisionum Volumen Primum*, p. 440 (1.2.2.4.Appendix, no. 1).
Typical questions on Baptism include: “On the Baptism of heretics, when it is to be considered valid [\textit{ratus}] and when invalid [\textit{irritus}].” “May a layman baptize in a case of necessity?” “Can or should a Christian congregation with an undamaged conscience let their children be baptized by the papistic, instituted mass-priests when they live under a papistic government?” “What is to be thought of the salvation of children who, through their parents’ disregard and delay, die without Baptism?” “Are infants who have not yet come out of the womb to be baptized?” “Should abandoned infants be baptized?” “Is Baptism to be considered valid if the letters or syllables in the words are changed?”

38. “De Baptismo Haereticorum, quando ratus, quando verò irritus sit habendus.” The answer is from Johann Gerhard, \textit{Loci theologici}, locus \textit{de Bapt.}, § 22ff, who explains that a Baptism by heretics is valid if they retain the substantial elements of Baptism, such as the correct material element (water) and the orthodox confession of the Trinity: Dedekenn and Gerhard, \textit{Thesauri Consiliorum Et Decisionum Volumen Primum}, pp. 397–99 (1.2.2.1, no. 4). “An Laico liceat in casu necessitatis baptizare?” The answer is from Paul Tarnow (1562–1633), who answers in the affirmative: Dedekenn and Gerhard, pp. 405–6 (1.2.2.1, no. 12). “Ob eine Christliche Gemeine unter einer Päbstischen Obrigkeit ihre Kinder bey den Päbstischen eingesetzten Meß-Priestern unverletzten Gewissens täuffen lassen könne oder solle?” The answer is from Konrad Dieterich (1575–1639), who answers in the negative: Dedekenn and Gerhard, pp. 409–17 (1.2.2.2, no. 3). “Was von der Seeligkeit der Kinder/ so durch ihrer Eltern Versäumnüß und Aufschub/ ohne Tauffe wegsterben/ zu halten sey?” The answer is given by the theological faculty of Jena, and they answer, in part, from Augustine, whom they quote as saying, “Contemptus Sacramenti damnet, non privatio. \textit{August. lib. 4. de Baptis. cap. 24. Bernhard. Epist. 37.’}”: Dedekenn and Gerhard, pp. 418–19 (1.2.2.2, no. 5). “An Infantes nondum ex utero matris editi, sint baptizandi?” Paul Tarnow answers “no”: Dedekenn and Gerhard, p. 427 (1.2.2.3, no. 1). “De Infantium exposititiis, An sint baptizandi?” Johann Gerhard (in \textit{Loci theologici, de Bap.}, § 209) answers “yes”: Dedekenn and Gerhard, pp. 432–33 (1.2.2.3, no. 15). “Num Baptismus ratus sit habendus, si litera aut syllaba in verbis mutetur?” The answer is from Johann Gerhard (\textit{Loci theologici, de Bap.}, § 93), who answers affirmatively, as long as it was not intentionally changed and as long as the sense remains whole and uncorrupted: Dedekenn and Gerhard, pp. 442–43 (1.2.2.5, no. 5). In addition, a section is devoted to questions on the salvation of infants who die without Baptism (1.2.2.4, pp. 435–42).
The practice of appointing friends or relatives as godparents or sponsors for one who is baptized also is the subject of several questions. Does one have to be present at the Baptism in order to be a sponsor, or can a proxy take the place of the sponsor at the ceremony itself? Sponsorship at Baptism seems to have been a controversial topic, because during the Lutheran baptismal liturgy, the sponsor would vow to raise the baptized child in the true (Lutheran) faith. Therefore, all sorts of questions were asked concerning who could be a sponsor at a Lutheran Baptism. For example, “Can a true Christian with a good conscience ask an obstinate Papist to be a sponsor?” The carefully considered and carefully explained answer is “no.”

The Dedekenn-Gerhard Thesaurus truly aims at being comprehensive. Among all the various questions on Baptism, J. E. Gerhard also made room for a cross-reference regarding this question: “Can angels administer sacraments and even Baptism?”

The issue of demon-possession and exorcism is dealt with in two places in the Thesaurus: once in a section on ministry to the sick and tempted (1.3.1.3.4), and again in

39. The theological faculty of Leipzig answers that a proxy can stand in, as long as the sponsors are not thereby despising the Word and sacraments: Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Primum, p. 468 (1.2.2.6, no. 8).

40. “Ob ein rechter Christ mit gutem Gewissen einen halstarrigen Papisten könne zu Gefattern bitten?” Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Primum, pp. 476–77 (1.2.2.6, no. 18).

41. “An Angeli possint Sacramenta, adeoque etiam baptismum administrare?” Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Primum, p. 407 (1.2.2.1, no. 18). The answer is to be sought in Caspar Finck, Sylloge quaestionum illustrium theologicarum, theoreticarum; maximam vero partem practicarum et quotidianarum (Coburg, 1631), q. 58.
its own section directly following the sections on Baptism. Because an exorcism was part of the traditional Lutheran baptismal liturgy, this was a logical place for Dedekenn and Gerhard to put this section.42 This section on exorcism (1.2.2.7) is long—52 pages. For the sake of brevity, J. E. Gerhard even decided to omit a disputation by Aegidius Hunnius (a solidly Lutheran opponent of the baptismal exorcism).43 Among the various counsels given on this topic, Martin Luther, the theological faculty of Jena, and Philipp Melanchthon offer answers on the question, “How should one deal with possessed people?”44

The Lord’s Supper is, likewise, the focus of a large number of questions and counsels. The book on the Lord’s Supper takes up 113 pages, which is about 5.9 percent


43. Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Primum, p. 537 (1.2.2.7, after no. 13).

44. Martin Luther’s advice on this issue is set forth from many of his writings, saying in general that God must drive out the devils; papist ceremonies are of no value. The theological faculty of Jena recommends prayer, singing, and fasting, both publicly in the church and privately at home. Philipp Melanchthon adds that Christ should be invoked and the devil should be seriously commanded to leave and reminded of his coming judgment by God; papist ceremonies should be omitted. Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Primum, pp. 948–50 (1.3.1.3.4, nos. 10–12).
of the entire work. Typical questions include: “Well-founded confession of Justin Martyr, on the essential presence of the body and blood of Christ in the Holy Supper.” “Do Papists and Calvinists have the full [integram] Lord’s Supper?” Is the breaking of the bread in the Holy Supper necessary?” “Should nobles be allowed to use the Eucharist at home outside of a necessity?” “Regarding a certain parson who, in the administration of the Lord’s Supper, distributed first the holy chalice and afterward the holy bread; by doing this, did he commit a grave sin? Or can he be excused without public repentance?”

“In the consecration of the Holy Supper, must the Words of Institution necessarily be

45. “Wohlgegründete Bekäntnüß JUSTINI MARTYRIS, Von der wesentlichen Gegenwart des Leibes und Blutes Christi im Heil. Nachtmahl.” Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Primum, p. 541 (1.2.3.1, no. 2). “An Papistae & Calvinistae integram habebant Domini Coenam?” The Papists do not, this anonymous response says, and the Calvinists do not if the pastor sets forth his view that the body and blood of Christ are absent: Dedekenn and Gerhard, p. 543 (1.2.3.2, no. 1).

46. “An fractio panis in sacrâ Coena sit necessaria?” The answer is from Friedrich Balduin, Commentarius In Omnes Epistolæ Beati Apostoli Pauli. . . In Qvo Præter Analysis, Expositione Et Paraphrasin Textvs, multiplices Commonefactions ex Textu eruuntur (Francofurti: Mevius, 1654), 572, who answers that the breaking of the bread is an indifferent ceremony which does not have to be observed, as long as the bread is actually distributed: Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Primum, pp. 548–49 (1.2.3.2, no. 9). On the significance of the fractio panis in the disputes between the Lutherans and Reformed, especially in Brandenburg in the early 17th century, see Nischan, “Fractio Panis,” 17–29.

47. Although Luther could use the German words “Pfarrherr” or “Pfarrer” to refer to any called and ordained minister of the Word, and could use the words synonymously with “Bischof” and “Prediger,” the Lutheran church ordinances usually reserved “Pfarrer” for the chief minister of a given parish (Pfarre), in distinction from other ordained ministers. Because the term has a specific church-legal denotation and connection with the parochial system, we have used the English word “parson,” which likewise has these church-legal overtones, rather than other possible translations. See Eberhard Winkler, “Pfarrer II,” s.v. in TRE, here at 26:361; “Parson,” in The Oxford English Dictionary, ed. James Augustus Henry Murray and Henry Bradley, vol. 7 (Oxford: Clarendon Press, 1933), 496–97.
“In the distribution of the Holy Supper, must the application necessarily occur for every individual, with the words, ‘Take and eat, this is the body of Jesus, which was given into death for you,’ etc.?" “For whom was the Holy Supper instituted, and who should be admitted to it?” “What should be done with abstemious people, that is, with those who cannot drink any wine?” “Foundation and proof that preachers and curates [Seelsorger] not only have power but also are obligated to refuse the Lord’s Supper to obstinate sinners.” “How often should one commune?” In section 1.2.3.1, “On the sub-

48. “Num concedendum, ut Nobiles praeter necessitatem domi S. Eucharistia utantur?” Instead of a printed counsel, J. E. Gerhard provides a cross-reference to Kessler, Theologia casuum conscientiae, c. 34, who gives a negative answer: Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Primum, p. 565 (1.2.3.2, no. 26). “De Parocho quodam, qui in Administratione Coenae Dominicae priori loco sacrum calicem, postea sacram panem porrerat; num is hac in parte grave commiserit pecatum, An verò sine paenitentia publicè actæ excusari possit?” The answer is from Andreas Hyperius, who says that it is a grave sin: Dedekenn and Gerhard, pp. 571–72 (1.2.3.3, no. 11). “Ob bey der Consecration des H. Nachtmahls die Wort der Einsetzung nothwendig müssen recitiret werden?” This is affirmed by the theological faculty of Leipzig: Dedekenn and Gerhard, pp. 574–75 (1.2.3.4, no. 2). “Obs nothwendig seyn müsse/ daß in Ausspandung des H. Nachtmahls/ die Application bey einem jeden Individuo geschehe/ mit den Worten: Nim hin und iß/ das ist der Leib Jesu/ der für dich in den Todt gegeben ist/ &c.” The theological faculty of Wittenberg says the individual application is not necessary, but is desirable: Dedekenn and Gerhard, p. 578 (1.2.3.4, no. 6). “Quibus sacra Coena instituta, quique ad eam sint admittingi?” The answer is from Johann Gerhard’s Loci theolocigi, locus “de Sacra Coena,” § 221: Dedekenn and Gerhard, pp. 598–603 (1.2.3.6, no. 1). “Wie es mit den Abstemiis zu halten/ das ist/ mit denen/ die gar keinen Wein trincken können?” Cyriakus Spangenberg answers that the abstemious should either abstain from the Supper completely or receive both kinds: Dedekenn and Gerhard, pp. 603–4 (1.2.3.6, no. 3). “Grund und Beweisung. Daß Prediger und Seelsorger nicht alleine Macht haben/ sondern auch schuldig seyn/ den hallstarrigen Sündern das Nachtmahl des HErrn zu verweigern.” The counsel is given by Tilemann Heshusius: Dedekenn and Gerhard, pp. 620–26 (1.2.3.7, no. 3). “Quoties sit communicandum?” Leonhard Hutter hesitates to give a specific answer but instead admonishes readers to frequent Communion, reminding them of the ancient Christian practices of daily and weekly Communion, and then he says Christians should receive Communion at least four times a year: Dedekenn and Gerhard, p. 643 (1.2.3.8, no. 3).
stance of the Lord’s Supper.” Dedekenn includes Melanchthon’s “Confession of the
words of the Supper, that they must be entirely understood as they read.”

Questions on confession and Absolution are included not only in the large section
on “the keys” but also in the book on the Lord’s Supper. In most places, Absolution
became a necessary prerequisite for Lutherans who wanted to receive Communion ever
since the 1530s. Thus, a question such as the following could arise in the book on the
Lord’s Supper: “Does a parson have power to reject a confessant [Beichtkind] from the
Absolution?”

Regarding the minister of the Lord’s Supper, J. E. Gerhard includes a question,
“Can laymen, too, administer the Holy Eucharist in a case of necessity?” The response is
negative, and J. E. Gerhard refers to the writings of Leonhard Hutter, Johann Gerhard,
Friedrich Balduin, and Georg König for support. A similar question deals not just with
the impermissibility of a lay celebration of the Eucharist but also with lay distribution of
the Sacrament outside of the eucharistic liturgy in a congregation.

49. “Philippi Melanchthonis Bekänntnus Von den Worten des Abendmahls/ wie sie
durchaus müssen verstanden werden/ als sie lauten.” Dedekenn and Gerhard, Thesauri
Consiliorum Et Decisionum Volumen Primum, p. 541 (1.2.3.1, no. 3).

50. Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Primum,
pp. 865–937 (1.3.1.3.3).

51. Ernst Bezzel, “Beichte III,” in TRE, here at 5:421–422; idem, Frei zum
Eingeständnis, 106. For the case of Nuremberg during the Reformation era, see Rittgers,
Reformation of the Keys, for example, pp. 126 and 132–33.

52. “Ob ein Pfarrherr Macht habe/ ein Beichtkind von der Absolution abzuweisen.”
The answer is “yes,” if the parishioner is not repentant for his sins: Dedekenn and Ger-
hard, Thesauri Consiliorum Et Decisionum Volumen Primum, pp. 586–88 (1.2.3.5, no.1).
1. If an Evangelical preacher is hindered by illness or in other ways from coming to a patient who earnestly desires the Holy Supper, and if he has no neighboring preacher [Vicinum] whose vicarious work he could request, may he send the Sacrament of the Supper over land? 2. In this case, should the minister consecrate the elements in advance, or should he allow the patient or someone else to carry out the consecration?

The answer to all of these questions is “no,” though the answer is given with much clarification and detail.53

Similar to these is the question of whether a pastor may commune himself. Several questions, all basically the same, address this issue. The Wittenberg theological faculty, Johann Gerhard, Martin Chemnitz, and Paul Tarnow say it is desirable, though not always possible, for one pastor to commune another. If a pastor cannot be communed by another pastor, he may commune himself during the liturgy with his congregation. But in one case, where the question deals with a sick pastor who has pastoral colleagues near him but prefers not to receive their ministry, Vincentz Schmuck (1565–1628) says it is not right for him to administer the sacrament to himself at home. According to Schmuck, there are two main problems with such an act. First and foremost, one can have no conso-

lation of conscience if he tries to absolve himself (which was the prerequisite for Communion). The word of the Gospel must be applied by someone else. One ought not be the curate of his own soul (*Seelsorger*), just as physicians and judges ought not practice their profession in cases related to themselves. Second, such an act dishonors the established ministry and gives a bad example to others. One should “honor Christ in his servants.” Schmuck does not raise the issue of private masses, an abuse opposed by the Lutheran reformers.\(^\text{54}\)

One question shows that fasting before the Lord’s Supper was a general practice for at least some Lutherans. “Must a layman be troubled in conscience when he, in sickness, must receive the Holy Supper after eating, or otherwise in health, when, perhaps due to suffering a weakness, he cannot fast for a long time?” The answer from Justus Feuerborn (1587–1656) is “no.” He would not need to have a troubled conscience about this.\(^\text{55}\) But simply the fact that such a question would be asked indicates that fasting before the Lord’s Supper was the norm for those who posed the question. Since fasting before the Lord’s Supper was not commanded in Scripture, Feuerborn explains that it is not a sin to have a “little bite” to eat or a little drink before the Lord’s Supper, “as much


\(^{55}\) “Ob ein Leye ihm ein Gewissen zu machen habe/ wann er nach Essen das heilige Abendmahl in Kranckheit/ oder sonst in Gesundheit/ da er etwa anliegendes Mangels halben nicht lange fasten kan/ empfahren müste?” Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Primum*, p. 573 (1.2.3.3, no. 16).
as nature demands.” Feuerborn’s answer makes clear, however, that he is not discussing *Fressen, Trincken, und Sauffen* (i.e., immoderate eating and drinking), by which the Corinthians sinned gravely against God (1 Cor. 11:21–22), but rather, those who “must” have something to eat or drink due to their physical condition. For example, “if a preacher had to preach before receiving the Holy Supper and could not suitably raise his voice enough unless he previously had taken a little bit of food and some drink, then he can certainly do this and then receive the Holy Supper in true faith as well, and thus worthily, and by doing this he does not injure his conscience.”56 But the general rule is, “a Christian should not eat or drink anything before the use of the Holy Supper without significant causes and an emergency that demands it . . . so that he may receive the Holy Supper with all the more devotion.”57

The issue of what to do if one runs out of consecrated bread or wine during the distribution of the Lord’s Supper also has multiple questions devoted to it. Michael Mul- ing (fl. 1602–23)58 says that a second consecration during the service, by means of the


58. Zedler gives only a list of his works, but no other information: Zedler, s.v. “Mul- ing (Michael).” From the title page of a printed funeral sermon, we gather that he was a
Our Father and the Words of Institution, is necessary. Six questions address the issue of whether spilled Communion wine is still the true blood of Christ, or whether it is only mere wine, and what the status of leftover Communion elements is. Balthasar Meisner and Michael Muling deny that such wine is still the \( \kappa \omicron \nu \omicron \omicron \alpha \) of the blood of Christ (1 Cor. 10:16). Muling, Paul Tarnow, and Luther say that all leftover Communion elements should be consumed by the celebrant or communicants, but a judgment of the theological faculty of Rostock from 1620 implies that leftover elements were reserved for the next celebration of Communion, since they affirm the necessity of repeating the consecration. Also included is a reference to Luther’s first letter to Simon Wolferinus, in which Luther insists on the necessity of consuming all leftover elements at the end of the distribution of the sacrament.


60. Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Primum*, pp. 583–85 (1.2.3.4, no. 15–20).

Other interesting questions regarding the sacraments include the question of whether infants may be communed,\(^\text{62}\) whether alleged adulterers should be suspended from Absolution and Communion,\(^\text{63}\) and how one should administer the Lord’s Supper at a time of plague.\(^\text{64}\) The Lutheran practice was to use a common cup for Communion, a practice which caused no little concern when illness was feared.\(^\text{65}\) A final question for this section on the sacraments demonstrates the reverence Dedekenn, J. E. Gerhard, and others felt toward the presence of Jesus Christ in the Lord’s Supper. In the section on adiaphora, Paul Tarnow answers the question, “Is the adoration of those who come to the Supper, which happens by bending the knee, permissible, and even necessary?” His answer is: “We affirm this; the Calvinists deny it.”\(^\text{66}\)

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583–85 (1.2.3.4, nos. 15–20). Timothy Wengert has given an assessment of Luther’s letters to Wolferinus and the differences on this issue between Luther and Melanchthon. “Luther and Melanchthon on Consecrated Communion Wine (Eisleben 1542–1543),” Lutheran Quarterly 15 (2001): 24–42.

62. The answer is “no.” Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Primum, p. 602 (1.2.3.6, no.1), p. 640 (1.2.3.7, no. 16).

63. The answer is “yes.” Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Primum, pp. 612–613 (1.2.3.6, no. 15).

64. No answer is given to this question. Instead, a reference is given to Friedrich Balduin, De casibus conscientiae, p. 1098: Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Primum, p. 618 (1.2.3.6, no. 23).

65. Graff discusses alternatives to the common cup that were used in some places for the Communion of the sick. Graff, Geschichte der Auflösung, 1:101–2, 185.

It is understandable that so many of the counsels included in the *Thesaurus* deal with Baptism and the Lord’s Supper. As sacraments instituted by Christ, these were likely held as among the most important pastoral duties. The various counsels discussed here point to a very ordered, cautious, and reverent practice of the sacraments. The standards for the validity of Baptism were seriously discussed. If elements ran out in the Lord’s Supper, the necessity of a second consecration was affirmed. Due consideration for right preparation for the Lord’s Supper was stressed: individual confession and Absolution was required, and even fasting was recommended. Yet divergence in some areas is also seen. One notes the practice of reserving leftover Communion elements, even though the prevailing practice was to consume them. When one considers the discussion of exorcism, connected as it was to Baptism, one is impressed with the Lutheran belief in the reality of the accounts included in Holy Scripture. Overall, the counsels on sacraments in the *Thesaurus* portray a Lutheranism that takes seriously the means of grace and wants to understand and apply them correctly.

**Church Government and Pastoral Ministry**

Many of the questions from various sections can be grouped under the heading of church government and pastoral ministry. The section in volume two about the “right of patronage” (*jus patronatus*) is, in fact, just as much about the call process to the office of the ministry in general.\(^67\) For example, the question is posited, “Should the episcopal right

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67. Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Secun-
and the right of patronage have a place in reformed [i.e., evangelical Lutheran] churches, since they seem to arrogate the right of calling, which belongs to the whole church, to a certain order alone?” Here, Johann Gerhard approves the right of patronage, and with regard to the episcopal right, he defends it as long as the consent and suffrage of the people is retained.68

In this same section and in others, there are many similar questions regarding the parochial system (according to which one’s church membership and pastor were determined by place of residence) and the extent of a pastor’s call.69 This seems to have been a problem. The questions addressed situations in which people did not like their own pastor and wanted to have Absolution and Communion from someone else.70 For example, “Does the calling of a minister of the church extend so far that he can admit the hearers of another pastor to confession, Absolution, and Communion?”71

dum, pp. 97–106 (2.4).

68. “An jus Episcopale & jus Patronatus in Ecclesiis reformatis locum habere debeant, cum videantur jus vocandi ad totam Ecclesiam pertinens, certo duntaxat ordini vendicare?” Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Secundum, p. 100 (2.4, no. 2).

69. See above, p. 32.

70. Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Primum, pp. 711–33 (1.3.1.2.4). Ernst Bezzel explains that the reasons for the strictly observed parochial system were several, not least of which was the pastoral concern that each pastor should know all his parishioners in such a way as to shepherd their souls. For Lutherans, the practice of private confession was the chief time in the age of Orthodoxy in which the individual care of souls took place. Bezzel, Frei zum Eingeständnis, 99.

71. “An vocatio Ministri Ecclesiae eo usque se extendat, ut alterius Pastoris auditores ad confessionem, absolutionem & communionem admittere possit?” Johann Gerhard says this can be allowed if the other orthodox pastor allows it, or if the other pastor is hetero-
Related to this is the question of the “confessional seal.” “May a parson reveal what is secretly entrusted to him in confession, or a confessant repeat what was discussed with him in confession?” No, the parson, at least, must keep it silent until death. If he does not, conflict with his parishioners is likely to arise. In a situation where private Confession was required by law and urged for reasons of pastoral care, dealing with all kinds of conflicts between pastors and parishioners would have been important. Thus, in the section on the “Keys,” there are a number of questions regarding reconciliation between confessants [Beichtkinder] and father confessors [Beichtväter].

The person of the pastor is also a subject of the counsels in the Thesaurus. A section entitled “On a call that is not in every way legitimate” has many questions that deal with the tension between the necessity of a legitimate call for a man to carry out the functions of the pastoral ministry (e.g., preaching, administration of sacraments, leading public worship), and the efficaciousness of the means of grace per se, whether or not the pas-

dox, but otherwise not, since this would be “overturning the order divinely constituted”: Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Secundum*, pp. 101–2 (2.4, no. 7).

72. Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Primum*, p. 927 (1.3.1.3.3, no. 49). The same subject is dealt with also in nos. 51–53 of this section.


74. E.g., Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Primum*, p. 930 (1.3.1.3.3, nos. 58–59).
tor has a legitimate call. The related question of simony is also discussed.\textsuperscript{75} The salary of pastors is the topic of no less than fourteen questions.\textsuperscript{76} The education required for the pastoral ministry is at issue in a question that reads, “May a layman and uneducated manual worker be installed and ordained to the holy preaching office, when a sufficient number of other educated, suitable men can be had?” The response is from the theological faculty of Wittenberg, and the answer is “no.”\textsuperscript{77}

J. E. Gerhard added several questions that deal with the pastor’s day-to-day behavior. “Can a minister of the church be present at wedding banquets?” “Can he drink a toast to the health of others?” “Can a priest, or also another Christian, with good conscience and without sin wear stiff collars and scarves?”\textsuperscript{78} Several questions have the same topic, regarding the proper kind of reverence to be paid to an Evangelical minister. For example, “Is it right, and can it occur without injury to one’s conscience, for someone to

\textsuperscript{75} Dedekenn and Gerhard, \textit{Thesauri Consiliorum Et Decisionum Volumen Primum}, pp. 753–71 (1.3.1.2.8).

\textsuperscript{76} Dedekenn and Gerhard, \textit{Thesauri Consiliorum Et Decisionum Volumen Primum}, pp. 970–90 (1.3.1.4.2, nos. 1–14).

\textsuperscript{77} “Ob ein Laye und ungelehrter Handwercksmann zum heiligen Predig-Amte mag verstattet und ordiniret werden/ da man andere gelehrte tüchtige Männer genug haben kan?” Dedekenn and Gerhard, \textit{Thesauri Consiliorum Et Decisionum Volumen Primum}, p. 795 (1.3.1.3.1, no. 5). Cf. also nos. 6–7.

\textsuperscript{78} “An Minister Ecclesiae conviviis nuptialibus interesse possit?” “An poculum in aliorum sanitatem bibere ipse possit?” “Ob ein Priester/ oder auch sonst ein Christ mit guten Gewissen und ohne Sunde gestärckte Krägen und Umschläge tragen könne?” No answers are given to these questions. Instead, the reader is referred to Kessler, \textit{Theologia casuum conscientiae}, c. 37, 62, 6. Dedekenn and Gerhard, \textit{Thesauri Consiliorum Et Decisionum Volumen Primum}, p. 799 (1.3.1.3.1, nos. 13–15). On the latter question, see Kittsteiner, \textit{Entstehung}, 199.
take away from preachers in public festivals their due place of honor, which they and their forefathers have had from endless years, and to put in their place other politicians, which otherwise follow in order?”

There are also several questions on the unjust removal of pastors, many of them taken from Luther, and a number of them regarding Joachim Mörlin (1514–71), who in 1543 was dismissed from his office as superintendent at Arnstadt.80

Only one section of the Dedekenn-Gerhard *Thesaurus* is devoted to preaching, but with 66 pages, it is the third-longest single section of the work. Here, a judgment of Friedrich Balduin, dated January 9, 1622, is entitled, “On this new way of preaching.” “This” may refer to the previous question: “That a preacher should teach in the pulpit without prolixity and artistry, without any self-importance.”81 Balduin makes clear that

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79. “Obs recht sey/ und ohne Verletzung des Gewissens geschehen könne/ daß man Predigern in publicis solennitatisibus, ihre gebührende Ehren-Stelle/ die sie und ihre Vor-väter von unendlichen Jahren gehabt/ entziehe/ und andere Politicos, welche ihnen sonst in der Ordnung folgen/ an ihre Statt setze?” Tilemann Hesshusius answers this question with “no.” The same question is answered in no. 3 with “no” by “several theological faculties,” but not because the pastors’ honor was lessened, but because thereby their ministry of Word and Sacrament was publicly confessed as less important than in the past: Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Primum*, pp. 1000–1008 (1.3.1.4.3, no. 2). See also nos. 3–9.


81. “Das ein Prediger ohne Gepränge und Kunst/ ausser aller eigenen Ehrfurcht auf der Cantzel lehre.” Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Primum*, p. 807 (1.3.1.3.2, no. 8). The same topic is addressed in nos. 9–11.
the “new way” refers to the homiletical use of “Latin terms that end alike.”

Given the statement of the Augsburg Confession, Article XIV, that “no one should publicly teach in the Church or administer the Sacraments unless he be regularly called,”

another counsel by Balduin is of interest: “What is to be thought about the sermons which are given as training exercises?”

The section on the use of the keys also has a number of questions on preaching, specifically “Straff-Predigten,” sermons of rebuke. This could especially be a controversial subject when a preacher had to rebuke the faults of the nobility. For example, “To what extent should one who teaches the church speak about the burdens of governance or the faults of magistrates?” These questions deal directly with the unique political position of Lutheran preachers in Germany in the eras of the Reformation and Orthodoxy.

The ceremonies of the church are the subject of several questions. Due to the relation of secular government and Lutheran church leadership in enforcing uniformity of


83. AC XIV (Triglotta, p. 49; K-W, pp. 46–47).

84. “Quid sentiendum sit de Concionibus illis quae exercitiis loco habentur?” Balduin defends the practice: Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Primum, p. 863 (1.3.1.3.2, no. 33).

85. Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Primum, pp. 865–73 (1.3.1.3.3, nos. 4–6).

86. “Quatenus docenti Ecclesiam de gubernationis oneribus seu Magistratuum delictis sit dicendum?” Philipp Melanchthon answers that gross vices and public errors of doctrine are to be severely reproached in public: Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Primum, p. 897 (1.3.1.3.3, no. 25).
ceremonies and liturgy among congregations, it is asked, “Does the government have the power to impose a new religion or ceremonies or church agenda upon their subjects with force, or to remove these from them? Or can a few preachers undertake something in this regard?” Or, “May any individual change the rites of the church according to his personal decision?” The Lutheran church year is the subject of a cross-reference provided by J. E. Gerhard: “If the feast of Mary Magdalene, of James, etc., falls on a Sunday, is the latter to be preferred to the former, or the former to the latter?” Likewise, the continuing use of the Latin language in Lutheran worship services is the subject of a question included by J. E. Gerhard. “Is it a bad practice that in our churches some Latin collects and chants, as also the Latin reading of the Sunday Gospels and Epistles, are still retained, since Paul completely rejects the use of an unknown language in the church (1 Cor. 16)?” The answer is a defense of the practice, taken from Friedrich Balduin’s commentary on 1 Corinthians.

87. “Ob eine Obrigkeit Macht habe/ ihren Unterthanen neue Religion oder Ceremonien/ oder Kirchen-Agenda mit Gewalt auf- oder abzudringen? Oder/ ob etliche wenig Prediger darinnen etwas fürnehmen mögen?” Johann Olearius opposes efforts by civil governments to legislate for the church without the consent of the ministry and people. Caesaropapism is just as dangerous as papocaesarism: Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Primum, pp. 1102–3 (1.3.2.2.1, no. 2).

88. “An cuvis liceat pro arbitrio mutare ritus Ecclesiae?” Friedrich Balduin says “no,” the whole church must give its consent, lest scandals arise: Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Primum, p. 1106 (1.3.2.2.1, no. 6).

89. Instead of an answer, he refers the reader to Finck, Sylloge quaestionum illustrium, 771: Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Primum, p. 1139 (1.3.2.2.6, no. 2, at the end).

90. “An malè fiat, quod in nostris Ecclesiis Collectae & Cantiones aliquot Latinae, ut & Evangeliorum & Epistolae Dominicalium lectio Latina adhuc retineatur, quia
The *Thesaurus* also shows the ongoing survival of monasticism and similar institutions within the Lutheran church. The Evangelical estate of canons (*Thumb-Herren*) is the subject of a section which, at 32 pages, is significantly larger than the average (14.4 pages). These questions show the survival and change that this office, which came down from pre-Reformation times, experienced within the Lutheran Church. For example, the question of whether Evangelical canons may marry and still retain their office is discussed in several identical questions. This shows the tendency to remove the residential and liturgical requirements that were originally part of this office and to view it as an administrative post or merely a position that provided a title and a stipend. In the section on monastics, a surprising counsel is given: “On the public investiture of cloister-virgins into an Evangelical cloister.” The counsel is given by the theological faculty of Rostock. They say it would be good to retain the old style of a nun’s clothing but to omit the cere-

Paulus usum linguae ignotae in Ecclesia prorsus rejicit? 1. Corinth. 16.” Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Primum*, pp. 1145–46 (1.3.2.2.6, no. 5).

91. See above, pp. 33–34.


93. Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Primum*, pp. 1066–75 (1.3.1.4.App.2, nos. 4–8).

monies involved with clothing a virgin for the first time. Monastic life as a service to God and a daily dealing with the Word is approved. Monastic vows are rejected.95

The counsels discussed above point to problems that Lutheran pastors and laypeople experienced with the parochial system which had come down to them from the Middle Ages, as well as with the practice of confession and Absolution. Other continuities with the Middle Ages include the persisting use of Latin in Lutheran public worship, as well as the continuing existence of convents for Lutheran “virgins” and other monastic-like offices. In other respects, the Thesaurus resembles a pastoral theology or a pastoral handbook. Instruction is given for all the many details of a 17th-century Lutheran pastor’s life and duty, but is drawn directly from Lutheran case law and the official opinions of the most well-respected Lutheran theologians and faculties. A multitude of details are discussed, presenting us with a rich mosaic of church life in the age of Lutheran Orthodoxy.

Questions Regarding Public Life

The second volume of the Dedekenn-Gerhard Thesaurus is subtitled “Political topics” in Latin, and “All kinds of worldly and civil matters” in German. The latter more aptly describes the contents of the second volume. While the duties of magistrates do form a large part of the subject matter, the underlying theme of the volume is public life

and how Christians should act in this sphere. Therefore, besides political topics like “magistracy,” “the duty of subjects,” and “the care of government toward religion,” there are also sections about “living among heretics,” “the Jews,” and “usury and fortune.”

The section on the Jews sets forth how Lutheran Christians in 17th-century Germany thought about the limits of a pluralistic society. Nearly all the questions ask whether the Jews are to be tolerated in Christian provinces, and if so, how far they may go in exercising their religion publicly. For example, a question asks: “Whether and how one may accept and tolerate the Jews in Christian states?” As many other counsels in this section do, the theological faculty of Jena argues here for toleration of the Jews, especially since contact with Christians is the only way some of them will be converted. Luther’s view of the Jews is not ignored, and the faculty sets forth how his statements are really to be understood. However, though the Jews are tolerated, they are not able to exercise their religion in public without restrictions. Synagogues, worship services, and circumcision should be forbidden, the faculty says, and there are other social restrictions. For example, no Christians should be permitted to be servants for Jews. Things are a little more unclear when the question is asked whether Christians should take long journeys on the high seas with Jews. “May a Christian be a partner with a Jew in the costs of a ship to sail overseas and earn a living, in such a way that on account of this he does not have to

96. “Ob und wie man in Christlichen Politien die Jüden auffnehmen/ und toleriren möge?” Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Secundum, pp. 128–32 (2.6, no. 2).
trouble his conscience, and if a misfortune befalls the ship, he does not have to consider this a punishment of God?”97 Why would such a question be asked? Perhaps it is due to a belief that God punishes people in this life for their misbelief and other great shame and vice. Thus, the question of how close one’s dealings with the Jews could be would have been an important one.98

The section on usury and fortune covers interest in depth, what to do with ill-gained money, and how to regard lotteries and gambling.99 There are numerous questions which are basically identical on the permissibility of defensive war, especially to defend one’s religion.100 The section on oaths also deals with confessional subscription, the solemn oath in which a pastor or other servant of the church vows to teach in accordance with a given set of documents—for Lutherans, usually the Book of Concord. For exam-

97. “Ob ein Christ mit einem Jüden möge Schiffspart halten über das Meer zu fahren/ und Nahrung zu Gewinnen/ daß er deshalb ihm kein Gewissen zu machen/ und wenn etwa dem Schif ein Unglück begegnete/ er solches nicht für eine Straffe Gottes deswegen zu halten?” The theological faculty of Jena explains that Scripture’s warnings against fellowship with idolaters and superstitious people refers primarily to the inner fellowship of the mind and faith, yet also secondarily to external, bodily fellowship. Thus, such a business partnership should not be undertaken: Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Secundum*, p. 136 (2.6, no. 6).


ple, “May a government require an oath of religion from its theologians, pastors, school-
ervants, those of the knighthood, and counselors in cities, and in particular on the
Lutheran doctrine, that they are adhere to it and to none other?”

There is a short section on the permissibility of dancing. Also, the last question of this section reads, “May a
Christian with a good conscience disguise and mask himself or herself, a man putting on
women’s clothing or a woman putting on men’s clothing?” The answer given by the theo-
logical faculty of Tübingen is “no,” except for dramas and in a case of dire emergency, to
save one’s life.

Alchemy, witchcraft, and similar topics—notably absent in modern Lutheran
pastoral books—are given a sufficient examination in the Dedekenn-Gerhard Thesaurus.
One section of volume two is devoted to “Forgery and alchemy.” What do these things
have to do with each other? Both of them have to do with the improper acquisition of
temporal goods. The section consists of four questions, the first of which is very long (24

101. “Ob eine Obrigkeit von ihren Theologis, Pfarrherrn/ Schuldienern/ denen von
der Ritterschaft/ den Räthen in Städten einen Religions-Eid/ und insonderheit auff die
Lutherische Lehre/ derselben und keiner andern zugethan zu seyn/ abnehmen möge?”
Christian Avianus answers in the affirmative: Dedekenn and Gerhard, Thesauri Con-
siliorum Et Decisionum Volumen Secundum, pp. 270–72 (2.13, no. 7). See also p. 272
(2.13, no. 8).

102. Some kinds of dancing are permitted, others forbidden: Dedekenn and Ger-
hard, Thesauri Consiliorum Et Decisionum Volumen Secundum, pp. 290–95 (2.15).

103. “Ob ein Christ mit gutem Gewissen sich verummen/ verlarven/ und ein
Mann mit Weibs- ein Weib mit MannesKleidern anthun möge?” Dedekenn and Gerhard,
Thesauri Consiliorum Et Decisionum Volumen Secundum, p. 295 (2.15, no. 3).

104. “De monetae adulteratione et alchymia.” Dedekenn and Gerhard, Thesauri
Consiliorum Et Decisionum Volumen Secundum, pp. 181–207 (2.9).
The third and fourth deal with alchemy. In the third question, Georg Mylius (1548–1607)\(^{105}\) denies that the essences of God’s creation and nature can be changed, and this denial dismisses the possibility of true alchemy. The fourth question is really just an excuse to print a poem: “Do you know a good poem on alchemy?” The “judgment” is by “Andreas de Valentia,” that is, Johann Valentin Andreae (1586–1654):

Illa est ars sine arte,
Cujus summa pars cum parte,
Cujus mater otiari,
Cujus verba sunt nugari,
Cujus votum demigrari,
Cujus fama annotari,
Cujus proba est mentiri,
Cujus via impediri,
Cujus labor est inflare,
Cujus fructus mendicare,
Cujus finis desperare,
Cujus merces nusquam stare,
Cujus poena est perire,
Et in cruce interire.\(^{106}\)

In the section on secrets, there are a few questions on avoiding fortune-tellers.\(^{107}\)

The section on divination is longer than average, at 19 pages.\(^{108}\) In this section, several

\(\begin{align*}
\text{105. } & \text{Zedler, s.v. “Mylius, (George).”} \\
\text{106. } & \text{“It is an art without art, whose chief part is partial, whose mother is laziness, whose words are nonsense, whose vow is to depart, whose fame is to be noted, whose proof is a lie, whose path is blocked, whose labor is to puff up, whose fruit is begging, whose end is despair, whose rewards never remain, whose punishment is destruction, and to die on the cross.” Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Secundum, p. 207 (2.9, no. 4).} \\
\text{107. } & \text{Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Secundum, p. 300 (2.16, nos. 4–5).} \\
\text{108. } & \text{Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Secundum, pp. 345–63 (2.20). On the issue of astrology and divination in the Reformation era, see Claudia Brosseder, Im Bann der Sterne: Caspar Peucer, Philipp Melanch-}
\end{align*}\)
cross-references were added by J. E. Gerhard, all of them to Balduin’s *De casibus conscientiae.*\(^\text{109}\) There is also a section on magic and its punishments.\(^\text{110}\)

One interesting question in this section asks, “Do witches ride on goats, brooms, forks, or staves to go to their feasts and dances?” The answer is anonymous and gives several anecdotes of paranormal translocations, carried out by evil arts. Evil spirits can move things around, he says. But the witches’ flying is just a dream that the devil gives them. A preacher in Strasbourg claimed to have seen a witch go into and out of just such a trance. Luther, too, did not believe witches could fly. Any that claim to have seen a witches’ dance actually saw a ghostly apparition.\(^\text{111}\)

The contents of the *Thesaurus* with regard to public life are many-faceted. Questions relating to many different situations are included and discussed in detail. Among these ethical questions are a number that deal with magic, alchemy, and witchcraft. The

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\textit{thon und andere Wittenberger Astrologen} (Berlin: Akademie, 2004).


\(^\text{110}\) Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Secundum*, pp. 320–45 (2.19). On the issue of “weather-making,” Kittsteiner notices a difference between Balduin and the counsels included in the *Thesaurus*. Whereas Balduin followed Jean Bodin (1529/30–1596) in claiming the reality of the influence of witches on the weather, the *Thesaurus* followed the tradition of Johannes Brenz (1499–1570) and Johann Weyer (1515/16–1588), denying the possibility and also rejecting the death penalty for those who try to do so. Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Secundum*, p. 340 (2.19, no. 12); Kittsteiner, *Entstehung*, 198.

\(^\text{111}\) “Ob die Hexen auff Böcke/ Besem/ Gabeln oder Stecken reiten und fahren zum Wolleben und zum Tantze?” Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Secundum*, pp. 334–36 (2.19, no. 9).
Lutheran reaction to these phenomena was neither dismissive nor naïve. The Lutherans recognized that evil spiritual forces are at work in this world, and so they took questions of magic and the like seriously. On the other hand, they sought to distinguish fact from fiction and did not believe many elements of popular superstition. As we have seen, the limits of religious pluralism was one of the clusters in this section. In Lutheran Germany at that time, people of other faiths were known, but there was no attempt to grant them equal rights to carry out their religion publicly, if they were not Lutheran. The established faith and church was viewed as needing to be defended. A unified religious culture was valued.

Questions Regarding Marriage and Sexual Ethics

Questions regarding marriage and sexual ethics make up the content of volume three of the *Thesaurus.*\(^ {112}\) In chapter 5, we will examine the questions and answers regarding divorce and remarriage in greater detail. Here, we shall examine other major themes in this volume.

If we just compare the number of questions posited in volume three (the volume on marital matters), then it is obvious that there are three major constellations of questions: Betrothals, with about 34 percent of the questions; followed by the forbidden

grades of relationship in marriage, with about 24 percent; and then divorce and remarriage, with about 23 percent. This distribution is roughly equivalent to that of the Wittenbergisches Buch, a manuscript book of precedent cases dealing with marital matters, which was used by the Wittenberg Consistory in the 16th century, and it reflects the same concerns as the Cellische Ehebedenken of 1545, an early source of marriage legislation in 16th-century Saxony.113 Moreover, according to L. Pelt, the main emphases of volume three in the Dedekenn-Gerhard Thesaurus were represented in Paul von Eitzen’s Ethica doctrina.114

If one considers the number of questions asked on the topic, the section of prohibited grades of relationship in marriage is the second largest in all of volumes one through three of the Thesaurus. Questions on these prohibited grades number 140, which is 8.3 percent of all the questions set forth. The entire subject of prohibited grades, to which the Thesaurus devotes an entire book of volume three, is one that would perhaps be unexpected to a modern reader.115 He includes a high level of detail here. For example, “May


114. Paul von Eitzen, Ethicae Doctrinae: Continens 5 libros posteriores (Witebergae: Schwertelius, 1573), bk. 5, pp. 394–454 deal with marital matters under the rubric of the Sixth Commandment “in ganz casuistischer Weise, doch nur kurz.” Pelt, “Die christliche Ethik in der lutherischen Kirche vor Calixt,” 296–97. Eitzen discusses: chastity, causes of marriage, persons who may marry (e.g., forbidden grades), parental consent, conditions, weddings, divorce, remarriage for the innocent party, polygamy, mixed marriages, and remarriage after the death of a spouse. That is, the main emphases of volume three of the Thesaurus are represented here.

115. Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Tertium, pp. 220–98 (3.3).
someone marry his deceased wife’s mother’s brother’s daughter’s daughter,” (that is, the daughter of his deceased wife’s cousin)?

This is a strikingly large amount of detail when compared to the sparse treatment of the subject in modern Lutheran pastoral handbooks. Fritz’s *Pastoral Theology* has eight pages of clear teaching on this subject (2.1 percent of the whole book). Walther has twelve pages (2.8 percent). Mueller and Kraus do not even deal with the subject.

According to C. F. W. Walther, Orthodox Lutherans did not always distinguish between divine law and human law in their presentations of prohibited degrees of marriage. The Dedekenn-Gerhard *Thesaurus* does make this distinction, however. Regarding forbidden grades and dispensation, a question is set forth dealing with whether canon law or civil law takes precedence. The answer is from Johann Gerhard. He lists theologians who have preferred to rely on civil law, and those who have preferred canon law in

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116. “Ob iemand seiner verstorbenen Haußfrauen Mutter Bruder Tochers Tochter freyen müge?” Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Tertium*, p. 280 (3.3.5.2, no. 3). This question occurs in a section on grades of affinity prohibited by provincial law.


marital cases. Not only Roman Catholics prefer canon law, but many Lutherans do too, including Nikolaus Selnecker, Martin Chemnitz, and the ecclesiastical consistory of Electoral Saxony. Gerhard subscribes to the latter position, and he clarifies that the question does not have to do with various civil matters, such as heredity, in which civil law is valid, but strictly about which manner of calculating is to be used in marital cases. Gerhard also explains that canon law regarding marital cases is not accepted by the Lutherans as a necessary authority, as it is among the Roman Catholics, but because it is highly suitable for deciding questions of grades of relationships between would-be husbands and wives. In either case, one should determine what is required by divine law and what is required by human law. If one does this, it is not of great importance whether one follows civil or canon law in this matter. Gerhard is pleased to follow canon law, since that is what the consistories follow.120

The distinction between human and divine law, which Johann Gerhard mentions here, is carried out in the Dedekenn-Gerhard *Thesaurus* even in the manner in which chapters are titled. The *Thesaurus* puts grades of affinity and consanguinity prohibited by divine law into sections 3.3.2 and 3.3.3, whereas the grades of affinity and consanguinity prohibited by provincial law is dealt with in sections 3.3.4, 3.3.5, and 3.3.6. The grades prohibited by canon law, then, are set forth in 3.3.8.121 Arthur Carl Piepkorn, referring to

120. Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Tertium*, pp. 238–39 (3.3.1, no. 7).

121. Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Tertium*, pp. 242–65 (3.3.2; 3.3.3); pp. 265–89 (3.3.4—3.3.6).
this section of the *Thesaurus* regarding marriage in the second and third grades of affinity, speaks of a “masoretic tendency to build a fence about the Law.” According to him, the later Orthodox Lutherans recognized the distinction between divine and human law on this matter but still affirmed the necessity of following the stricter provincial laws, whereas the earlier theologians generally allowed marriages in the second and third grades.\(^\text{122}\) Regardless of whether one views this “fence” positively or negatively, this section shows the great seriousness with which Dedekenn, J. E. Gerhard, and the people they cite dealt with the issue of incest.

Not only does the *Thesaurus* address cases in which marriage is forbidden, it also addresses cases in which a forbidden marriage has already taken place. Title 3.3.1.2 is “On the transgression of prohibited grades,” and question number 2 is “How is it to be considered when people who, by virtue of divine Scripture, cannot marry each other did in fact marry each other and now possess a marriage?”\(^\text{123}\) The answer from the consistory of Electoral Saxony is nuanced. In some degrees of relationship, the marriage may be allowed to continue.

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123. “Wie es zu halten/ wann Personen/ so vermöge Göttlicher Schrifft sich nicht ehelichen können/ sich de facto geehelichtet und die Ehe besitzen?” Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Tertium*, pp. 238–41 (3.3.1.2, no. 2). See also p. 265 (3.3.3, no. 2).
Questions are also included on the issue of polygamy. For example, “Are those who have converted from Islam \textit{ex Turcismo} to be permitted to have a plurality of wives?”

Here, Johann Gerhard agrees with Robert Bellarmine, who says that only the first marriage is a true marriage, and thus the other wives must be dismissed.

The \textit{Thesaurus} also includes questions on whether eunuchs and hermaphrodites may be allowed to marry. Compulsion to marry in a case of fornication was also an object of consideration: “Is a man who violated a virgin compelled to marry her?” The answer is that he cannot be compelled to do so. Rather, he should be punished by the magistrate.

Taken together, the book on betrothals is by far the largest section of the \textit{Thesaurus}. This book has 11.5 percent of all the questions in the three main volumes of the 1671 \textit{Thesaurus} and 7.0 percent of all the pages. The next runner-up with regard to ques-

\begin{footnotesize}
\begin{enumerate}
\item[124.] “An conversis ex Turcismo permittendo uxorum pluralitas?” Dedekenn and Gerhard, \textit{Thesauri Consiliorum Et Decisionum Volumen Tertium}, pp. 43–44 (3.1.4, no. 3).
\item[126.] Johann Gerhard judges that eunuchs may not marry, but hermaphrodites may, in certain circumstances. The Meissen consistory insists that a hermaphrodite may not marry if “he” has not had a physical examination. The decision of whether the marriage could take place would be based on that examination: Dedekenn and Gerhard, \textit{Thesauri Consiliorum Et Decisionum Volumen Tertium}, pp. 55–57 (3.2.1, nos. 10–11). See below, pp. 273–274, 292–298.
\item[127.] “An qui Virginem viiavit, ducere eam cogatur?” Dedekenn and Gerhard, \textit{Thesauri Consiliorum Et Decisionum Volumen Tertium}, p. 87 (3.2.3, no. 15).
\end{enumerate}
\end{footnotesize}
tions is the sections on prohibited degrees of marriage, with 8.3 percent; and with regard to pages, the sections on call and ordination to the office of the ministry, with 6.2 percent.

Within the book on betrothals, the section on secret betrothals is surprisingly short. According to Ralf Frassek, secret betrothals were a hot topic in Saxony during the Reformation era. The efficacy of betrothals in general constituted 40 percent of the precedent cases included in the *Wittenbergisches Buch*, a collection of marital laws and cases which was Frassek’s special object of investigation. In that work, 8 percent of the cases dealt with secret betrothals.128 Here in the Dedekenn-Gerhard *Thesaurus*, on the other hand, secret betrothals make up only about 1.5 percent of the cases in volume three (on marital matters). This likely indicates that the topic was seen by Dedekenn and Gerhard as straightforward and sufficiently illustrated by a small number of questions.

Despite Luther’s insistence that secret betrothals are null and void, the jurists in the various adjudicating bodies in Saxony during the Reformation era did not uniformly accept his teaching on this point. Although the theologians held firmly to Luther’s position, many of the jurists, according to Frassek, continued to recognize secret betrothals as valid, in agreement with pre-Reformation canon law. The Wittenberg Consistory did not fully follow Luther’s doctrine, while other lands, such as Albertine Saxony, followed his teaching more closely.129 In the *Thesaurus*, though secret betrothals are said to be invalid

(with an answer taken from Luther), when the question is about a secret betrothal that has been followed by a wedding (copula), Johann Gerhard is willing to consider the secret betrothal valid, according to circumstances. In response to the question “Are secret betrothals that are consummated by a wedding [per copulam] always valid?” he answers: “Cypraeus affirms this with many arguments, and he responds to the opposing argument which is taken from the right of paternal power (De sponsal. c. 10, § 10, n. 1). But we have shown above (§ 111) that all the circumstances in this question must be accurately considered.”

The section on secret betrothals covers that topic and several others as well. For example, “On account of secret betrothal, to which fornication was added, is the father of the ravished girl bound to give his daughter in marriage to the ravisher?” Likewise, “With regard to a secret betrothal, from which impregnation results.” Secret betrothals seem to have been used as a pretext for fornication, so that it made more sense for Dedekenn

130. “An clandestina sponsalia per copulam consummata perpetuò sint rata? Affirmat Cypraeus, & multis id affirmat argumentis, atque ad contrarium argumentum ex jure patriae potestatis deductum respondet de sponsal. c. 10. §. 10. n. 1. Sed ostendimus superius §. 111. circumstantias omnes in hac quaestione accuratè considerandas esse.” Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Tertium, p. 143 (3.2.6, no. 6).

and J. E. Gerhard to consider this topic here, rather than elsewhere, such as the section on impregnation (3.2.9). Also, within the book on betrothals, a consideration is given of whether one’s social status prohibits one from certain marriages.\(^{132}\)

Premarital sex is likewise a major emphasis of the sections on double betrothals and on impregnation.\(^{133}\) The penalty in Saxony for true adultery was quite harsh: beheading. According to Ralf Frassek, the purpose of the punishments meted out for marriage crimes in Reformation-era Saxony was to deter others. Luther affirmed the use of capital punishment for adultery, but in practice it was extremely rare for this to be carried out. One reason for this is that adultery was very hard to prove. It was much easier to prove malicious desertion. Then, if adultery had been proved, the death penalty in Saxony could be changed into exile if the spouses reconciled. Exile was usually pronounced “auf ewig,” but in practice was limited in extent of time.\(^{134}\) The most common punishment for marital crimes in Saxony during the Reformation era was imprisonment, followed by fines.\(^{135}\) In the following question, the consistory of Wittenberg advised that all three per-

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132. Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Tertium*, p. 131 (3.2.4, no. 42).

133. Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Tertium*, pp. 159–72 (3.2.8, 3.2.9).


sons should be put to death: “A husband, who was unfit for the marital work, permitted his wife to commit adultery.”

A number of the questions deal with contraception. “Can a betrothed woman be repudiated because she took sterility medicine?” The answer is “yes.” Four questions are included regarding the sin of Onan (Gen. 38:9). In the Thesaurus, this has to do especially with contraception, as opposed to Onan’s refusal to perform his levirate duty, as is clear from the second of these questions: “On the sin of Onan, when genital semen is wasted [verderbet].” Then the next question reads: “What is to be decided about a sin in which a husband, due to mistrust toward God, lest he be burdened with too many children, refuses to his wife the due benevolence, and by Onan’s example corrupts his genital semen?” Luther is quoted from the Genesis lectures, calling this a “Sodimtic sin,” “effeminacy” [eine Sünde der Weichlinge], and an evil deed, and the theological fac-

136. “Da ein Ehemann/ welcher zum ehelichen Wercke untüchtig/ seiner Frawen Ehebruch gestattet.” Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Tertium, p. 353 (3.4.6, no. 12). See also pp. 367–72 (3.4.11).

137. “An sponsa repudiari possit ob medicamenta sterilitatis sumpta.” Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Tertium, p. 200 (3.2.13, no. 21).

138. “Über die Sünde Onan/ da Semen genitale verderbet wird.” “Quid statuendum sit de peccato, quo maritus, ex diffidentiâ erga Deum, ne liberorum copiâ oneretur, uxorì debitam benevolentiam denegat, ac Onannis exemplo semen genitale corrupit?” Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Tertium, pp. 366–67 (3.4.10, nos. 7–8). See also nos. 9–10.

139. “Eine Sünde der Weichlinge” is the translation for “mollicies” (1 Cor. 6:9). See Martin Luther, “Lectures on Genesis,” 1535–45 (WA 44:316.40–317.1; cf. LW 7:20–21).
ulty of Jena states that such a husband sinned against the First Commandment by not trusting God’s wisdom in giving children; against the Fourth Commandment (“Honor your father and your mother”) because he denied the conjugal obligation to his wife, contrary to the apostolic precept in 1 Cor. 7:3; against the Fifth Commandment (“You shall not kill”), because as much as was in him, he “killed” the children who were to be born; and against the Sixth Commandment (“You shall not commit adultery”), because he committed the sin of effeminacy [molliciei], of which the apostle speaks in 1 Cor. 6:9. Such a sin is, in their view, more grave than fornication and adultery, and the man’s culpability remains, even if the wife consented to the act. “And, because this husband did not fear to share in Onan’s crime, he shall also be exposed to the same punishment with Onan.”

We shall consider one last question dealing with marital matters. In the section on weddings, the question is asked: “On the betrothal and wedding of two persons who, without the knowledge of their parents, committed fornication, and when the woman became pregnant, wanted to keep this secret and to cause an abortion by taking medicine.” The consistory of Wittenberg counsels that public confession and Absolution of these sins within the wedding ceremony should take place if this marriage is to be

140. “Et, quia talis maritus non veretur communicare Onanis culpae, ideo subjacebit etiam eidem cum Onane poenae.” Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Tertium*, p. 366 (3.4.10, no. 8).

allowed. The issue of abortion is not dealt with explicitly, except that their attempt to cloak their sin is rebuked. One can surmise that the abortion was not successful, since their act did in fact become known.

In general, the cases on marriage and sexual ethics in the *Thesaurus* are very detailed. Besides the focus on divorce and remarriage (which we shall examine later) and on issues such as contraception, the large sections on betrothals and forbidden grades of relation in marriage (incest) are notable. The great seriousness with which betrothals and incest are handled stands in stark contrast to modern Lutheran pastoral handbooks which barely even touch on the subjects. For the Lutherans of the 17th century, incest and vows of betrothal were not trifling matters, and therefore a large body of casuistry arose to help Christians determine what to do in these perplexing situations.

**Christian Grübel’s Focus**

Christian Grübel, the editor of the *Appendix Nova* for the Dedekenn-Gerhard *Thesaurus*, intended to add other questions and counsels that had arisen since the time that Dedekenn and Gerhard had done their editing. In order to do this, Grübel seems to have relied heavily on opinions given by the theological faculty of Jena. He was an *adjunctus* for the philosophical faculty at Jena at the time the *Thesaurus* was published.\(^\text{142}\) He focused more on big, public controversies within the Lutheran Church than did Dedekenn

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142. Jöcher, s.v. “Gruebel (Christian).”
and Gerhard, such as controversies surrounding Hermann Rathmann (1585–1628) and Arnold Mengering (1596–1647). In these public cases, Grübel does not bother to remove the names of those involved. Grübel’s cases are also often quite complicated, sometimes reciting long narratives and messy details and then asking, “What should be done?” In contrast, the questions in the first three volumes of the Dedekenn-Gerhard *Thesaurus* were, for the most part, general enough to be illustrative for pastoral practice. While Grübel has many of these as well, he also has many of the former, unique kind. The table of contents for Grübel’s work is presented in table 4.

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143. E.g., Christian Grübel, ed., *Thesauri Consiliorum Et Decisionum Appendix Nova, Continens quædam inserenda Operi Dedekenno-Gerhardino* (Jena: Zacharias Hertel, 1671), pp. 586–90 (App.1.3.1.3.5, no. 6).
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Grübel’s *Appendix Nova* is by no means small. At 915 pages, it is much larger than volumes two and three of the *Thesaurus* combined, and nearly as large as volume one (1,189 pages). Grübel included questions and answers corresponding only to about three-fifths (57 percent) of the sections in the *Thesaurus*; the other sections did not attract his interest. However, Grübel also added three new sections: Catechization of Children (pp. 510–16), Fraternal Societies (pp. 755–76), and True Repentance (pp. 876–915). Like the three main volumes of the Dedekenn-Gerhard *Thesaurus*, Grübel’s *Appendix Nova* includes some questions related to civil life and the estate of marriage, though these ques-
tions are not nearly as prevalent as compared proportionally with Dedekenn and J. E. Gerhard. As an example of a question on civil life, Grübel includes a question that reflects some of the circumstances related to the aftermath of war and has implications for the social welfare aspects of a state. The question is not dated, and no author for the long answer is given.

Since during the troublesome conditions of war, many people have been impoverished and have had to run into misery, and Christian charity among those who are still rich has become so cooled that they do not give them the alms that are due, the question arises: Can Christian government with good conscience incite the affluent by force in this case to do their duty, and to impose and gather certain collections for the sustenance of the utterly poor pastors and school-servants, as well as of others, who either go about in the land before the doors or are still in the country in their houses and otherwise have no other means of supporting themselves?144

As an example of a question related to the estate of marriage, Grübel includes an interesting question regarding the grades of relationship in marriage that are prohibited by canon law. Here, the question is raised of “whether and why” one may marry his own godchild (that is, one for whom he has served as a sponsor at Baptism).145


145. Grübel, Thesauri Consiliorum Et Decisionum Appendix Nova, pp. 849–50 (App.3.3.8, no. 1).
Many of the sections in the *Appendix Nova* are quite small, adding only a handful of questions to what Dedekenn and J. E. Gerhard had included in volumes one through three. But a few are quite large. More than anything, Grübel’s “new appendix” deals with dogmatic questions and new disputes that had arisen within the Lutheran Church. Table 5 gives an overview of these large sections.

**Table 5. Largest sections in Grübel’s Appendix Nova**

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<td>Epistemology of Revelation (1.2.1.2)</td>
<td>239</td>
<td>26.1%</td>
<td>8</td>
<td>3.1%</td>
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<tr>
<td>Legitimacy of the Reformation (1.1.1)</td>
<td>64</td>
<td>7.0%</td>
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<tr>
<td>The Keys (1.3.1.3.3)</td>
<td>61</td>
<td>6.7%</td>
<td>34</td>
<td>13.3%</td>
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<tr>
<td>True Repentance (2nd App. 1.2.1.1)</td>
<td>40</td>
<td>4.4%</td>
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<td>Sermons (1.3.1.3.2)</td>
<td>35</td>
<td>3.8%</td>
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<td>Dismissing Ministers (1.3.1.4.5)</td>
<td>27</td>
<td>3.0%</td>
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**New Disputes within the Lutheran Church**

One of the major emphases of Grübel’s *Appendix Nova* is new disputes that had arisen within the Lutheran Church. For example, a question is included that is related to the intermediate state between death and the resurrection, and related also to the question of Christ’s ubiquity according to His human nature: “During the three days of His death, was Christ true man, or man in an equivocal sense?” This includes a letter by Justus Feuerborn to the theological faculties of Leipzig and Jena, and the response of the Jena faculty, who answer in detail that Christ remained true man.146

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146. “Num Christus triduo verae suae mortis fuerit verus vel aequivocè dictus homo?” Grübel, *Thesauri Consiliorum Et Decisionum Appendix Nova*, pp. 68–76 (App.1.1.1.8, nos. 1–[2]).
Far and away the largest section in the volume is the section on the epistemology of revelation, actually entitled “On the Revealed Word of God.” This section of Grübel’s *Appendix Nova* takes up more than one-quarter of the volume. Nearly all of this section deals with the controversial views of Hermann Rathmann (1585–1628). Rathmann, a Lutheran deacon and, later, pastor in Danzig, raised the concern of his contemporaries through the views he set forth in his book *Jesu Christi: Des Königs aller Könige und Herrn aller herrn Gnadenreich* (1621). The problem was that Rathmann held that Scripture is only an external word which has no power in itself to convert a man. The outer word is simply a witness of the inner word which existed in the souls of the apostles, in the same way as the words of any book express the inner meaning of the author. . . . [I]t must be the illumination of the Holy Spirit—which is previous to, and also simultaneous with, the reading of the external word—which is the true cause of conversion and regeneration.

In Grübel’s *Appendix Nova*, there is a long response from the theological faculty of Jena on the issue of Rathmann’s controversial theology. Bengt Hägglund ascribes this response to Johann Gerhard and calls it “not only the best analysis of the debate, but also


a valuable contribution to the philosophy of language and the theology of the word in Lutheran theology.”150 All together, the responses by the Jena faculty were quite long (totaling 211 folio pages in length). Number 7, which answers 83 objections of Rathmann to the Jena censor, is by itself more than 100 pages long. A nineteen-page judgment by the theological faculty of Wittenberg on Rathmann’s errors is also included, showing that not only were Rathmann’s views on Scripture rejected, but his views on the thousand-year reign of Christ and on original sin, together with the related topic of the image of God in man, were also a cause of concern. The faculties of Helmstedt and Königsberg also give responses.151

The section on the legitimacy of the Reformation deals mainly with disputes that had arisen within the Lutheran Church in the 17th century. This focus on new controversies characterizes much of Grübel’s Appendix Nova. The focus on new disputes can also be seen in the section on the keys, where roughly half of the pages are devoted to one case of church discipline, and in the section on sermons, where many of the questions deal with chiliasm152 and confessional subscription (i.e., the binding nature of the Lutheran Confessions for Lutheran ministers). Otherwise, the sections on the keys, ser-


151. The Wittenberg response is in Grübel, Thesauri Consiliorum Et Decisionum Appendix Nova, pp. 152–70 (App.1.2.1.2, no. 2); the Jena responses are on pp. 170–274, 282–387 (nos. 3–4, 7); the Helmstedt and Königsberg responses are on pp. 274–82 (nos. 5–6).

152. See below, pp. 242–244.
mons, and dismissing ministers deal with conflicts that pastors experienced in the various areas of their ministries—topics that would have been of interest to Grübel and his readers.

The emphasis on conflicts that pastors experience in the course of their duties is seen in the shorter, yet likewise significant, section on strife among pastors. This section deals primarily with a dispute between the ministerium of Hamburg and Arnold Mengering (1596–1647). Mengering, the ecclesiastical superintendent of Halle and inspector of the upper school there, was a writer of casuistry works for laypeople, encouraging them to examine their own consciences and live upright Christian lives. In his *Informatorium conscientiae evangelicum*, Mengering reported that a criticism of one of his works was being printed in Hamburg, and he reproached such people as “atheists, epicureans, hypocrites, and great liars.” The Hamburg ministerium, under whose oversight the city’s presses were censored, took offense at Mengering’s words. Someone had been spreading false rumors about such a criticism of his book, they said, and Mengering should not have believed everything he heard. The Hamburg ministers explicitly said

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155. Leube, *Die Reformideen*, 118–23. His casuistic works include: *Suscitabulum conscientiae evangelicum; Refectorium conscientiae evangelicum; Scrutinium conscientiae catecheticum; Informatorium conscientiae evangelicum.*
they approved of his book and his striving to have people examine their consciences. But they entreated Mengering earnestly to have the pages with the accusations reprinted and thus to remove his accusation from his most recent work, the Informatorium.\textsuperscript{156} Mengering wrote back, defending what he had written, and the dispute went on from there. The correspondence on this matter was dated June 13 through October 20, 1644.\textsuperscript{157}

The last section in Grübel is a large one (40 pages) dealing with true repentance. The responses are dated May 6, 1670, and June 15, 1670, and are given by the theological faculty of Jena. The questions are:

On the true repentance and salvation of human beings, and especially on these two assertions: (I) Whoever at his end does not have the good testimony of a holy life in this world, and of one that is conducted according to Christ’s commandments, dies without salvation [unselig] and does not enter the kingdom of God, to speak of what happens in the usual and ordinary way [von dem was gewöhnlich- und ordentlicher Weise zu reden geschicht]. (II) The great repentance is not repeated so often by the true children of God as some imagine; rather, either the true children of God need this great repentance never, or at least not twice, let alone a third or tenth or hundredth time.\textsuperscript{158}

\begin{footnotes}
\item Grübel, Thesauri Consiliorum Et Decisionum Appendix Nova, pp. 590–91.
\item In his multivolume annotated bibliography, Johann Fabricius (1644–1729) commented on the controversy surrounding Mengering’s books. After praising him highly, Fabricius wrote: “The theologians of Hamburg stirred up a quarrel with him with regard to the anti-Mengering [publication], to which fable the good man had presented very ready ears and quite confidently had written in the Informatorium conscientiae catecheticum. But those men restrained [tenuerunt] him closely as may be seen in the writings of each side, in Dedekenn, Consil. theol. vol. [4], 590.” Fabricius, Historiae Bibliothecæ Fabricianæ Pars V, 81.
\item “Von der wahren Busse/ und Seeligkeit der Menschen/ und besonders von diesen zweyen assertionibus I. Wer an seinem Ende nicht hat das gute Zeugniss eines in dieser Welt heilig- und Christi Geboten gemäß geführten Wandels/ der stirbt unselig/ und kömt (von dem was gewöhnlich- und ordentlicher Weise zu reden geschicht) nicht ins Reich Gottes. II. Die grosse Busse wird von wahren Kindern Gottes so offt nicht wieder- holet/ als manche sich einbilden/ sondern entweder bedürfen die wahren zum ewigen
\end{footnotes}
This topic of true repentance points to the ongoing struggle that Lutheran pastors faced with people (preachers as well as hearers) who did not seem to be taking the Gospel of Jesus Christ to heart and to be improving their sinful lives. Only five years later, Philipp Jakob Spener’s *Pia Desideria* would be printed, giving voice to the frustrations felt by many.¹⁵⁹

*Helmstedt Theology*

In the course of the 17th century, German Lutheranism waged an internal war that has come to be called the “Syncretistic Controversy.” It was fought essentially by three groups. The first group, led by Georg Calixt (1586–1656), professor at Helmstedt, sought to overcome the split in the Western church which took place at the Reformation. The second group, led especially by Abraham Calov (1612–86) and the theologians of Wittenberg and Leipzig, sought to oppose Calixt and maintain an unambiguously Lutheran theology by means of a vigorous polemic and the introduction of a new Lutheran Confession, the *Consensus repetitus fidei vere Lutheranae* (“Repeated Consensus of the Truly Lutheran Faith”).¹⁶⁰ Although the *Consensus repetitus* never became a legally binding

¹⁵⁹. On the reform movements within the Lutheran Church of the 17th century, see Leube, *Die Reformideen*.

confessional document, the Wittenberg-Leipzig view on syncretism won the day. The official union of the Lutheran and Reformed churches was delayed until the beginning of the 19th century in Prussia. The third group, led by Johannes Musaeus (1613–81) and the theologians of Jena, along with Philipp Jakob Spener and others, also opposed Calixt and syncretism, but refused to support the Consensus repetitus.

Grübel’s Appendix Nova, arising in the milieu of Jena, also includes documents directed against doctrinal innovations coming from Helmstedt (where Georg Calixt had been professor of theology until his death in 1656), from Christian Dreier in Königsberg, and from Johann Latermann in Halberstadt. For example, a long document is included, entitled: “Short summary of the pure doctrine according to the holy Word of God [and] the Christian church’s Augsburg Confession, to the extent that this is attacked and perverted by the Helmstädters and their followers, Dr. Christian Dreier in Königsberg and Dr. Johann Latermann at Halberstadt, together with the correct antithesis to their deviating, dangerous innovations and the summary refutation of the same, instituted [auffgesetzt] by the theological faculties at Leipzig and Wittenberg.”

An examination of the Kurtze Verfassung shows that the text Grübel included in the Thesaurus is related to the famous Consensus repetitus fidei verae Lutheranae. Like

the latter, this *Kurtze Verfassung* is directed against the new Helmstedt theology. Like the *Consensus repetitus*, it is organized according to the articles of the Augsburg Confession with several “points” under each “article.” Like the *Consensus repetitus*, each point sets forth thetical and antithetical teachings, to contrast the theology of the Leipzig and Wittenberg faculties with that of Helmstedt and its followers. Grübel’s German text is certainly not a translation of the *Consensus repetitus*, but the same texts by Calixt are cited and rejected in points one and two of both documents. According to Heinz Staemmler, this *Kurtze Verfassung* was given by the Leipzig theological faculty to be included in the new edition of Dedekenn’s *Thesaurus*. The document was composed according to the form of a similar document, the *Ungefehrlicher Entwurf*, composed by the theologians of Leipzig and Wittenberg and included by Johannes Hülsemann (1602–61)\(^{162}\) in his book, *Calixtinischer Gewissens-Wurm* (1654).\(^{163}\) This *Entwurf* was also a basis for the *Consen-

\(^{162}\) The most extensive study on Hülsemann’s thought so far is Max Keller-Hüschmenger, *Das Problem der Fundamentalartikel bei Johannes Hülsemann in seinem theologiegeschichtlichen Zusammenhang*, Beiträge zur Förderung christlicher Theologie (Gütersloh: Der Rufer, 1939). For Hülsemann’s bibliography, see Anon., “Joh. Hulsemanni, Theologi, Opera, quae reperiri potuerunt omnia, In Tomos partim secundum cognatas materias, partim secundum scriptionis tempus digesta,” *Fortgesetzte Sammlung von Alten und Neuen Theologischen Sachen, Büchern, Uhrkunden, Controversien, Veränderungen, Anmerckungen, Vorschlägen, u.d.g. zur geheiligten Übung in beliebigem Beytrag von einigen Dienern des Göttlichen Wortes* 2 (1720): 401–12.

sus repetitus fidei verae Lutheranae. Staemmler gives a quote from the Ungefehrlicher Entwurf about anointing with oil in Baptism, which Calixt allowed and his opponents rejected as a papistic superstition. The same topic is in the Kurtze Verfassung in the section on Article XV of the Augsburg Confession, but the wording is different. The Consensus repetitus, on the other hand, has no article dealing with Augsburg Confession XV.

Despite the similarities, however, there are significant differences between the Kurtze Verfassung and the Consensus repetitus which indicate that the former is either a part of the history of the Consensus repetitus, or they have the same lineage. Point two of Grübel’s text includes other Calixt and Latermann texts besides what the Consensus repetitus has. The Kurtze Verfassung seems to be a predecessor to the Consensus repetitus rather than a revision of it, because the organization of the articles is significantly different.

Why was this text included rather than the Consensus repetitus itself (which was included in the Consilia Theologica Witebergensia, a work of similar size and scope)? Staemmler hazards a guess: “One could suspect that the Leipzigers, in the storm which the Consensus repetitus with its condemnations had unleashed after 1666 in Helmstedt and elsewhere, would have wanted to present a more moderate form for discussion,

164. Staemmler, Helmstedter Synkretismus, 119.

moreover, would have chosen precisely a document that had perhaps been worked out previously by themselves and that possessed the approbation of both faculties [i.e., of Leipzig and Wittenberg].”166

Indeed, there are some characteristics of the *Kurtze Verfassung* that seem to mollify it in comparison to the *Consensus repetitus*. First, it is not set forth as a confession of faith, but only as the basis for discussion of the errors of the new Helmstedt theology. Second, it uses the language of “We teach” (“Wir lehren”), “On the contrary, the Helmstedters teach” (“Hingegen lehren die Helmstedter”), instead of the *Consensus repetitus*’s “We reject those who” (“Rejicimus eos”). That is, the *Kurtze Verfassung* avoids condemning the persons of its opponents.167 True as this is, however, the *Kurtze Verfassung* makes clear in the title and in various subtitles that the Helmstedt doctrine is false, deviant, and dangerous; that it consists of innovation; and that it attacks and perverts the Augsburg Confession.

Significant as it is, the *Kurtze Verfassung* is not the only text in Grübel’s *Appendix Nova* that deals with the new Helmstedt theology. Several questions deal with false doctrines set forth by Johann Latermann (regarding synergism), by Johann Behm and by Samuel Huber (on the church), by the faculty of Königsberg (tolerating differences in religion), and by the faculty of Helmstedt (various scandalous statements by Georg Calixt

166. Staemmler, *Helmstedter Synkretismus*, 120.
and Conrad Horneius).¹⁶⁸ A letter from John Dury (Johannes Duraeus) is included on “syncretism” between the Lutheran and Calvinist “religions.”¹⁶⁹

As we have seen, the issue of the new “Helmstedt theology” is an important issue that Grübel includes in his Appendix Nova. Grübel sets forth major documents against the syncretists, but does so in a way which avoids aligning Jena with the church-political goals of Abraham Calov in Wittenberg. The Lutheran readership of the Appendix Nova would have in their hands new and important documents which would set forth a firm, confessional position, yet which might also have gained a more favorable hearing than the Consensus repetitus.

**Inter-Confessional Disputes**

The theme of religious disputes and divisions between Lutherans, Reformed, and Roman Catholics, so prevalent in the three volumes of the Dedekenn-Gerhard Thesaurus, is also present in Grübel’s Appendix Nova. These have to do with the Roman Catholic mass, being forced to attend the mass or Roman Catholic preaching services, the question of unity with the Reformed, the gravity of Calvinist errors, the syncretism of John Dury, the persons who may be sponsors at Lutheran Baptisms, whether exorcism may be retained in the Lutheran baptismal rite, the ceremony of bread-breaking in the Eucharist,


admission to Communion, what to do when a Lutheran pastor receives a call to a Reformed congregation, confessional subscription, Lutheran and Reformed services in the same church building, burial, and other topics.\textsuperscript{170} Quite a few of the questions in Grübel’s \textit{Appendix Nova} deal with whether the Reformed should be granted a church building in which to hold their services within a Lutheran city or territory. Hamburg, especially, was selected as an example of a city that refused to grant the Reformed a “temple.”\textsuperscript{171}

Three of Grübel’s questions, covering twenty-eight pages, deal with the heresy of Isaias Stiefel (1560–1627), who considered himself to be Christ reborn.\textsuperscript{172} Stiefel was a spiritualist and separatist from the Lutheran territorial church, considered by contemporary Orthodox Lutherans to be a \textit{Schwermer, Enthusiast}, and a follower of Valentin Weigel. He held that only Christ himself, not the written word of the Bible, is the living Word of God. The spirit speaks inwardly in revelations and dreams, he thought, whereas the external means of grace—preaching and sacraments—were to be rejected; the


\textsuperscript{171} Grübel, \textit{Thesauri Consiliorum Et Decisionum Appendix Nova}, pp. 112–30 (App.1.1.3.3).

\textsuperscript{172} Grübel, \textit{Thesauri Consiliorum Et Decisionum Appendix Nova}, pp. 37–64 (App.1.1.1.1, nos. 6–8).
indwelling of the entire Trinity within the reborn gives them the ability to live without sin and divinizes them. Stiefel’s teaching was not new at Grübel’s time, since Stiefel had died forty-four years earlier. Nevertheless, Stiefel’s works were being printed around Erfurt between 1622 and 1624 and were thus too recent for Dedekenn to have included a consideration of them in the first edition of the *Thesaurus* (in 1623). Grübel’s publication of these cases precedes a second period of popularity for Stiefel at the end of the 17th century.\textsuperscript{173} This focus on Stiefel is consistent with Grübel’s method of providing sources that deal with religious controversies that had arisen after Dedekenn’s first edition of the *Thesaurus*.

Related to Stiefel’s unique views, Grübel includes several questions dealing with chiliasm. These questions are answered by the theological faculty of Jena and Leipzig in the years 1628 and 1630.\textsuperscript{174} Orthodox Lutherans in the 16th and 17th centuries generally rejected any chiliastic hopes for a future, thousand-year reign of Christ on earth, nor did they expect a golden age for the Christian church on earth. Instead, their eschatological hopes were for the return of Christ, the Last Day, and the joys of heaven; it was an otherworldly hope. In 16th-century Germany, “fanatics” such as Thomas Müntzer, following

\begin{flushright}
\textsuperscript{173} Ulman Weiß has recently produced an authoritative biography of Stiefel, examining many sources previously unknown to scholars or unused by them: *Die Lebenswelten des Esajas Stiefel oder Vom Umgang mit Dissidenten*, Friedenstein-Forschungen (Stuttgart: Steiner, 2007); Ulrich Bubenheimer, “Stiefel, Esajas,” in *Biographisch-Bibliographisches Kirchenlexikon (BBKL)* (Verlag Traugott Bautz), http://www.bautz.de/bbkl/s/s4/stiefel_e.shtml, accessed on 1/16/2009.

\textsuperscript{174} Grübel, *Thesauri Consiliorum Et Decisionum Appendix Nova*, pp. 476–86 (App.1.3.1.3.2, nos. 1–4).
\end{flushright}
the medieval-chiliastic tradition, expected a kingdom of God on earth. The Reformation-era confessions condemned chiliasm, yet Melchior Hofmann, various Anabaptist groups, the students of Paracelsus (1493–1541), and Valentin Weigel (1533–88) promoted chiliasm in Germany. Lutherans at the end of the 16th century were not troubled by it, but around the beginning of the 17th century, chiliasm had become a hot topic among Lutherans. Johannes Wallmann explains:

Since Valentin Weigel’s writings with their open promotion of chiliasm appeared in print (since 1609), since the Rosicrucian writings were proclaiming a general reformation of the entire world and a “golden age,” since, finally, with the beginning of the Thirty Years War chiliastic prophets were raising their voices in the most disparate parts of the Empire, Lutheran Orthodoxy stood in a renewed conflict with a spiritualistic and chiliastic fanaticism [Schwärmertum].

This led to much Lutheran publication against chiliasm, with a high point for this early antichiliastic publication coming in 1622 with the publication of Johann Gerhard’s locus De consummatione seculi in his Loci Theologici. In the course of the 17th century, the battle raged, with a few controversial Lutherans espousing chiliasm in one form or another (e.g., Hermann Rathmann, 1585–1628). In addition, Jakob Böhme (1575–1624) and Johann Heinrich Alsted (1588–1638) promoted chiliasm in German-speaking lands, but most famously, Philipp Jakob Spener gave chiliasm a foothold within the Lutheran

175. E.g., AC XVII (Triglotta, p. 51; K-W, pp. 50–51).


Church by espousing a form of it in his *Pia Desideria* of 1675 (four years after the second edition of Dedekenn’s *Thesaurus* and Grübel’s *Appendix Nova*).\(^{178}\)

Once again, the counsels included by Grübel underline his dogmatic and polemical interest, especially in new controversies that had arisen since the first edition of the *Thesaurus*. Lutheran pastors in 1671 would have found these counsels to be of value in understanding the controversies of the day and of the recent past.

**Privileges of the Ministerium**

A recurrent theme in Grübel’s *Appendix Nova* seems to be the privileges of the ministerium, that is, the clergy. For example, “Counsel and deliberation on whether, in changing the marriage rite [*Ehlichen Copulation*] and similar church ceremonies, the ministerium can be totally excluded.”\(^{179}\) Here, the Hamburg ministerium answers that the changing of ceremonies belongs to the church, and since the ministerium is a part of the


church—and an important part, at that—it cannot be excluded from the decision-making process. Likewise, the next counsel considers whether the clergy can be excluded from the deciding of marital cases.180

The vocabulary Grübel uses for preachers and hearers in the church is noteworthy. Quite often the titles in Grübel use the word “priest” for a Lutheran clergyman. For example, “Can two persons who are related to each other in the second grade of affinity in the unequal line and who secretly marry each other be tolerated together and in such a continuing marriage be admitted to the Holy Supper by the priest?”181 The counsels included by J. E. Gerhard could likewise use this vocabulary.182

At the time, the Lutheran lay leaders in a congregation were not called “elders,” but instead, “directores” (“directors”) or “Vorsteher der Kirchen” (“chiefs” or “directors of the church”). The pastor’s relationship to them was set forth in a few questions in Grübel’s Appendix Nova:

I. Does the right of confirming the directors (or Vorsteher der Kirchen) stand on the side of the parson’s office [Pfarrer Amts] or not? II. Does the parson have a right to know about the church’s money and property? III. In the arranging of the church ceremonies, altar, organ, and other similar matters, does he have the same power as the directors, or more, etc.? IV. Should he permit the organ to be taken


182. See above, p. 203.
out of the church again in order to please them? V. If they thus remain obstinate in their malice, after various official admonitions have taken place, can he, by virtue of his office, excommunicate them? 183

The relationship of pastors and parochial schoolteachers is also the subject of one of Grübel’s questions. “Can a pastor, with a good conscience, dwell beside a schoolmaster who not only defies him but even attacks him with harsh insults, and carry out his office beside him?” 184 Here the concern for the reputation of a pastor is clearly in view.

Other questions deal with a pastor’s salary. “May a preacher, to whom his salary is not rightly paid out, mention this in his sermon, and while doing so go into specifics? Also, if this occurs, in what manner is a reconciliation to be obtained between him and those who are supposed to pay him?” 185

183. “I. Ob das Jus Confirmationis der Directorum (oder Vorsteher der Kirchen) bey dem Pfarrer Amts halber stehe oder nicht? II. Ob dem Pfarrer um die Kirchengelder und Güter Wissenschaft zu haben gebühre? III. Ob er in Anordnung der Kirchen-Ceremonien/ Altar/ Orgel/ und anderer/ gleiche oder mehr Macht habe als die Directores, &c? IV. Ob er/ ihnen zu Gefallen/ die Orgel wieder aus der Kirche zu nehmen/ verstatten solle? V. Ob er/ wenn sie also Halstarrig in ihrer Boßheit verharren/ nach erfolgten unterschiedenen Amts admonitionibus, sie Krafft seines Amts excommunicire können?” Among other points of advice, the theological faculty of Leipzig advises that a pastor should not be too hasty to use excommunication: Grübel, Thesauri Consiliorum Et Decisionum Appendix Nova, pp. 558–59 (ad App.1.3.1.3.3, no. 4).

184. “Ob ein Pfarrer neben einem Schulmeister/ der sich ihme nicht allein wider- setzet/ sondern ihm auch mit groben injurien antastet/ mit gutem Gewissen bey ihm wohnen/ und neben ihm sein Amt verwalten könne?” Since the dispute had been handled by the responsible consistory and the schoolmaster had apologized and promised to show due respect to the pastor, the Leipzig theological faculty saw no reason for the pastor to leave his post: Grübel, Thesauri Consiliorum Et Decisionum Appendix Nova, pp. 609–10 (App.1.3.1.4.3, no. 2).

185. “Ob ein Prediger/ deme seine Besoldung nicht richtig ausgezahlet wird/ solches pro Concione erinnern/ und dabey ad specialia gehen möge/ auch so solches geschicht/ was massen eine reconciliation zwischen ihme und denen/ so ihn bezahlen sol- len/ zu stiften sey?” The theological faculty of Jena gives several suggestions of how to restore peace in this situation and how to avoid future problems: Grübel, Thesauri Con-
Quite a few opinions, fifteen in all, are included from many sources, all dealing with one particular preacher’s “sermon of rebuke” (*elenchus*), by which he offended his hearers. As a result of this sermon, a lawsuit was filed against him.\(^{186}\)

Several questions deal with an important pastoral duty of a 17th-century Lutheran clergyman: the hearing of confessions and the speaking of Absolution. In Grüber’s *Appendix Nova*, as in the Dedekenn-Gerhard *Thesaurus*, the section on the keys (the forgiving or retaining of sins in the sense of Matt. 16:19) is a large section. Grüber gives many questions relating to whether laypeople could choose their own father confessor (*Beichtvater* or *confessionarius*), or whether they had to stay with their appointed parish pastor. It is obvious that the parochial system together with mandatory private confession and Absolution before Communion were a burden for many. Also, many questions dealt with people who had notorious sins but refused to confess these sins and to live a life of repentance. What should the father confessor do?\(^{187}\) There were similar problems among the clergy, where each pastor had his own father confessor. If disputes arose between a confessant and his father confessor, could the confessant seek a different father confessor?\(^{188}\)

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\(^{186}\) *Thesauri Consiliorum Et Decisionum Appendix Nova*, p. 504 (App.1.3.1.4.2, no. 3).


\(^{188}\) Grüber, *Thesauri Consiliorum Et Decisionum Appendix Nova*, pp. 516–77 (Ad App.1.3.1.3.3). There are 34 questions in this section.

\(^{188}\) Grüber, *Thesauri Consiliorum Et Decisionum Appendix Nova*, pp. 579–84 (App.1.3.1.3.5, nos. 2–3).
Questions on confession and Absolution are not limited to the section of Grübel’s *Appendix Nova* that goes by that name. For example, in the section on counterfeiting, which is in the part of the book that is supposed to deal with the magistracy, a question reads, “Can a coin counterfeiter [Kipper und Wipper] be rightly rejected from the confession-chair and the Holy Supper until he has performed public repentance [Kirchenbusse]?“ A similar question was asked about someone who was known to be promiscuous. “How should one proceed with someone who has been accused of fornication, and has even been convicted of it, and nevertheless receives the venerable Supper as though he had not done it, and moreover is frivolous and rash?” A number of questions also


190. “Wie mit einem/ der eines strupri beschuldiget/ auch dessen überzeuget/ und dennoch die H. Absolution und das Hochwürdige Abendmaßl empfahet/ als hätte ers nicht gethan/ und darinne liederlich und leichtfertig ist/ zu verfahren?” The fornication was proved because the woman involved became pregnant. The woman filed unspecified charges against the man; the woman is not mentioned as being prosecuted. The man denied the charges and received Holy Communion (with preceding individual Absolution) in order to prove his innocence. Later, he confessed to the fornication and was punished. The civil consequences of his deed were clear enough, but the churchly consequences were unclear. The Leipzig theological faculty answers that when the case was still pending, before he had been convicted, he should have been suspended from Absolution and Communion. Now, however, the man was excommunicated. If he wanted to receive Christian instruction, he should be shown his sins and told to seek forgiveness from the entire congregation, whom he had offended. That is, public church repentance, specifically for his fornication and of his misuse of Holy Absolution and the Holy Supper, was required before he could be readmitted to Absolution and the Supper. Grübel, *Thesauri Consiliorum Et Decisionum Appendix Nova*, pp. 565–66 (ad App.1.3.1.3.3, no. 2).
deal with people engaged in lawsuits or other quarrels with each other, or with their father confessor, and whether they can be absolved and admitted to the Lord’s Supper without a reconciliation preceding.¹⁹¹

Not only does Grübel include questions related to the pastor’s ministry, he also discusses the performance of ministerial acts (Absolution, Lord’s Supper) by laypeople. “Can laymen absolve in a case of necessity, just as they can baptize?” The Wittenberg theological faculty responds by making a distinction between “significative Absolution” and “instrumental Absolution.” The former belongs to every Christian, but the latter belongs only to pastors, even in a case of necessity.¹⁹² Likewise, “If a preacher in a village, while he is consecrating the bread during the act of the Supper, passes out, may the sacristan or another Christian then consecrate the chalice and commune the congregation?” The Leipzig theological faculty responds in the negative both to this question and to the question of whether a layman may distribute but not consecrate the Lord’s Supper.¹⁹³ A related question deals with whether the congregation may sing the Words of

¹⁹¹ The general principle in these cases is that reconciliation among Christians is necessary before receiving Holy Communion: Grübel, *Thesauri Consiliorum Et Decisionum Appendix Nova*, pp. 416–29 (App.1.2.3.6, nos. 3, 5, 7–8, 10), pp. 449–51 (App.1.3.1.2.4, no.1).


¹⁹³ “Wann einem Prediger auff einem Dorffe/ da er sub actu coenae panem consecrret, eine Ohnmacht ankömt/ ob denn der Küster oder ein ander Christ/ möge calicem consecrire, und die Gemeine communiciren?” Grübel, *Thesauri Consiliorum Et Decisionum Appendix Nova*, pp. 408–9 (App.1.2.3.3, nos. 1–2).
Institution for the Lord’s Supper (e.g. 1 Cor. 11:23–25) together with the preacher. The theological faculty of Jena answers that the singing of the words belongs properly to the “priest” and is not a song for all in common. Nevertheless, since the people are singing the words to strengthen their devotion and not to consecrate the bread and wine, the practice can be tolerated. ¹⁹⁴

The elements used in the Lord’s Supper were a matter of reflection. The elements to be used were, of course, bread and wine. Here, a counsel included by Grübel speaks against substituting fortified wine for regular wine. It is asked: “If brandy is provided by a pastor instead of wine, or wine that tastes strong like brandy, and is consecrated in the act of the Supper, the question arises: What kind of punishment should the pastor be given?” ¹⁹⁵ The pastor who did this had been immediately suspended from office. The theological faculty of Jena recommends that he be restored to office since it appears that this was an unintentional mistake on the pastor’s part. The faculty’s response shows an understanding that if the pastor had intentionally used brandy, this would have been wrong and punishable.

In the Appendix Nova, it appears that Grübel took some liberties with his arrangement of the questions and counsels. For example, section 1.2.3.6, which in the Thesaurus

¹⁹⁴. Grübel, Thesauri Consiliorum Et Decisionum Appendix Nova, p. 661 (App.1.3.2.2.4, no. 1).

¹⁹⁵. “Da von einem Pfarr aus Versehen Brandtewein an statt des Weins/ oder Wein/ der starck nach Brandtewein geschmeckt/ in actu Coenae consecrirt, fragt sichs: Mit was vor Straffe der Pfarr zu belegen?” Grübel, Thesauri Consiliorum Et Decisionum Appendix Nova, p. 637 (App.1.3.1.4.5, no. 7).
dealt with admission to the Lord’s Supper specifically, here in the *Appendix Nova* seems to be a catchall for cases of all different sorts, held together only by the question of whether people engaged in these activities may be absolved and admitted to the Lord’s Supper. Thus, for example, Grübel includes a number of questions on servants and their rebelliousness in this section. Likewise, in the *Thesaurus*, section 1.2.3.7 was devoted to questions regarding the admission of Calvinists and heretics to the Lord’s Supper in a Lutheran church. In the *Appendix Nova*, the section is general enough to consider a case simply of unworthy reception due to a crime.

If one, after having received Absolution, and indeed on Easter Day, helps someone else strike and wound someone, and nevertheless the next day (without the priest knowing what had happened) finds his way to the Holy Supper: (1) Is it to be suspected that he received the Holy Supper unworthily, and (2) because the deed is notorious and thus the congregation is offended, should he be punished with public repentance [*Kirchen-Busse*], and (3) isn’t the priest obligated to report this to the magistrate?

As interesting as this question is, it has nothing to do with the admission of “Calvinists and heretics” to the Lord’s Supper.

196. Grübel, *Thesauri Consiliorum Et Decisionum Appendix Nova*, pp. 419–24 (1.2.3.6, nos. 3–6).

197. “Wann einer nach empfangener Absolution/ und zwar am H. Ostertage einen andern hilft blutrünstig schlagen/ und dennoch des andern Tages drauff (ohne des Priesters Bewust was vorgangen) zum H. Abendmahl sich findet/ ob derselbe (1.) nicht vermutlich das H. Abendmahl unwürdig empfangen/ und (2.) weil das factum notorium, und also die Gemeine geärgert/ mit der Kirchen-Busse solle belegt/ und ob nicht (3.) der Priester dem Magistratui solches zu denunciren schuldig sey?” Grübel, *Thesauri Consiliorum Et Decisionum Appendix Nova*, pp. 429–31 (App.1.2.3.7, no. 1). The judgment is given by the theological faculty of Leipzig.
Grübel also includes an interesting question on the continuing existence of monasteries within the Lutheran Church after the age of the Reformation. “Should the canons in those cloisters which have been reformed through God’s grace and the service of Luther preserve celibacy, and can they live in it with a good conscience?” In response to this question, the faculty of Leipzig makes clear that a condition for monastic life is celibacy, but that since this is merely a human arrangement, one can decide to leave the cloister and get married. 198 There is also a question on the administration of a monastic community (Stifft). 199 Grübel includes an interesting new section, entitled “De collegio philadelphico” (“On a community of brotherly love”). The questions in this section are dated to 1630. One of the questions gives rules for such a community: “Conditions among brethren for establishing the laws of a future community [Collegii].” No author or date is given for this question. 200

This constellation of questions and answers regarding the privileges of the ministerium indicate several things about church life in the middle to later 17th century. On the one hand, the counsels show that pastors felt offended due to various actions of their con-


gregations or of civil leaders. On the other hand, we see here that attempts were made to lessen the prestige and prerogatives that ministers of the Gospel enjoyed. This could and did lead to conflict, as laity and civil leaders resented pastoral domination and pastors felt that the infringements on their rights would hinder their ministry of the Word and Sacraments. The parochial system combined with compulsory confession continued to be a burden to many. We also see that Grübel did not always carefully arrange his cases. All in all, Grübel’s Appendix Nova appears as an important anthology of texts related to controversies and church life in the 17th century, but it is, by design, not as complete and well-rounded as the Thesaurus itself.

Conclusions

In this chapter we have set forth the major themes discussed in the 1671 Thesaurus consiliorum et decisionum. Overall, the Thesaurus presents itself as a pastorally focused collection of counsels and decisions, dealing both with doctrine and practice. The topics chosen for inclusion, even in the volume on civil government, deal especially with situations a Lutheran pastor would have faced. This is to be expected, given the goals of Dedekenn, a pastor, in producing the Thesaurus.

The theme of inter-confessional disputes is woven into many places of the Thesaurus. This theme, like a Leitmotif, shows how important it was to the editors of the Thesaurus and their readers to confess the distinguishing features of their Lutheran doctrine and practice clearly. The sacraments of Baptism and the Lord’s Supper, as important
pastoral-liturgical rites and as foundational events in the Christian’s life of faith, likewise are discussed in great detail, as is the Evangelical practice of private confession and Absolution. The church’s government and the office and duties of pastors form another large constellation of questions. Questions regarding marriage and sexual ethics are very important in the Thesaurus—betrothal, for example, is the biggest topic both in terms of questions and of pages.

Christian Grübel’s focus in his Appendix Nova is a pastoral handbook, similar to Dedekenn’s and J. E. Gerhard’s volumes, but not as full and complete. In addition to pastoral issues, Grübel also adds much source material on recent controversies, making his volume something of a repertory for recent polemics, in a way that the other volumes are not.

The Thesaurus is uniquely Lutheran. The issue of inter-confessional relations runs throughout the cases collected by Georg Dedekenn, Johann Ernst Gerhard, and Christian Grübel. In case after case, the Lutheran theologians and faculties profile themselves in distinction from Roman Catholic and Reformed Christians. The doctrinal focus of the counsels likewise sets forth uniquely Lutheran views. In the many cases dealing with Baptism, the Lord’s Supper, confession, exorcism, and various adiaphorous ceremonies, the Lutheran confession of the Christian faith is set forth with confidence. The underlying position is the certainty that what is being set forth is the truth. And it is this truth which can instruct and assure doubting consciences.
The *Thesaurus* is pastoral. Even in the sections dealing with the duties of civil government, the cases presented generally deal with how civil government and the church intersect, and how pastors should relate to civil leaders. A major focus of the *Thesaurus* is the pastor’s office and duties, and in this way it, in many places, comes to resemble a pastoral theology or pastor’s handbook, but with its content drawn directly from the leading theologians and faculties of post-Reformation Lutheranism.

The *Thesaurus* is dogmatic. The table of contents for the work shows the wide variety of topics addressed. The first volume, dealing with dogmatic and ministerial topics, is by far the largest, and much of it deals with issues of right belief, not just of right behavior. The dogmatic focus is furthermore seen in the documentation of intro-Lutheran controversies, which Grübel’s *Appendix Nova* reported in detail.

The *Thesaurus* is practical. The wide range of questions included deal with ethics in all areas of life, both in public and in the family. The volume on marriage contains the biggest topic of the *Thesaurus*: betrothals. Also, the limitations of religious pluralism were an area of practical concern for one’s life in 17th-century German Lutheran society.

These are all cases of conscience, and so the writers of these counsels write with confidence and seriousness. Indeed, a certain degree of seriousness is necessary for a genre of casuistry to exist in the first place, for if the matters discussed were not serious, they would not have been recorded. This attitude of serious contemplation of right faith and behavior is coupled with reverence for God’s institutions. The sacraments, as divinely instituted means of grace, are treated with reverence and even veneration. The
offices of princes and pastors and the estate of marriage are likewise treated with honor
by the counsel-writers as offices instituted by God for the good of his people and of the
world.

Yet the counsels included in the *Thesaurus* also point clearly at the problems
experienced by Orthodox Lutherans. The parochial system combined with compulsory
confession led to many cases of conscience. Personal conflicts and disputes, as well as the
specter of war, gave people consternation and caused them to seek expert advice. One of
these areas of trouble and doubt was marriage, specifically these questions: “Under what
circumstances is it permissible to seek a divorce?” and “May divorced people remarry?”
As we shall see in our next chapter, the *Thesaurus* presented many answers to these ques-
tions, not all of them consistent with one another.
CHAPTER 5. DIVORCE AND REMARRIAGE IN THE
THESAURUS CONSILIORUM ET DECISIONUM

In this chapter, we shall examine the counsels included in the Thesaurus on the topics of divorce and remarriage in order to determine the methods and arguments used. By so doing, we shall be able to evaluate whether the purposes for the Thesaurus, as stated in the prefatory material for the work, as well as the methods of moral reasoning discussed in the same place, correspond to the working out of the cases themselves.¹

In the prefatory material, Georg Dedekenn, various theological faculties, the sons of Johann Ernst Gerhard, and Christian Grübel had set forth the following purposes for the Thesaurus and the following methods of moral reasoning: God’s Word is the highest authority in all ethical matters. Yet God’s Word does not give explicit judgments for all cases. Where God’s Word does not give explicit judgments, the cases are still not neutral; there are objectively right and wrong decisions even in such cases. Moral reasoning, though the responsibility of every individual, is not to be individualistic in its norms, nor should one follow his own preconceived opinions. One should, instead, follow wise and

¹. See chapter 3 above.
prudent people, especially pastors, in one’s moral reasoning (aristocratic moral reasoning), yet one should not follow them blindly. It is their arguments which should be examined, not just their decisions, and one must pay close attention to circumstances when examining their decisions, or else their decisions may not be applicable in another case. Yet despite the emphasis on the circumstances of cases, cases are not radically unique; they can be the same as other cases. The norms for giving counsels are, first, Holy Scripture; thereafter, logical consequences drawn from Scripture, church law, civil law, local custom, and natural law, according to the matter at hand. If one cannot get exact instruction from these, then he should rely on prayer, the direction of his Christian conscience, the light of nature, and the gifts that God has given him, including Christian equity. The counsels given by wise and prudent teachers are not binding per se. Nor do they always agree, especially in matrimonial cases. Their purpose is not to bind and obligate but to teach and instruct. In so doing, they serve to remove doubt from the conscience of a Christian, they help to remove arbitrary practices, and they promote uniformity.

In chapter 3, we noted that several of the prefatory documents stated that there was diversity especially among the matrimonial counsels. In this chapter, these questions arise: Can this diversity be seen in the counsels on divorce and remarriage? Does the diversity have to do with the moral law (e.g., with the interpretation of Scripture), or merely with positive human law that reaches beyond the moral law? Do the editors of the
Thesaurus offer any guidance in navigating this diversity? In the counsels that the Thesaurus sets forth, on what are the arguments based?

For our more focused examination of the cases included in the Thesaurus, we have chosen the sections of volume three dealing with divorce and remarriage. These sections have been chosen for several reasons: It is a part of Dedekenn’s work marked by variance and diversity, and thus will provide an apt sample for examining how moral reasoning was carried out. It was a topic that was handled in a characteristically Lutheran way. Though Roman Catholic canon law continued to influence Lutheran teaching on marital matters, divorce and remarriage formed an area where the Lutherans diverged from Roman Catholic practice. Although many causes for annulment of marriage were recognized (often due to the complicated rules on forbidden grades of relationship), the Roman Catholic Church in principle forbade all divorce, permitting only separation from bed and board for certain causes.\(^2\) Thus, this study will help to portray the unique teaching and social configuration of early modern Lutheran Germany.

This section of the Thesaurus is also related to the conscience and casuistry. Although the word “conscience” (Gewissen, conscientia) is not prevalent in even a majority of the counsels of this section, it is, nevertheless, present in several of them.\(^3\) And at a deeper level, the counsels have a function that is intimately related to the con-

\(^2\) Maurice E. Schild, “Ehe/Ehrechts/Ehescheidung VII. Reformationszeit,” s.v. in TRE, here at 9:344.

\(^3\) See above, pp. 65–75.
science. They seek to set forth what is right. They seek to inform the conscience on what the safe and correct course of action is in all the various situations of life. Therefore, at this deeper level, all of the counsels included in the *Thesaurus* relating to divorce and remarriage are cases of conscience. As we examine them, we will ask what the principles are by which the authors reach their decisions. This, after all, is what the prefatory material to the *Thesaurus* would have us do.⁴

**State of the Question**

The Lutheran Reformation in Germany brought about major changes to the practice of marriage. One major change to the previous view was the Lutheran permission and encouragement of the marriage of priests.⁵ With regard to divorce, the Council of Trent declared marriage to be absolutely binding. Divorce could not be granted even in a case of adultery. The council specifically anathematized those who allowed divorce for the sake of desertion, violence, or heresy.⁶ The reformers, on the other hand, took a different approach. By considering marriage not to be a sacrament but rather a social estate, they paved the way for the possibility of divorce and remarriage. No longer was marriage in all cases indissoluble.⁷

⁴ See above, ch. 3.


⁷ Witte, *Law and Protestantism*, 17, 202, 226–28, 247; Frassek, *Eherecht*, 181, 224,
What were the sources for Lutheran moral reasoning on the issue of divorce and remarriage? We have heard above (ch. 3) that for Dedekenn, Scripture was the highest norm, followed by church law, civil law, custom, and natural law. According to John Witte, Lutheran church ordinances (i.e., Lutheran territorial canon law) usually included sections on marriage, sex, and family, including the question of divorce. In these church ordinances, as well as in other juristic and casuistic writings, medieval canon law continued to influence many Lutherans. Witte argues that despite the early Lutheran rejection of canon law—symbolized by Luther’s burning of the Corpus Iuris Canonici, the Summa angelica, and other books in 1520—Lutherans by the late 1520’s were appropriating canon law for use in the new Lutheran church ordinances and for use in civil law. Thus, what began as a revolt against canon law became a reformation of canon law, or as Witte puts it, “a compromise.” Therefore Melanchthon in 1531 could claim: “We conform to the canons more truly than do the adversaries.” Though Luther remained opposed to Roman Catholic canon law as a source for Lutheran ecclesiastical and civil law, the Evangelical jurists of his time were much more willing and ready to draw from it as a

275; Joyce, Christian Marriage, 409.

8. Witte, Law and Protestantism, 16. According to Frassek (Eherecht und Ehegerichtsbarkeit, 37, 159, 210), the “Grosse Kirchenordnung” of August of Saxony codified in a set of norms that which had been developed via a process of adjudication during the previous five decades. The section of this church ordinance on marriage, however, is not very extensive.


valid source, since it was time-tested and was often based on the Bible and early Christian church constitutions.\textsuperscript{11}

On the issue of divorce and remarriage, many Lutherans were also influenced by ancient Roman imperial law, which took a rather lenient position on the causes for divorce. According to Witte, the reformers justified the civil government’s adoption of the causes of divorce recognized by Roman imperial law by distinguishing between two kingdoms. Christians are to be ruled by God’s law in Holy Scripture, which sets forth more stringent standards for divorce, but the civil government can adopt laxer laws since its job is to rule not just Christians but also unbelievers. The latter, laxer position compromises the moral law in order to maintain peace and order in a fallen world.\textsuperscript{12}

Witte mentions differences in the causes of divorce from territory to territory. Ralf Frassek, likewise, notes the tensions between theologians (especially Luther) and jurists, and portrays a unifying process with regard to marital adjudication in Saxony in the 16th century.\textsuperscript{13} George Hayward Joyce’s earlier work went a step further in categorizing the various positions among the Lutherans. According to Joyce, there were two schools among post-Reformation Lutherans: a stricter school that recognized only adultery and malicious desertion as grounds for divorce; and a laxer school that permitted


\textsuperscript{13} Frassek, \textit{Eherecht und Ehegerichtsbarkeit}, 111, passim.
divorce for all the causes allowed by ancient Roman imperial law, including violence, serious crime against others, and impiety. Yet the difference in theory did not really matter, according to Joyce, because in practice there were ways to obtain divorce for the laxer causes even where the stricter theory prevailed. As we will see below, this last statement of Joyce can be challenged on the basis of the cases that the *Thesaurus* includes.

Recent literature dealing with divorce in Germany in the 16th and 17th centuries notes that divorce was permitted for various reasons: adultery, malicious desertion, and other faults, according to Witte; adultery, malicious desertion, and stubborn refusal to render the conjugal obligation, but not for poverty, sterility, banishment, or differing confession, according to Holtz (whose study was focused on Tübingen); adultery, malicious desertion, and antecedent impotence, according to Korpiola; adultery, malicious desertion, serious handicap preventing common life, and attempted murder of one’s spouse, but not refusal of the “marital obligation,” disorderly life, crimes, or violence,


15. That is, sexual intercourse with one’s legitimate spouse. The name *debitum conjugal* comes from 1 Cor. 7:3, where the Vulgate reads, “uxori vir debitum reddat similiter autem et uxor viro.”

Looking at Lutheran dissertations from the 17th century, Stephan Buchholz notes an increasing tendency toward permissiveness, broadening the limits of what constitutes a malicious desertion. Luther himself uttered his judgment on the causes for divorce in two places. In *The Estate of Marriage* (1522), he lists antecedent impotence, adultery, malicious desertion (including the refusal of the marital obligation); in addition, if husband and wife cannot get along, they may separate, but not remarry. In *On Marriage Matters* (1530), on the other hand, Luther lists only adultery and malicious desertion. Thus, the literature presents unity in the center of this Lutheran practice, that divorce was permitted in cases of adultery and malicious desertion. But beyond that, a chaotic spectrum of causes are presented, and the literature that is not focused on one


locality makes it clear that the laws on this matter varied from place to place. In our examination of the cases on divorce and remarriage in the *Thesaurus*, we will analyze the arguments and reasonings that various writers used to justify their divergent positions.

A few observations about marriage in the Reformation and post-Reformation periods will be of help before we move to the cases in the *Thesaurus*. First, though many thought of the public vows given in betrothal as constituting the marriage, other Lutherans stressed the necessity of the wedding with its churchly blessing before beginning married life.\(^20\) Second, though Luther spoke about marriage as a civil institution, Luther and other Lutherans did not forget that marriage is not a purely secular institution, but is a concern of the church as well.\(^21\) Whether or not marriage was defined as secular, for Luther, the “secular” realm was not devoid of Christian norms. God ordained both the temporal government and the spiritual government and is at work in both. Christians, moreover, are citizens of both kingdoms and have responsibilities toward both.\(^22\) Third, though it was often said that “adultery puts asunder the marriage,” this was not understood in the sense of an automatic legal consequence. Adultery and other causes of divorce did not automatically break marriages; a legal process was still required.\(^23\) Fourth, 

\(^20\) Pelt, “Die christliche Ethik in der lutherischen Kirche vor Calixt,” 298.


\(^22\) Lohse, *Martin Luther’s Theology*, 319–21.

\(^23\) Frassek, *Eherecht*, 249.
the conditions and guilt for adultery were equal, no matter whether it was a man who committed it or a woman.\textsuperscript{24}

Here, in our examination of the divorce and remarriage cases in the \textit{Thesaurus}, we will begin with cases that discuss the causes for divorce in general. These cases deal with divorce and malicious desertion—the main causes for divorce—in sufficient detail for the present study. Divorce and malicious desertion were generally accepted and presented relatively few difficulties in how they were to be decided. Next, we will examine other areas that arise as possible causes of divorce: inability or refusal to perform intercourse, violence, and impiety. These causes were not universally accepted as causes for divorce. The question of remarriage, especially for the guilty party in a divorce, will also come up for examination. The various arguments pro and contra present a lively debate whose contours it will be our task to sketch.

\textbf{The Legitimate Causes for Divorce}

In the section entitled “On the causes of divorce in general, and specifically about impiety toward God,” the editors of the \textit{Thesaurus} present cases with much diversity in teaching and arguments.\textsuperscript{25} The first document in this section is a very long quotation

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\textsuperscript{24} Sabine Holtz demonstrates this view on the part of preachers in Tübingen during the 16th and 17th centuries. \textit{Theologie und Alltag}, 198. The same view will be seen in the cases presented in the \textit{Thesaurus}. See below, p. 268.

\textsuperscript{25} Dedekenn and Gerhard, \textit{Thesauri Consiliorum Et Decisionum Volumen Tertium}, pp. 315–27 (section 3.4.3).
\end{flushleft}
(eight folio pages) from Niels Hemmingsen (1513–1600), a student of Melanchthon whose activities as reformer in Denmark and professor in Copenhagen earned him the title “Praeceptor Daniae.” In this excerpt, Hemmingsen gives instruction to Danish judges and presents what he calls the six usual causes of divorce. In support of his positions, Hemmingsen quotes Scripture and the early church fathers predominantly, though he also knows the scholastics and canonists. His quotation of extrabiblical sources seems just to illustrate his arguments rather than proving them.

Hemmingsen begins by giving a history of the debate on how many causes of divorce there are. For example, Jesus in Matt. 19:9 says that there is only one cause: adultery. Although Jesus gave but one cause for divorce, Paul in 1 Cor. 7:15 adds desertion.


27. Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Tertium, pp. 315–23 (3.4.3, no. 1).

28. It is notable that in this juristic context, a very narrow definition of adultery is being given: provable intercourse. This alone is the “adultery” which is a cause for divorce. The Lutheran catechetical tradition, on the other hand, could define “adultery” broadly to include many sins of thought and word that were not grounds for divorce. LC I
Hemmingsen says that this has caused many to argue that Jesus’ words were synecdochical, which would allow other causes. That is, they argue that Jesus was speaking about the genus, and Paul was speaking about a species. The next part of this argument is that other crimes which are equal or greater in gravity than adultery are also causes for divorce. Some argue in favor of many causes of divorce based a variant reading of “except for fornication” in Matt. 19:9: παρεκτὸς λόγου πορνείας. Now, since λόγος can be defined as “proportion,” Jesus was speaking about all crimes that are as bad as fornication. This is the argument that many Christian emperors followed. Hemmingsen does not necessarily agree with the proportion argument here (though he uses similar proportion arguments elsewhere), but he does agree that Christ in Matt. 19 was speaking about the genus of causes for divorce.

Hemmingsen disagrees with Ambrose, who, he says, had different standards for men and women with regard to divorce and remarriage. He writes, “The scholastics say most correctly: Spouses are judged according to equal standards with regard to the bed. Again: Where the nature [of the deed] is equal, the judgment ought also be equal.”


29. Not only is this a variant reading in in Matt. 19:9, it is the main reading in Matt. 5:32—a fact which is not mentioned here by Hemmingsen. On the meaning of πορνεία, see the Commission on Theology and Church Relations of the Lutheran Church—Missouri Synod, “Divorce and Remarriage: An Exegetical Study” (Nov., 1987), http://www.lcms.org/graphics/assets/media/CTCR/Divorce.Remarriage1.pdf, accessed on 11/8/2008, p. 16.

The canonists set forth twelve causes for divorce, not all of which Hemmingsen approves. These are:

Error, condition, vow, relation, crime, disparity of cult, violence, order, bond, honesty, if you are related by marriage, if perhaps you are unable to have intercourse; these things prevent future marriages, and cancel marriages already joined.\(^{31}\)

But rather than dealing with these one by one, Hemmingsen prefers to proceed to the six causes that he considers to be just. First, he gives one distinction. Some marriages are true marriages, in which case Christ’s rule must be followed carefully, and some marriages are not true, in which there is less danger. The six usual causes of divorce, according to Hemmingsen, are adultery, malicious desertion, inability of bodies for the use of matrimony, error, violence, and impiety.

**Adultery**

Hemmingsen recommends forgiveness toward one who has lapsed once or twice into adultery, if now there is hope that she\(^ {32} \) will live chastely. But if she is publicly adulterous, then she ought to be divorced. If she does not repent and the innocent party does not divorce her, then he shares the guilt of her sin. That is, continuing to live with an adulteress makes the husband also guilty of adultery, perhaps because he would appear to

\(^{31}\) “Error, conditio, votum, cognatio, crimen, Cultus disparitas, vis, ordo, ligamen, honestas, Si sis affinis, si forte coire nequibus; Haec socianda vetant, connubia juncta retractant.” Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Tertium*, p. 317.

\(^{32}\) Hemmingsen generally uses “she” to speak of the guilty party in this excerpt.
approve of her sin. Even if it is clear that divorce would be legitimate in this case, one still cannot act on his own authority. One cannot divorce without a judge’s decree. The judge must first establish whether the accused adulterer is truly guilty, and give her an opportunity to respond to the accusation.

At this point, Hemmingsen presents several impediments to divorce in a case of adultery. First, if the one asking for the divorce is himself also guilty of adultery, divorce cannot be permitted. Second, if the husband has prostituted his wife, divorce cannot be permitted. Third, if the wife believed her husband was dead and married another, the first husband cannot object to her adultery. The reason is that she sinned in ignorance, not in malice. If the husband was absent due to an evil deed, he cannot get his wife back; she should stay with the latter husband. Fourth, if she was caught with someone she believed to be her husband, divorce cannot be permitted. This was an error, not a fault. Fifth, if the wife was raped, she cannot be divorced. Sixth (according to the canonists), if the husband had intercourse with his adulterous wife after he discovered the adultery, divorce cannot be permitted. Such an action on his part would be equivalent to reconciliation with her. Hemmingsen would not want this impediment to be understood inappropriately, however. For example, if she commits adultery, repents, he has intercourse with her, but then she lapses again, his former intercourse with her should not prevent divorce in this case.

Here, Hemmingsen discusses whether remarriage can be permitted to the guilty party in a divorce. He says that if the magistrate lets an adulterer live, many of the fathers
judged that she was unworthy of a new marriage.\textsuperscript{33} Hemmingsen, however, would allow remarriage for a penitent adulterer. “I admit indeed that she is unworthy; but the mercies of the Lord are many, and they cause the sins to be forgotten of those who turn to Him in true repentance.”\textsuperscript{34} Therefore he judges that an adulterer who is penitent is not to be given no hope at all of a new marriage. But for the sake of church discipline, the serious penitence of the guilty party must be explored, and this must be demonstrated for a certain period of time. She cannot marry the person with whom she committed adultery; this would seem to continue the adultery rather than to characterize a penitent Christian. Hemmingsen mentions the example of King David and Bathsheba (2 Sam. 11:27; 12:24), but says that this was an exception, not the rule. The guilty person who would remarry must change her locality to someplace where her turpitude is not known. Otherwise, “in a short time all places will be full of adulteries.”\textsuperscript{35}

Here an objection arises from 1 Cor. 7:10–11: “The wife should not separate from her husband (but if she does, she should remain unmarried or else be reconciled to her husband).” Hemmingsen responds that Paul is not speaking of one who is forced to

\textsuperscript{33} This was position of several counsels in the repudiation section of the \textit{Thesaurus}: Dedekenn and Gerhard, \textit{Thesauri Consiliorum Et Decisionum Volumen Tertium}, pp. 192 (3.2.13, no. 9), 194 (no. 11), and 200–1 (no. 22).

\textsuperscript{34} “Fateor equidem indignam esse; sed misericordiae Domini multae sunt, quae faciunt, ut obliviscatur peccatorum eorum, qui se ad illum in verâ poenitentia convertunt.” Dedekenn and Gerhard, \textit{Thesauri Consiliorum Et Decisionum Volumen Tertium}, 319.

\textsuperscript{35} “brevi omnia adulteriis plena erunt.” Dedekenn and Gerhard, \textit{Thesauri Consiliorum Et Decisionum Volumen Tertium}, 319.
divorce due to adultery, but one who voluntarily leaves. Hemmingsen’s principle is that if
the innocent party is freed to remarry, the guilty party should not be bound. “For the bond
does not remain unless those remain who are bound.”\footnote{36}

\textit{Malicious Desertion}

Hemmingsen’s second cause of divorce is malicious desertion, grounded scripturally in 1 Cor. 7:15. Hemmingsen reconciles Christ’s words about adultery being the
only legitimate cause of divorce and Paul’s permission in the case of desertion by point-
ing out that Christ was speaking of one who would audaciously reject his spouse, which
Christ did not approve. But Paul is speaking about someone who is unjustly deserted. “In
short, Christ speaks about one who is making a divorce; Paul, about one suffering
divorce.”\footnote{37} According to Hemmingsen, Luther and others correctly apply 1 Cor. 7:15 to
the genus: Paul’s permission in this one case applies to the genus of any malicious
desertion.

In a case of malicious desertion, the innocent party is free to remarry, but under
certain conditions. A three-year waiting period is set for the return of the deserter. Public
summons are published in three places where the deserter, his family, or friends are
thought to live. Then, the deserted party must prove to the judge: first, that she lived hon-

\footnote{36} “Non enim manet ligatio, nisi maneant, qui ligantur.” Dedekenn and Gerhard, 
\textit{Thesauri Consiliorum Et Decisionum Volumen Tertium}, 319.

\footnote{37} “Breviter, Christus loquitur de faciente divor-tium; Paulus autem de patiente divortium.” Dedekenn and Gerhard, \textit{Thesauri Consiliorum Et Decisionum Volumen Tertium},
320.
estly with her husband and is now deserted; second, that three years of waiting have elapsed; third, that public summons in three places have occurred. Then the judge can pronounce her free to remarry in the Lord. (The same judgment applies to a deserted husband.)

However, if she by her behavior vexed the husband so as to cause him to desert, another three-year waiting period is to be set, Hemminsen says, simply as a penalty for her obstinacy toward her husband. Thereafter, she can remarry if she cannot contain herself. If the deserted party fornicated during the three-year waiting period, then no remarriage can be granted in that city or province. She could remarry elsewhere, nevertheless, where she is less known.38

**Inability of Bodies for the Use of Matrimony (Impotence)**

Hemmingsen’s third cause of divorce is “the inability of bodies for the use of matrimony.”39 There are many factors that must be considered here: first, whether the inability preceded the wedding or followed the wedding;40 second, whether it is curable; third, whether the wife knew about it before the wedding.41


40. That is, antecedent or supervenient impotence.

41. Hemmingsen lists these as four factors but actually treats them as three.
If the inability preceded the wedding, this is a “sin in the material of marriage.” The healthy party can be freed; it was not a true marriage, because they did not consent legitimately due to the deception of one party. The principle here is: “Therefore since God approves neither of deceit nor of error, it should not be said that they have been united in marriage.” No explicit scriptural rationale is given here. Hemmingsen seems to base his position on a sense of justice or on the nature of vows and contracts, or both.

If there is hope for a cure, a three-year waiting period is to be established. Then if the impotent spouse is not cured, a judge can pronounce that it was not a marriage. But if the illness set in after the wedding and after intercourse, then divorce can in no way be permitted. Here, Hemmingsen’s principle is: “Whenever misfortune strikes, if guilt is absent, it is to be endured in marriage patiently.” If the man castrated himself after the wedding, or made himself “non-functioning” (inutilem) for intercourse by taking medicine or poison, he is to be punished by the magistrate as a murderer, and this constitutes a divorce by the sword.

If the healthy spouse knew of the condition before the wedding, then they are compelled to dwell together. Hemmingsen’s rationale here is that both knew of the fraud, and they should not be rewarded for this fraud by being granted a divorce.

42. “Cum ergo Deus nec fallaciam, nec errorem probet, non est dicendus eos conjunxisse.” Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Tertium*, 320.

Error

Hemmingsen’s fourth cause of divorce is error, of which there are four kinds, according to the canonists: “of person, condition [i.e., slave or free], fortune [i.e., wealth], and quality [i.e., virginity].” The principle here is “the will of one in error is non-existent” (*errantis voluntas nulla*). According to the canonists, says Hemmingsen, the first two kinds of error deal with the substance of marriage, but the latter two have to do only with the accidents of marriage. Hemmingsen agrees that errors of person and condition are grounds for annulling a marriage. But he says he also agrees with those who grant divorce for an error of quality. His rationale is that if fornication was before betrothal, then there was deceit; but if it occurred between betrothal and the wedding, then this crime was not foreign to adultery. Apparently, Hemmingsen views deceit as the fundamental problem here, and thus seems to be arguing from the nature of a contract. It is hard to see how Hemmingsen can legitimately view intercourse before betrothal as adultery, however. Contrary to Martin Luther’s position on betrothal, which became dominant in Germany by the end of the 16th century, Hemmingsen viewed betrothal as dissolvable for nearly any reason. Elsewhere, he makes a clear distinction between betrothal and marriage.

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45. Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Tertium*, 188–90 (3.2.13, no. 4).
In such a case of error, the innocent person can remarry in the Lord, Hemmingsen says. Here he adds an argument from Old Testament civil law. In Deut. 22, fornication was a capital crime, punishable by stoning. Hemmingsen does not explain exactly how this argument works, but he seems to imply that if a crime was capital in the Old Testament (which would effectively end a marriage due to death), then such a crime should be seen as grounds for divorce in the New Testament.

Violence

Hemmingsen’s fifth cause of divorce is violence, by which he means physical abuse or attempted murder. He cites Philipp Melanchthon’s *Libellus de conjugio*, which approves of Theodosian’s constitution granting divorce in a case of violence. Hemmingsen adds that, according to Melanchthon, the innocent party should be allowed to remarry. (Actually, Melanchthon did not address remarriage in this section.) Hemmingsen’s counsel is: for violence, there should be a separation from bed and board for three years, during which time reconciliation should be sought. If reconciliation is impossible, then divorce can be granted.

Remarriage for the innocent party is permitted. His rationale for this position is that the sadness of the innocent spouse in this case is much greater than in a case of adultery. Thus, he argues on the basis of proportionality over against adultery, an acknowl-

edged cause of divorce. Hemmingsen admits that canon law does not allow remarriage, yet he frames this question as a matter of conscience: “But the canons are too harsh, since they do not take consideration of the innocent conscience.”47 Also, since Jesus did not rebuke Moses (in Matt. 19, for example) but excused him, a pious magistrate who grants divorce in this case can also be excused. No remarriage can be permitted for the guilty party, however. And if anyone objects that the guilty party cannot contain himself and thus needs marriage, Hemmingsen responds that the magistrate should use the remedy which God instituted for curing violence and tyranny: the sword. If the woman, too, is guilty of violence, or even just a violence of words, then she cannot remarry.

**Impiety**

Hemmingsen’s sixth and last cause of divorce is impiety toward God. If this is joined with unwearying attempts to drag the pious spouse into the same impiety, then this dissolves the marriage. Hemmingsen distinguishes between infidelity, which 1 Cor. 7:12–13 addresses, and impiety, about which Hemmingsen is speaking here. Hemmingsen defines infidelity as characterizing someone for whom there is still hope that he will be converted to sound doctrine and holy conduct. Impiety, on the other hand, is either apostasy or heresy.

Hemmingsen here justifies his position with the proportion argument: since divorce is granted for lighter cases, such as violence, divorce should also be granted for

graver cases, such as impiety. He also cites Scripture. For the apostate, he appeals to 2 Cor. 6:14–16 (which, however, does not speak about divorce, though it could be applied to people who are considering marriage but have not yet entered it). For heretics, if the heresy is in the foundation of the faith and is obstinate, then Titus 3:10 applies: “Avoid a heretical man after one and two admonitions.” Hemmingsen also appeals to canon law. The canonists allowed separation in this case, but not divorce. Hemmingsen, however, says that the judge can grant divorce and remarriage after a three-year waiting period. His reason for this is the good of society, on one hand, and the argument from Old Testament capital crime on the other. (He states that in Deut. 13 this was a capital crime.) But if the heretic does not try to lead his wife into his error, she must stay with him. Heresy in itself does not overturn the foundation of marriage.

**Hemmingsen’s Arguments and Position within the Thesaurus**

Hemmingsen is writing for judges in a Christian state. He does not distinguish here between the two governments, or two standards: one for Christians and one for non-Christians living under a Christian magistrate. Therefore he works to find ways to adapt scriptural teaching to the exigencies facing judges in divorce courts or marriage consistories, rather than creating two standards. He seems to be speaking just about what is per-

\[\text{48. Hemmingsen’s quotation of this passage reads: “Haereticum hominem post unam & alteram admonitionem cave.” Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Tertium*, 323.}\]
missible for the magistrate to allow in the civil realm, but since he speaks about the conscience it seems that he is not distinguishing the two realms.

Hemmingsen’s argumentation is a resumé of the arguments used in various places in the *Thesaurus* with regard to divorce and remarriage. He argues from passages of the New Testament, especially Matthew 19 and 1 Cor. 7. He uses the argument from Old Testament capital crimes—that crimes that were punishable by death in the Old Testament are grounds for divorce in the New. Also, much of Hemmingsen’s argumentation is based on a comparison of severity of cases. This is what we have called the proportion argument. This argument says, if divorce is allowed in that case, then it surely must be allowed in this more serious case. His use of the proportion argument can seem less than fully objective. Moreover, Hemmingsen argues from the nature of contracts and often states non-scriptural, common-sense axioms as the justification for his position. And then, of course, sometimes his opinions are not supported by any arguments at all. For example, he casually mentions that a wife’s violence of words would prevent her from being remarried.

He also argues on the basis of an undefined notion of conscience, which sometimes allows him to be quite lenient, while at other times he is quite strict. Remarriage can be permitted in a case of violence, but not in a case of supervenient impotence. An unstated principle can be gathered: Hemmingsen usually avoid requiring perpetual celibacy of anyone, and regards this as a matter of conscience. In itself, this seems like a good Lutheran principle. The Lutheran confessions had stressed that marriage was sup-
posed to serve as a remedy against fornication. But he does not apply this principle consistently. He still says there are cases where one must be celibate—e.g., the healthy spouse in a case of supervenient impotence. Rather than stating the principle clearly and applying it consistently, he uses some arguments which are prone to subjective application, especially the proportion argument and the argument from Old Testament capital punishment.

Why would Dedekenn and Gerhard include Hemmingsen’s long counsel on this issue? The editors do not comment on why they have included this particular excerpt. Yet Hemmingsen’s presentation presents detailed information about the contours of the arguments used in all the various cases that arise relating to divorce and remarriage. Regardless of whether the other counsels in the Thesaurus agree with Hemmingsen (and they do not), still, Hemmingsen’s work serves the purpose of informing the reader concerning the state of the question and providing a background against which the other cases can be compared. It should be remembered that the writers of the prefatory material for the Thesaurus did not intend for the decisions to these cases in themselves to be considered as authorities. The Leipzig theological faculty, for example, directed the readers to pay attention to the arguments and learn from them, rather than just paying attention to the answers.


50. See above, ch. 3; Dedekenn, Thesauri Consiliorum Et Decisionum Volumen I, fol.
**Cases by Brenz and Others**

Hemmingsen did not distinguish between the remarriage of Christians and non-Christians. Johannes Brenz (1499–1570),\(^{51}\) on the other hand, in the next number uses this distinction to set forth a straightforwardly scriptural and yet realistic practice.\(^{52}\) Brenz’s counsel appears more conservative than the relatively lax position of Hemmingsen.\(^{53}\)

The question is whether there are other causes of divorce besides adultery. Brenz reviews the causes permitted by Roman law and notes Roman law’s similarities with Old Testament civil law, legislated by Moses. But, he notes, the position of Jesus and Paul is

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52. Joyce, *Christian Marriage*, 411 places Brenz among the laxer school of Lutheran theologians on the question of divorce and remarriage. This counsel in the *Thesaurus*, however, portrays Brenz in a different light.

53. Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Tertium*, 323–24 (3.4.3, no. 2).
more strict. Here, adultery and desertion are the only legitimate causes for divorce. How are Caesar and Moses, on the one hand, and Jesus and Paul, on the other, to be reconciled? Brenz says,

God’s Word teaches to do what is right without reservation; the two worldly magistrates, Moses and Caesar, allow a wrong and evil in order to prevent a greater wrong and evil. And this is the reason: God’s Word rules only the pious Christians, but the worldly magistrate often has under his rule a mix of Jews, Christians, pagans, Turks, and all manner of trash. Therefore, if he cannot instill in his subjects (as he would like) any Christian life, then he contents himself with preserving a peaceable life among them.54

Thus, Christian magistrates can follow Moses’ example. But pastors cannot consider as Christians, nor distribute sacraments to, people who have acted contrary to God’s Word.

And here Brenz gives a statement of the distinction between the two governments, civil and ecclesiastical. “Unfortunately, they must suffer the presence of many unchristians, but they should neither accept nor acknowledge any unchristians in the number of christians; in the same way, a worldly government must suffer much tumult in other lands, but in their own land they should not tolerate any tumultuous person.”55


55. “Leyden müssen sie leider/ daß viel Unchristen seyn/ aber in die Zahl der Christen sollen sie keine Unchristen annehmen und erkennen/ wie eine weltliche Obrigkeit viel unfriedens in andern Landen leyden muß/ aber in ihrem eigenen Lande sollen sie keinen Unfriedlichen gedulden.” Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Tertium, 324.
For a non-Christian man who was separated from his wife due to the potential for violence (apparently on his part), the civil ruler could allow him to have a concubine, to prevent adultery with other women and to prevent prostitution. But he could not be allowed another marriage, because this would close the door to his repentance. “For if he wanted to correct himself, he would have to leave his last wife and be joined to his first wife; but he could not leave his last wife on account of marriage.”

Thus, Brenz’s counsel, while allowing separation in the case of violence, does not allow the guilty party to remarry. Now, to be sure, Hemmingsen had not allowed this either. His solution was the sword. But Hemmingsen had allowed the innocent party to remarry, and, apparently, Brenz did not allow this. The only causes for Christians to be allowed to divorce and remarry are the causes given by Christ and Paul: adultery and malicious desertion. Meanwhile, Brenz permits the civil government to have laxer laws, in order to prevent greater evils.

With the juxtaposition of Hemmingsen and Brenz, it appears that Dedekenn’s and J. E. Gerhard’s goal was not to give one definitive answer, but rather to show how the questions had been answered in the past, in order to sharpen the reflection and moral reasoning of their readers. Or, they may find Hemmingsen to be helpful overall, but to be

56. “Denn so er sich besem wolte/ müste er die letzte Ehefrau verlassen/ und der ersten anhangen/ so könthe er die letzte der Ehe halben auch nicht wol verlassen.” Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Tertium*, 324.

corrected in part by Brenz and others. According to John Witte, Lutheran reformers managed the tension between the many causes for divorce in Roman imperial law and the few causes in the New Testament by distinguishing between laws meant for non-Christians and laws meant for Christians.\textsuperscript{58} This counsel from Brenz corroborates Witte’s observation.

The next counsel in the \textit{Thesaurus} is from the church ordinance of “Niedersachsen.”\textsuperscript{59} Dedekenn’s designation of this church ordinance as being of “Niedersachsen” is curious, since what is currently known as Niedersachsen was not a political unit with a territorial church and ordinance at the time.\textsuperscript{60} Moreover, Sehling’s collection of the church ordinances of the 16th century does not include any “Niedersächsische Kirchenordnung” in volumes 6 and 7, the ordinances for Niedersachsen.\textsuperscript{61} Instead, Dedekenn quotes from the church ordinance for the Duchy (\textit{Herzogtum}) of Lauenburg. The name of this church ordinance, dated 1585, was: \textit{“Kirchen-Ordnung Unser von Gottes Gnaden Frantzen, hertzogen zu Sachsen, Engern und Westphalen.”}\textsuperscript{62} Dedekenn quotes the entire

\begin{itemize}
\item \textsuperscript{58} Witte, \textit{Law and Protestantism}, 248–49. Witte quotes Luther, “The Sermon on the Mount,” 1532 (LW 21:94), whose position in that place was the same as what Brenz said here.
\item \textsuperscript{59} Dedekenn and Gerhard, \textit{Thesauri Consiliorum Et Decisionum Volumen Tertium}, 324–26 (3.4.3, no. 3).
\item \textsuperscript{60} \textit{Geschichte Niedersachsens}, ed. Hans Patze (Hildesheim: Verlag August Lax, 1983).
\item \textsuperscript{62} Sehling, \textit{Kirchenordnungen}, 5:395–460. The passage Dedekenn quotes is at
\end{itemize}
third point of the fifth section of this church ordinance. “Zum dritten, von ehescheiden oder divortiis.” The Duchy of Sachsen-Lauenburg lies in the most southeastern part of modern Schleswig-Holstein, near Lübeck, and was on Hamburg’s eastern border, under 20 km from the city. Dedekenn had dedicated the appendix volume of the 1623 edition of the *Thesaurus* to the Lutheran provosts, dean, seniors, and canons of the Ratzeburg chapter. Ratzeburg was located within Sachsen-Lauenburg.

This counsel goes even further in correcting Hemmingsen’s position than Brenz did. Here, the church ordinance states clearly that adultery and malicious desertion are the only two causes of divorce. “And these are the two causes alone which Chrysostom, too, adduces [in his commentary on] 1 Cor. 7, for the sake of which divorce can occur. And whatever others are adduced in addition to these two by some emperors—such as Theodosius, Valentinian, Leo, Justinian—cannot be sufficient for divorce.”

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64. See above, p. 130.

explicit rejection of the other causes, which Hemmingsen had approved. The rationale of the authors is Holy Scripture, and they cite an early church father as well. Here they apparently understand the Old Testament civil law (the capital crime argument) as inapplicable for New Testament Christians.

To the two legitimate causes of divorce, the church ordinance goes on to add a third: impotence existing before the betrothal. Yet this is not seen as a cause of divorce, because between such people there is no marriage in the first place, nor can there be. However, if impotence set in after the betrothal, then no separation is allowed.

The church ordinance also considers violence and attempted murder, and says that these are not causes of divorce in God’s Word. Theodosius and Valentinian allowed divorce in these cases in order to prevent great harm, and some theologians try to defend this position. The consistory that set forth the church ordinance for “Niedersachsen,” on the other hand, seeks penalties and good-faith deposits from the guilty, as well as careful supervision by friends of both the husband and wife. If violence is still suspected, the guilty party should be imprisoned, or given other civil penalties, or both. Temporary separation from bed and board can be permitted. Even if all of this fails, still, to grant a divorce in this case is “doubtful” (bedencklich). Ambrose, a contemporary of Theodosius, objected to the emperor’s permission of divorce in this case. It is a matter of conscience:

66. This section of the church ordinance is also quoted in the Thesaurus at the end of the section 3.4.2, on separation from bed and board: Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Tertium, 315.

67. Such as Hemmingsen; see above, pp. 276–277.
“On account of this, it is dangerous without express, clear, divine Scripture to take causes from the political forum, which are supposed to be valid for divorces in the forum of the conscience.”\(^{68}\) Here we see a different view of conscience than that which Hemmingsen set forth. Here, conscience is bound most of all to God’s Word, whereas for Hemmingsen, it was more important to grant divorce and remarriage (at least in some cases) in order to avoid temptation of fornication and adultery.

Other causes, such as illness, crime, banishment, and infertility, are not causes of divorce, according to the church ordinance. If these occur after the betrothal, they are to be borne with patience as a cross.\(^{69}\)

Overall, Dedekenn’s placement of the “Niedersächsische” church ordinance in this place seems to serve as a gentle corrective to Hemmingsen’s views.

**Illigimate Causes of Divorce**

Scattered throughout the third volume of the *Thesaurus* there are cases which discuss miscellaneous illegitimate causes of divorce. The second question of the marriage volume of the *Thesaurus* deals with an issue fundamental to divorce and remarriage: whether mutual consent (often called by the counsels in the *Thesaurus* “mutual dissent”)

\(^{68}\) “Ist derohalben gefährlich/ ex foro politico solo wollen ohne ausdrückliche helle Göttliche Schrift Ursache nehmen/ welche in foro conscientiae sollen in divoriis gelten.” Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Tertium*, 326.

\(^{69}\) Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Tertium*, 326.
is grounds for divorce. The question reads: “Should anyone be a judge of matrimonial controversies, especially those relating to repudiation and divorce? Or, as marriage is contracted by mutual consent, so also is it dissolved by mutual dissent?” The answer is given by Paul Tarnov (1562–1633). This is a general case dealing with the procedure of how matrimonial cases were handled. Similar to Johann Gerhard’s *Loci theologici*, Tarnov spends time listing and refuting opposing arguments.

He begins by approving the first part of the question, that there should be such judges. Yet he notes four arguments of the opposite side. First, Abraham repudiated Hagar by his private choice, without a judge (Gen. 21:14); therefore the same is permissible today. Tarnov responds by denying the major premise. Abraham did this at God’s command, not by private decision. Second, the Jews could repudiate their wives without a judge’s verdict (Deut. 24:1); but Christians are less burdened by laws than the Jews (Acts 15:10); therefore Christians must be able to repudiate all the more. Tarnov responds by denying the logical sequence of the argument. The permission to repudiate was a special “indult” allowed to the Jews due to their hardness of heart (Matt. 19:8) and thus is not to be extended to Christians.


Here, Tarnov makes a statement of his principles: “[Christians] can make a divorce only due to adultery. But wherever there is a certain cause of divorce, in that place a certain judge is also required to recognize the cause.” Again: “But now, God’s consent and sentence cannot be recognized and heard except from the judge who sits in His place. Therefore without the latter’s sentence, marriages must not be dissolved.”

Third, an argument is set forth from the practice of the ancient church. When Fabiola divorced her husband without the judgment of the church or magistrate, Jerome did not repreheend her; therefore today the same applies. Tarnov responds that this matter must not be judged on the basis of examples, but of laws. Fourth, an argument is drawn from reason, and was mentioned in the question. Since marriage is contracted only by the consent of the parties, it is also dissolved by their mutual dissent: “The logical sequence from the rule of parity is valid. Nothing is so natural as to dissolve everything by that genus of bond by which it is joined to another.”

Tarnov responds by inverting the argument, that is, by using the same argument more correctly against his opponent. Since it is God who has joined them together, only God can separate them (Matt. 19:6).


Looking over this counsel as a whole, one notices that Tarnov cites Bible passages to prove each of his arguments, but one main point is not proved here from Scripture: that a judge’s verdict is necessary before a marriage is dissolved. This seems to be taken for granted.

Other judgments make specific contributions. A judgment in the section on desertion states clearly that imprisonment in war does not cancel a marriage, at least not in such a short time as four years.74 A judgment by the Meissen Consistory states that a husband who flees the country due to a crime (such as using counterfeit coins) is not maliciously deserting his wife. Instead, the wife is obligated to go with him. The same judgment is given in the case of manslaughter. In this case, the man stated that he planned to return. The wife could either follow him or wait for him.75 This stands against Joyce’s generalization that criminals who were banished were considered malicious deserters by the Lutherans.76

In the section on the causes of divorce in general and in assorted other counsels from various places in the Thesaurus, we have seen a progression from six causes for divorce (with Hemmingsen) to two causes (with Brenz and the church ordinance of

74. Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Tertium, 339 (3.4.5, no. 14). This counsel is given from Erasmus Sarcerius, Corpus iuris matrimonialis, fol. 304.

75. Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Tertium, 340–41 (3.4.5, nos. 20, 22).

76. Joyce, Christian Marriage, 412.
Rather than presenting a unified approach, the counsels included on this issue in the Thesaurus use many different arguments—arguments which are even at odds which each other. The differing positions regarding the causes of divorce are not harmonized nor smoothed out, though a progression from lax to rigorous can be detected in the placement of the counsels. Brenz’s distinction of the two kingdoms, with adultery and malicious desertion as the only reasons for divorce, yet separation and concubinage (but not remarriage) permitted to non-Christians for other causes, is unique among these counsels. Ultimately, the readers are left to themselves to evaluate the arguments. If they read the counsels in this section in order, however, they are left with the stricter position, that there are only two causes of divorce: adultery and malicious desertion, with antecedent impotence considered not as grounds for divorce but as grounds for annulment. Indeed, according to Tarnov in the counsel cited above, only adultery is a cause of seeking a divorce. (Tarnov does not rule out malicious desertion as a case in which one suffers unjust divorce, however.)

From the counsels examined above, we have seen the general contours of the arguments regarding the legitimate causes for divorce. Sections 3.4.4 (on divorce due to adultery) and 3.4.5 (on divorce due to desertion) can remain outside of our consideration here. These sections present the most straightforward and simple cases of divorce and remarriage, based as they are on Matthew 19 and 1 Corinthians 7. We turn our attention now to three other categories of causes listed by Hemmingsen which are more con-
tentious within the *Thesaurus*: impotence together with refusal of intercourse, violence, and differing religions.

**Impotence and Refusal of Conjugal Obligation**

Section 3.4.6 of the Dedekenn-Gerhard *Thesaurus* deals with cases of inability or refusal to perform *eheliche Wercken*, or *debitum conjugale* (“the conjugal obligation”), that is, intercourse with one’s legitimate spouse. The term *debitum conjugale* hearkens back to 1 Cor. 7:3 in the Vulgate: *Uxor vir debitum reddat similiter autem et uxor viro.* Many cases in this section have exactly the same details and verdict. This unnecessary repetition seems to support Dedekenn’s contention that “Many eyes see more than one.”

Perhaps his goal was to show unanimity among many different respondents. The question for us here is how divorce in these cases will be reconciled with the dominical words in Matt. 19:9 that “whoever divorces his wife, except for fornication, and marries another, commits adultery.”

**Impotence**

The first question in this section sets forth a basic position, which unfortunately is not explained. When asked whether a man and woman can be divorced and remarry who have been unable to perform marital acts for the entire three years of their marriage due to his impotence, the Leipzig consistory answers “yes.” An editorial note in Latin

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77. Dedekenn, *Thesauri Consiliorum Et Decisionum Volumen I*, fol. (a)iiiij v.
explains that the case has to do with complete impotence for the entire marriage. Canon law sets the waiting period at eleven years, but civil law sets it at only two years.\footnote{78. Dedekenn and Gerhard, \textit{Thesauri Consiliorum Et Decisionum Volumen Tertium}, 346–47 (3.4.6, no. 1).} 

A short judgment from Johannes Brenz follows. In it he gives a scriptural rationale for allowing divorce in the case of impotence. In Matt. 19:12, Jesus says there are three kinds of people who are exempt from marriage: eunuchs (\textit{verschnitten}) from birth, men made eunuchs by others, and those who have made themselves eunuchs for the kingdom of God. If someone is by nature incapable of marriage, then he cannot possess a natural marriage with anyone. Therefore, in this case it is not a “divorce” if the two separate, since it was never a marriage in the first place. Instead, after three years of cohabitation, a declaration is made that there was never a marriage between them. Then the woman can marry someone else.\footnote{79. Dedekenn and Gerhard, \textit{Thesauri Consiliorum Et Decisionum Volumen Tertium}, 347 (3.4.6, no. 2).} 

The next counsel, from Erasmus Sarcerius, gives two other arguments for annulling marriages in the case of antecedent impotence. Besides the fact that an impotent one (\textit{unverm"{u}glich}er) cannot be a husband (and here there is an argument from creation, that marriage was created so that man and woman would be fruitful), he also deceived her with regard to his impotence, and thus the marriage should be annulled. Also, though this action may cause strife in the church, letting the cohabitation continue
would be worse. According to 1 Cor. 7:2, the woman must be allowed to marry another in order to prevent whoring or fornication (Hurerey).80

Hieronymus Cypraeus provides even more detail in the fourth question. He distinguishes between various cases related to impotence. (He uses the word “impotence” as a condition that can apply to women as well as to men.) If a man was impotent since before the marriage (i.e., antecedent impotence), there would be no divorce, since it was never a marriage. That is, they never had the “fellowship of spouses” (societas conjugium). (Here it is not clear whether intercourse is seen as consummating the marriage, and thus as a part of what makes a man and woman married, or whether it is seen as being a condition which would make one’s vows invalid, since one is unfit for marriage.) Cypraeus adds the rationale that deception took place: the impotent party passed himself off as potent.

Cypraeus includes some judicial procedure here. The judge should have surgeons and physicians inspect the impotent man, or expert and honest matrons should inspect the impotent woman, and report to the judge. If the case is not clear, the judge should order them to cohabit for three more years and to use the help of physicians or surgeons. If they are not cured during the three years, and especially if there is a risk of fornication, the healthy party can marry another; but the impotent party is forbidden from marrying another, obviously because he is unfit for marriage.

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80. Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Tertium*, 347 (3.4.6, no. 3).
But if impotence sets in after the wedding (that is, apparently, after successful intercourse), then the marriage cannot be separated, especially if no one is at fault for the impotence.\(^{81}\)

If the man lost his *virilia* by his own fault, or the woman lost her *pudenda* by her own fault, or some other irreparable damage occurred, then to Cypraeus it seems too harsh to make the healthy spouse be continent. He says very guardedly: “Wherefore one can doubt, not wrongly, whether in this case there could not be a dispensation with the innocent party . . .”\(^{82}\) As justification for this position, he only cites Panormitanus, a commentator on canon law. Cypraeus says that his discussion on this case also applies if one’s potency was injured “by magic or poison” (*fascino aut veneficio*).

Though Cypraeus does not mention it, such a situation seems to be parallel to a case of obstinate refusal of intercourse. As opposed to a situation where an illness renders one incapable of intercourse, which would be a cross to be borne patiently, this situation would be brought on by the spouse himself, and thus would be an incurable case of obstinate refusal to perform intercourse.

One final situation is discussed by Cypraeus. If husband and wife knew about the impotence before vowing, then they must stay together, living as brother and sister.

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Cypraeus takes this decision from canon law, and he states the principle on which it is based: they both committed fraud, and this fraud should not be rewarded by granting their request.83

One judgment from the Meissen Consistory says that a woman who was joined to a life-long impotent man was free to marry another, “yet in such a way that this would be done without public ceremonies.”84

A judgment on another case of impotence is given by Johannes Aepinus (1499–1553), the first Lutheran superintendent of Hamburg.85 Aepinus says at the beginning that he will give his answer (dated Sep. 6, 1551) from Scripture. In the process, he also quotes Luther as a secondary authority, and gives some interpretations with no explicit rationale.

Aepinus explains that a knowingly impotent man who marries sins in several ways. First, God instituted marriage so that the human race would be increased by it. Thus, such a man is sinning against God’s institution of marriage, since he is entering it while being unfit for its purpose. Next, he deceived his wife and put her in danger, since a purpose of marriage is to avoid fornication, according to 1 Cor. 7:2. In this case, a decla-


84. “jedoch daß dasselbe ohn öffentlichen Gepränge gehalten werde,” Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Tertium*, 350 (3.4.6, no. 7).

ation can be made that it was not a marriage at all, and the healthy spouse can marry another.

But, Aepinus explains, the verdict is different if both husband and wife at some time in their marriage were able to have intercourse, and then one spouse became impotent (supervenient impotence). In this case, the impotence is a God-given cross which must be borne. Here Aepinus quotes Luther, who says that no divorces are granted in the case of an ill spouse.86 If the healthy spouse has the grace to live with someone who is impotent by nature, Aepinus encourages her to do so. There is a special crown in heaven for this kind of virginity, he says. A declaration of the non-existence of the marriage is only for cases where the healthy spouse needs marriage as a remedy against fornication.87

From Aepinus, we see an example of moral reasoning based on the two main purposes for marriage, which, according to Aepinus, are to procreate children and to serve as a remedy against fornication. The theme of deception (which would be arguing from the nature of marriage as a contract) is present but not prevalent. Though he said he would prove his position from Scripture, that does not prevent him from citing Luther’s interpretive authority.

A judgment by the Wittenberg Consistory deals with a husband who permitted his wife to commit adultery. The consistory declared this to be a capital crime. He could not

87. Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Tertium, 351–53 (3.4.6, no. 11).
excuse himself by saying that he was unable to perform marital acts. Six weeks after the wife gave birth to the child she was carrying from adultery, she, too, was to be executed. The man with whom she had the affair was to be executed as well. Instead of committing adultery, she should have complained about her condition to the authorities and sought to be freed from her marriage.88

The cases presented here on impotence are similar in their conclusions, although a few different arguments have been used. The three arguments mentioned here for annulling a marriage in the case of antecedent impotence are drawn from the two main purposes for marriage and from deceit. The first purpose for marriage is actually an argument from nature. By nature, one of the purposes for marriage is procreation, and impotence hinders this purpose. Therefore, an impotent person is unfit for marriage. Brenz cites Matt. 19:12 as a scriptural basis for this argument from nature. The second purpose for marriage is to avoid fornication, and in support of this rationale, Sarcerius and Aepinus cite 1 Cor. 7:2. To enter into a marriage while being unable to fulfill this purpose is to act against a divinely established purpose of marriage. Deceit here means a crime against the substance of marriage as a contract. Deceit in the contracting of marriage renders it invalid, although a judge’s sentence is still required to sunder the putatively existing marriage.

88. Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Tertium, 353 (3.4.6, no. 12).
Refusing Conjugal Obligation

John Witte calls the obstinate refusal of the conjugal obligation “quasi-desertion.” According to him, some reformers, such as Luther, Brenz, and Bucer, accepted this as being the same as desertion, and thus a cause of divorce. Witte notes that only a few church ordinances adopted this teaching explicitly.89

Such cases are dealt with in this section of the Thesaurus. In a case where one spouse (in this case, a wife) obstinately refused to perform her conjugal obligation (*conjugale debitum*), Johann Gerhard90 points out that Luther, in “The Estate of Marriage” (1522)91 says that this is the third species of desertion. But Luther is not speaking of just any refusal. “Instead, a refusal of the conjugal obligation which is obstinate, constant, and enduring perpetually is a species of desertion . . . .”92 That is, this only applies to cases of extreme stubbornness and obstinacy.

If, after private and public admonitions by relatives and pastors, and even by civil penalties (including corporal punishment), the wife remains obstinate, then Gerhard’s counsel is to let her depart. “[B]y the authority of the magistrate he can repudiate that

90. From his *Loci theologici*, ed. Preuss, 7:422–23 (locus *De conjugio*, § 630).
92. “Sed quod pertinax, constans & perpetuà durans conjugalis debiti denegatio sit desertionis species . . . .” Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Tertium*, 353–54 (3.4.6, no. 13).
deserter and, by legitimate matrimony, join to himself another Esther in the place of that haughty Vashti.” Hunnius and Bidembach agree with this verdict, Gerhard says, and Bidembach relates that such a divorce was granted by the Wittenberg Consistory on Nov. 13, 1600.

By treating the obstinate refusal to perform one’s conjugal obligation as a species of desertion, Gerhard is able to reconcile Luther’s 1522 “The Estate of Marriage,” which granted divorce in this case, with his 1530 “On Marriage Matters,” which excluded all causes of divorce except adultery and desertion.

The next counsel, the last one in this section, is a verdict from Aegidius Hunnius (1550–1603)—apparently the one mentioned by Gerhard in no. 13. In this counsel, a


96. Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Tertium*, 354–56 (3.4.6, no. “15”).
husband was not receiving the “conjugal obligation” from his wife; Hunnius begins by praying that God would especially give the husband the Holy Spirit, to bear his cross with patience. Hunnius assures his reader that God will not allow anyone to be tempted beyond what he can bear (1 Cor. 10:13). In this problem, which especially touches the conscience, hate and enmity have arisen between husband and wife. In the meantime, apparently, the wife made a vow of continence, which Hunnius says is contrary to 1 Tim. 4[:3].

Hunnius states his method in giving this counsel. He examined each and every detail, in the true fear of God, and weighed everything according to the rule of divine Scripture. His advice is as follows: They should be admonished to reconcile through a suitable person, who will be able to comfort and instruct their consciences. The goal here is to foil the devil’s schemes and to bring both of their consciences to rest. But if the wife refuses to reconcile and will not ever again perform intercourse (eheliche Beywohnung) for her husband, then one could conceive of the “last remedy—divorce” (extremum remedium divorii).

Next, Hunnius lists numerous situations which are not causes of divorce. He declares that several passages from the Old Testament and Apocrypha permitting divorce—such as Deut. 24[:1–4], Sirach 25[:26], and Mal. 2[:14–16]—do not apply to this case; they belong to the Old Testament only, according to Matt. 19[:8]. The example of Ahasuerus in Esther 1 belonged to the Old Testament time as well, when God permitted many divorces among His people. The example of Ezra 10 also does not apply, since
it was a requirement merely of the Jewish civil law, not the moral law. Augustine and Ambrose allowed divorce due to unbelief, but this contradicts Paul. With regard to unbelief, St. Paul does not allow divorce, according to 1 Cor. 7[:12–13]. Unfruitfulness does not divide a marriage, but is rather a cross to be borne in patience. The polygamy of the patriarchs is not allowed today; it was allowed due to the promise of the seed being multiplied. (Cf. Gen. 22:17.) Suspicion of adultery is insufficient grounds for divorce. One needs, instead, clear arguments and proven testimonies. Blasphemy, homicide, theft, and other sins are not grounds for divorce. But since the government exercises capital punishment, the marriage is cancelled by the death of the executed. But if the government lets the criminal live, the marriage continues.

Finally, Hunnius mentions a category of sins which are indeed causes for divorce: sins against the sixth commandment (“You shall not commit adultery”). He writes that “only those which either directly fight against the sixth commandment, or indirectly or obliquely shatter the substantialia [components] of matrimony” are causes of divorce.

Besides adultery, desertion is a cause of divorce, according to 1 Cor. 7[:15]. An orderly suit of law is necessary in such a case; the legal proceedings would include public sum-

97. As a Lutheran, Hunnius follows the enumeration of the commandments such as is found in Martin Luther’s Small Catechism (Triglotta, pp. 539–43; K-W, pp. 351–54).

98. “[A]llein nur die einige/ so wider das sechste Gebot entweder directè streben/ oder die substantialia matrimonii convelliren, oder indirectè oder obliquè . . . .” Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Tertium, 356.
mons of the deserter. Hunnius mentions that Joseph had intended to desert Mary (Matt. 1:19).

When a spouse obstinately refuses to render intercourse, this is totally contrary to marriage, according to Hunnius, who cites 1 Cor. 7:4 to prove his point. Through marriage, husband and wife are supposed to be one body and one flesh, according to Genesis 2 and Matthew 19. Scripture allows separation in this case. Luther, in “The Estate of Marriage” (1522), says the same. 99 They are supposed to pay to each other “the conjugal obligation” (die eheliche Schuld). Thus, the refusing spouse must present her reasons to the judge. If they are not significant, she should be admonished, threatened, and warned “to render intercourse as is due in marital friendship.” 100 If she made a vow of celibacy, her pastor should instruct her conscience, explaining that such vows are not binding in God’s sight; the previous vow made in marriage is to be preferred. She should then seek the comforting Absolution from her “assigned curate” (ordentlichen Seelsorger). If these admonitions do nothing, then divorce can be undertaken, but Hunnius does not say what should be done with the guilty party thereafter.

In this counsel, Hunnius has given clear scriptural principles according to which marriage cases in general and cases of refusal to render intercourse specifically are to be judged, and he has explained why he considered many other scriptural arguments regard-


100. “in ehelicher Freundschaft gebührlichen beyzuwohnen.” Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Tertium, 356.
ing divorce to be invalid. It is interesting here that instead of saying that there are two causes of divorce (adultery and desertion, with refusal of conjugal obligation as a species of desertion), he refers all such causes to sins against the sixth commandment.

There were only two counsels in this section that directly addressed the issue of the refusal to render intercourse to one’s legitimate spouse. Both Gerhard and Hunnius affirmed that it was grounds for divorce. The rationales given, however, were different. Gerhard cited precedent from Luther and other Lutherans, while inferring that the example of Esther might be applicable in this case. Hunnius, on the other hand, says that arguments from the Old Testament do not apply; specifically, the example of Esther is not applicable to Christians. Instead, he argues that one of the purposes for marriage is intercourse, and he finds this principle enunciated in 1 Cor. 7:4; Genesis 2; and Matthew 19. Hunnius is arguing not just from isolated Bible passages but from the scripturally defined essence of marriage—what Dedekenn called consequentiae (“logical consequences”) drawn from Scripture.¹⁰¹ Dedekenn leaves us with Hunnius’ voice as the last voice in this section; thus Hunnius’s advice seems to have the greatest weight here.

**Violence**

According to George Hayward Joyce, Melanchthon approved of the use of the Theodosian constitutions (allowing divorce in the case of violence or attempted murder),

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even though he admitted that such a cause was not permitted for Christians by Scripture. Such a marriage, says Joyce, is dissolved *ipso facto* for the guilty party.\textsuperscript{102} Johannes Brenz’s view was similar to Melanchthon’s, according to Joyce, but Martin Chemnitz took a stricter view, recognizing only adultery and desertion as causes for divorce. Joyce states that just as there were two schools of opinion among the theologians, so also there were two schools among the jurists, regarding the causes of divorce. The stricter school, represented by Conrad Mauser\textsuperscript{103} and Johann Schneidewein,\textsuperscript{104} allowed divorce only for adultery and desertion. The laxer school, represented by Joachim von Beust,\textsuperscript{105} recognized also apostasy and violence as causes. Yet in actual practice, Joyce asserts, there was not much difference between the schools. Where the stricter school prevailed, violence could be punished by banishment or imprisonment, after which proceedings for desertion could begin. Adultery and crimes against nature could be punished by death,

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\textsuperscript{103} Mauser (d. 1548) was from Nuremberg, but studied and taught at Wittenberg: Teichmann, “Mauser, Konrad,” s.v. in ADB; Zedler, “Mauserus (Conrad).”
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\textsuperscript{104} Schneidewein (1519–68) was born in Stolberg, but studied and taught at Wittenberg. During his studies, he lived with Luther’s family. Jacobi, “Schneidewein,” s.v. in ADB.
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\textsuperscript{105} Beust (1522–97) was born in Möckern near Magdeburg, studied law and humanistic studies at Leipzig, and became *doctor juris utriusque* in Bologna. He served as counselor for electors of Saxony and other princes, and was a professor at Wittenberg beginning in 1550. Friedrich Wilhelm Bautz, “Beust, Joachim von,” in *Biographisch-Bibliographisches Kirchenlexikon (BBKL)* (Verlag Traugott Bautz), http://www.bautz.de/bbkl/b/beust_j.shtml, accessed on 11/6/2008; Zedler, s.v. “Beust, (Joachim von).”
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which would then allow the innocent party to remarry. Mauser and Schneidewein were both educated in Wittenberg, while Beust was educated in Leipzig and Bologna. The differing educational backgrounds may help to explain why different juristic schools of thought arose in Wittenberg.

Ralf Frassek notes that in cases of divorce, there were differing solutions handed down by adjudicatory entities within Saxony during the 16th century. On the basis of the *Wittenbergisches Buch*, a manuscript collection of cases used as precedent by the Wittenberg Consistory, Frassek shows that if there was strife between spouses, and nothing could be done to reconcile them, sometimes a separation from bed and board was allowed. He quotes a case, however, from the *Wittenbergisches Buch* where the juristic faculty of Jena allowed a divorce and remarriage to a man whose wife had attempted to poison him to death. These varied solutions had something in common, however. Spouses could not simply separate of their own accord and decision. A separation from bed and board, no less than a full divorce, had to be permitted by a judge or other adjudicatory entity before it could be carried out.107

In our examination of cases dealing with violence, we will find reason to challenge Joyce’s view that despite the seeming difference of opinion, in reality divorce and remarriage could be easily obtained by Lutherans in the 16th and 17th centuries. In fact,


the cases presented in the *Thesaurus* cannot be so easily reconciled. In several cases pertaining to violence, only separation from bed and board is permitted, not divorce and remarriage. Two goals can be noticed in these counsels: to preserve the marriage, and to protect the abused spouse. Rather than sacrificing one to uphold the other, the counsels in the *Thesaurus* aim to do both.

Violence as a cause of divorce is dealt with in two places. Section 3.4.2 (pp. 308–15) is titled “On separation from bed and board due to excessive cruelty or *veneficium*, etc.” It deals with whether violence is a legitimate cause for divorce. Violence is also handled in section 3.4.8, “On divorce in the case of violence and *veneficium*.” In both these sections, the word *veneficium* has the sense both of “poisoning” and of “witchcraft.”

Question 3.4.8, no. 5, for example, sets forth this situation: “When a wife attempts to murder her husband through forbidden arts of the devil, and repeatedly runs away from him.”

Why does the *Thesaurus* have two sections on the same issue? The former emphasizes “separation” in general (though this occurred most frequently in cases of violence) and the latter emphasizes “violence” itself.

The first question in section 3.4.2 is about separation in general. Joachim von Beust (1522–1597) explains that separation from bed and board is permitted in cases of

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109. Frassek calls Beust a “Vater des sächsischen protestantischen Eherechts.” He represents mature Evangelical marriage law: Frassek, *Eherecht*, 262. John Witte notes that in Beust’s *Tractatus de iure connubiorum*, he usually follows Protestant authors
attempted poisoning and excessive cruelty or violence (*saevitia*). This, however, is not properly a divorce. Rather, it is a temporary domestic separation for the sake of reconciliation. However, if the spouse continually attempts murder, and there is fear of future cruelty, then many legal experts consider this to be grounds for divorce, Beust says.\(^\text{110}\) A few things should be noted here. First, Beust’s principles in this place are simply legal precedent. He does not bring in any scriptural or theological arguments. Second, one could not separate from one’s spouse without permission from the authorities. Third, divorce is not granted for violence, simply speaking, but rather for incorrigible violence.

To a modern reader, it may seem surprising that these counsels speak of reconciliation over a process of time for people who assaulted their spouses.\(^\text{111}\) At times, such people were not immediately punished with prison or corporal punishment. Perhaps in the cases at hand there was no evidence of wrongdoing. In any case, the counsels have two concerns: first, to preserve marriages by curbing frivolous complaints; second, to protect abused spouses.

Some of the following cases grant such a separation, and some refuse it. Another judgment in this section concerns a woman who was repeatedly beaten severely by her

\(\text{\footnotesize\text{\textsuperscript{\textordmss}Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Tertium, 308 (3.4.2, no. 1).}}\)

\(\text{\footnotesize\text{\textsuperscript{\textordmss}E.g., Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Tertium, 310 (3.4.2, no. 5), where a woman tried to murder her husband by poison.}}\)
husband. She was given permission to remain separated from bed and board, apparently in perpetuity. Yet this was not a divorce. The judgment, given by the Wittenberg Consistory, says that she was “to remain in true chastity for the rest of her life without marriage.”\textsuperscript{112} This counsel seems to describe incorrigible violence, but gives a different answer than Beust had given.

The final quotation in the section on separation due to violence is not numbered. An editorial statement explains that this is a quotation from the church ordinance of Niedersachsen, p. 74, which is presented to give guidance in similar cases. Due to the editorial comment and placement at the end of the section, it seems fair to say that this is receiving the strongest emphasis by the editors, in the midst of sometimes contrary counsels. The church ordinance, which was repeated later in the \textit{Thesaurus} and has been discussed above,\textsuperscript{113} says that divorce is often sought in cases of violence or attempted murder, but nowhere in God’s Word is this cited as grounds for divorce. The church ordinance aims at reconciliation and outlines methods to achieve it. Even if nothing remedies the enmity between the spouses, divorce is still not to be undertaken hastily; it remains “dubious” (\textit{bedenklich}).\textsuperscript{114} The principles set forth in this church ordinance are

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  \item \textsuperscript{112} “\ldots die Zeit ihres Lebens in rechter Keuschheit ohne Ehestand zu bleiben.” Dedekenn and Gerhard, \textit{Thesauri Consiliorum Et Decisionum Volumn Tertium}, 311 (3.4.2, no. 8).
  \item \textsuperscript{113} Dedekenn and Gerhard, \textit{Thesauri Consiliorum Et Decisionum Volumn Tertium}, 324–26. See above, p. 284.
  \item \textsuperscript{114} Dedekenn and Gerhard, \textit{Thesauri Consiliorum Et Decisionum Volumn Tertium}, 315 (3.4.2, at the end). This portion of the Sachsen-Lauenburg 1585 church ordin-
based on the New Testament’s teaching of marriage and divorce. Church history instructs Christian and pious magistrates but is not a norm per se. The church ordinance also clearly has the welfare of the innocent spouse as a goal.

In consideration of the various counsels given in 3.4.2, a mixed result is given. Some of the authorities allow divorce in a case of (incorrigible) violence, but others only permit a separation from bed and board.

The other section of the Thesaurus dealing with violence is 3.4.8, entitled, “On divorce in the case of violence, poisoning, and witchcraft.”\textsuperscript{115} It is a short section, containing only three pages. The first question is whether cruelty is equivalent to desertion. This is answered by Johann Gerhard from his \textit{Loci Theologici}.\textsuperscript{116} Gerhard begins by reviewing the teaching of Philipp Melanchthon and Niels Hemmingsen on this subject, both of whom approved of divorce in this case, if the violence could not be curbed by any means. Gerhard disagrees with Melanchthon’s rationale, however. Melanchthon saw Moses’ permission of divorce due to hardness of heart as the basis for the civil government to permit divorce in a case of violence. (In doing so, Melanchthon may have been distinguishing between the two kingdoms, where the standards for non-Christians living under a Christian magistrate would be more lenient than the standards for Christians who

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\item \textsuperscript{115} “De Divortio In Casu Violentiae, Veneficii.” \textit{Veneficum} here has the sense both of “poisoning” and of “witchcraft.” Dedekenn and Gerhard, \textit{Thesauri Consiliorum Et Decisionum Volumen Tertium}, 360–62 (3.4.8).
\item \textsuperscript{116} \textit{Loci theologici}, ed. Preuss, 7:423 (locus \textit{de conjugio}, § 631).
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wanted to stay in the communion of the church.) Nevertheless, Gerhard disagrees with this rationale, pointing out that Christ established only one cause of divorce and forbade divorce for the sake of hardness of heart (σκληροκαρδία). In the end, however, Gerhard agrees that incorrigible abuse constitutes malicious desertion: “If the cruelty is completely incorrigible, then it is not wrong to put it on the same level as desertion.”

Despite Johann Gerhard’s equation of cruelty with desertion (which would consequently be grounds for divorce and remarriage for the innocent party), the next counsel in the Thesaurus places a limitation on how far that freedom to divorce and remarry is to be extended. In this judgment, given by the theological faculty of Rostock, a woman deserted her husband due to his cruelty. When the husband repented of his cruelty, she still refused to be reconciled. In this case, it is she who should be considered the deserter, the faculty states. He can be granted a divorce and permission to remarry. Thus it is clear that abuse per se was not treated as grounds for divorce, but only the sort of abuse which could not be curbed.

117. “Si saevitia sit planè incorrigibilis, desertioni non immeritò comparatur.” Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Tertium, 360–61 (3.4.8, no. 1). For the sense of comparo as “put on the same level as,” see Lewis and Short, A Latin Dictionary, s.v. “comparo,” II.A.1.

118. Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Tertium, 361 (3.4.8, no. 2).
This is seen yet again in no. 3 of this section, a judgment by the Meissen Consistory, in which divorce is refused in a case of violence. Instead, various means of curbing the problem and bringing about reconciliation are outlined.119

Next, a very interesting answer from the Electoral Saxon Consistory is given to the question of whether a full divorce can be granted in a case of attempted murder by poisoning. “Regarding this we say, on the basis of the laws that we now have, and insofar as no other ordinance is made, that complete divorce cannot be acknowledged, since the civil laws are cancelled not only by canon law (which we have followed in rendering judgments in matrimonial cases, insofar as it is not contrary to God’s Word), but much more by the authority of the New Testament, in which only two causes of divorce are established—adultery (Matthew 19) and malicious desertion, which can be comprehended under adultery (1 Corinthians 7; 1 Timothy 5)—and all others are cancelled.”120

Here, several points should be noticed. Divorce is not being allowed in this case. Civil law must yield to properly interpreted canon law, and especially to the authority of the

119. Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Tertium, 361 (3.4.8, no. 3).

120. “Hierzu sagen wir auff die Rechte/ so wir ietzro haben/ und wofem keine andere Verordnung gemacht wird/ daß vollkümliche Ehescheidung nicht zu erkennen/ alldieweil die Jura Civilia nicht allein Jure Canonico (dem wir doch in Ehesachen/ so ferne es GÖttes Wort nicht widrig/ bißher im Urtheil sprechen/ gefolget/ sondern vielmehr autoritate Novi Testamenti, auffgehabent/ in welchem allein zwo Ursachen Divortii, als Adulterium, Matt. 29. [!] und Malitiosa desertio, so unter dem Adulterio kan begriffen werden/ 1. Corinth. 7. 1. Timoth. 5. gesetzt/ und die andern alle auffgehabent seyn.” Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Tertium, 361 (3.4.8, no. 4).
New Testament. By speaking of the “New Testament” instead of “the Bible,” they are probably ruling out arguments drawn from Old Testament capital crimes and Old Testament civil law. In the New Testament, two grounds for divorce are given, and no other causes are allowed. Finally, malicious desertion can be considered a form of adultery.\textsuperscript{121} In setting forth this position, they claim the support of Johannes Brenz.

If a case of attempted poisoning were proved, the guilty party should be put to death, or at least banished perpetually. In the latter situation, such a person would be considered “dead in the civil sense” (\textit{civiliter mortua}), and one could better counsel the innocent party’s conscience.\textsuperscript{122} Apparently, in this case the banished person could be considered a malicious deserter.

Finally, in a case where a wife tried several times to harm her husband by means of witchcraft, the Leipzig Consistory said that he was not obligated to live with her, but he also could not remarry.\textsuperscript{123} This seems to uphold the principle that violence or cruelty is not a legitimate cause of divorce. Since the wife was not removed in the sense of actual,

\textsuperscript{121} This is how Aegidius Hunnius and Niels Hemmingsen spoke of the relation of adultery and desertion as well. The other way to coordinate Jesus and Paul would be to say that there is only one cause of divorce, but malicious desertion is simply acknowledging that one has suffered an unjust divorce. This is how Johann Gerhard understood the relation between the statements of Jesus and Paul, according to Walther, \textit{Pastoral-theologie}, 244–45 (§ 26, Anm. 1).

\textsuperscript{122} Dedekenn and Gerhard, \textit{Thesauri Consiliorum Et Decisionum Volumen Tertium}, 361–62.

\textsuperscript{123} Dedekenn and Gerhard, \textit{Thesauri Consiliorum Et Decisionum Volumen Tertium}, 362 (3.4.8, no. 5).
physical desertion, no divorce or remarriage could be granted. In this case, the Leipzig Consistory also makes a statement of its principles. They say that imperial laws on marriage should be subjected to canon laws when the case deals with divorce and remarriage.\textsuperscript{124}

In this section of the *Thesaurus*, once again, a mixed result is at hand, and the editors do not provide a harmonization of the various views. In two cases (from Johann Gerhard and the Electoral Saxon Consistory), divorce and remarriage were permitted to one who had suffered violence. These counsels—that incorrigible abuse constitutes malicious desertion, or that the punishment for violence constitutes a situation (banishment) where malicious desertion in fact takes place—seems to support Joyce’s observation that the stricter school among Lutherans on the question of divorce still allowed divorce for violence, but did so by considering it malicious desertion.\textsuperscript{125}

Yet from the counsel of the Electoral Saxon Consistory, together with all the other counsels except for Johann Gerhard’s, it appears that violence per se was not considered a cause of divorce. For Johann Gerhard there are situations where violence becomes equivalent to desertion. For this, not simply violence, but incorrigible violence is required. For the others, violence is not equivalent to desertion, but may in some cases lead to situations where malicious desertion occurs.

\textsuperscript{124} “aber gleichwol hättet ihr nach beschriebenen Geistlichen Rechten/ (welchen sich die Käiserl. Rechte dißfalls unterwerffen/) . . . .” Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Tertium*, 362.

\textsuperscript{125} Joyce, *Christian Marriage*, 410–12.
The principle on which these counsels are based, where it is stated, is the New Testament teaching on divorce. Canon law, interpreted through the lens of the New Testament, is said to trump the more lenient imperial law regarding divorce. Contrary to Joyce’s generalization that the practice of the “stricter school” had the same results as for the “laxer school,” several counsels were included where divorce was not granted in this case.

Between the two section dealing with violence what arises is a split opinion. Some are willing to see incorrigible violence as equivalent to desertion, and thus as a case that would make divorce and remarriage permissible for the innocent party. Others are willing to allow separation from bed and board, but not a full divorce nor a remarriage for either party. The editors of the *Thesaurus* do not harmonize the difference of opinion.

**Differing Religions**

In the Formula of Concord of 1577, the final Lutheran confession included in the *Book of Concord*, difference of religion was defined as being an invalid cause for divorce. In the “Erroneous Articles of the Anabaptists,” in the section on “Articles that Cannot be Tolerated in Domestic Life,” the third point is “That the married may be divorced on account of [diverse] faith, and the other one may abandon the other and be married to another person who is of his faith.”

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counsels deal with impiety or difference in religion. All three of these stay within the boundaries given by the Formula of Concord.

The first author is Niels Hemmingsen, whose counsel was noted above. He considered impiety to be a legitimate cause of divorce if the impious spouse (either an apostate or a heretic) was trying to force his beliefs upon his orthodox spouse. But a wife could not be divorced from her heretical husband if he allowed her to believe in an orthodox way. Thus, differing religion was not a cause of divorce per se, but only the attempt to coerce a spouse into false belief.\textsuperscript{127}

The other two authors give their counsels at the end of section 3.4.3. The fourth question of this section, given by Michael Muling,\textsuperscript{128} says that impiety is not a cause for divorce, and states that Bible passages like 1 Cor. 7:12, which speak about pious spouses remaining married to their unbelieving spouses, apply also to heretical spouses.\textsuperscript{129}

The final quotation in this section is from Friedrich Balduin’s commentary on 1 Corinthians.\textsuperscript{130} This counsel did not appear in the first edition of the Thesaurus but was added by Johann Ernst Gerhard to the 1671 edition.\textsuperscript{131} Here, Balduin rejects the argument

\begin{itemize}
  \item \textsuperscript{127} See above, pp. 277–278.
  \item \textsuperscript{128} See above, p. 197.
  \item \textsuperscript{129} Dedekenn and Gerhard, \textit{Thesauri Consiliorum Et Decisionum Volumen Tertium}, 326 (3.4.3, no. 3). The quotation is likely from Muling’s \textit{Christlicher Eh-Bericht: Von der Widwen-Eh ist pro affirmativa gehandelt worden . . . Von der Priester-Eh ist pro affirmativa . . . Von der Ketzer-Eh pro Negativa . . . Dieser Bericht geschehen} (Wittenberg: Helwig, 1608).
  \item \textsuperscript{130} Balduin, \textit{Commentarius In Omnes Epistolas Beati Apostoli Pauli}.
  \item \textsuperscript{131} Though it is unclear from the prefatory material to what extent J. E. Gerhard
for divorce in the case of impiety which is drawn from a comparison with lesser cases, for which divorce or separation is granted. (This is the “proportion argument” that had been used by Hemmingsen.)

Balduin says that 1 Cor. 7:10–11 speaks against this *simpliciter*. Nevertheless, in cases where a husband tries to coerce his pious wife to cling to his false faith (e.g., by handing her over to the Spanish inquisition), Balduin is sometimes prepared to consider him a malicious deserter. No remarriage is permitted in this case, however, unless a long interval has elapsed.

Considering these two counsels together with the counsel from Hemmingsen discussed earlier, we are once again faced with differing voices. When asked whether impiety is a legitimate cause for divorce, Hemmingsen says “yes, if there is coercion.” Muling says “no.” Balduin, while disagreeing with the sorts of arguments that Hemmingsen had set forth, comes to a position that is similar to his, considering a coercive heretic to be a malicious deserter. Once again, the editors of the *Thesaurus* have presented differing arguments and answers without harmonizing them.

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or Christian Grübel were involved in preparing volumes one through three of the 1671 edition, since the title pages of the volumes of the 1671 edition ascribe volumes one through three to Gerhard and volume four to Grübel, that is how we will refer to it. See above, pp. 152–165.

132. See above, pp. 277–278.

133. Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Tertium*, 326–27 (3.4.3, no. 6).
Remarriage for Whom?

John Witte says succinctly that for Lutherans of the 16th century, remarriage was “at least for the innocent party.” Roman Catholic teaching forbade both the guilty party and the innocent party from remarrying after a separation, and no absolute divorces were permitted. Sabine Holtz, studying the Lutheran preachers of Tübingen in the 16th and 17th centuries, says that they expressly preached the permissibility of a remarriage for the innocent party. Such remarriages were, in some Lutheran territories at least, to be a second-class wedding, carried out in a very simple manner. But what about the guilty party? Frassek describes a case where a man guilty of adultery was not allowed to remarry as long as his legal wife remained alive. Arthur Carl Piepkorn found the Lutheran position on remarriage to be diverse. According to him, the Lutheran theologians especially of the 17th century thought the guilty party should be forbidden or at least counseled not to remarry. “[I]n any case he should be allowed to remarry only with the express permission of the political and church authorities and only after he has demonstrated his repentance over a considerable period of time. In such a case he should not ordinarily be permitted to remarry before the innocent party does, since a reconcilia-

137. Frassek, Ehrech, 128.
tion is always possible. He may not properly marry his quondam partner in adultery, and he must transfer his domicile and place of business elsewhere.”¹³⁸ We shall see that the counsels presented in the *Thesaurus* support this picture of variety. Nevertheless, our goal is to dig deeper, and to examine the arguments and rationales given for the various positions. Only by doing so will we be following the instructions given in the prefatory material for the *Thesaurus* on how this work is to be used.¹³⁹

The question of remarriage for the guilty party is touched on in a few places throughout volume three of the *Thesaurus*. Hemmingsen was discussed above, stating that adulterers could remarry in another land if they are truly penitent, but that no remarriage could be allowed for one guilty of incorrigible violence, or even a woman who was violent with her words. Brenz, however, did not allow remarriage for the violent, but only concubinage. Meanwhile, the Leipzig Consistory had said that in cases of violence, the innocent party could separate but not remarry. In cases where marriage had occurred despite antecedent impotence and the marriage was later annulled, the impotent one could not remarry, according to Cypraeus.¹⁴⁰ Thus, up to this point we have seen a spectrum of positions on when remarriage can be granted to people who have been divorced.

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¹³⁹ See above, pp. 92–167.

In addition to what we have already discussed, there are other counsels in the *Thesaurus* that deal with this topic. In one place, the question is asked, “Is a new marriage to be conceded even to an adulterer or adulteress, as the guilty party, under certain conditions?” A cross reference is given to Johann Gerhard’s *Locus theologicus de conjugio*. Since this is not quoted here in the *Thesaurus*, we will omit an analysis of the passage, but instead simply note that Gerhard claims to take a middle path between those who would absolutely deny remarriage to the guilty party, and those who would grant such a remarriage quickly and easily.141 Another such cross-reference is the answer to the question, “Should a deserter be permitted to enter a new marriage?” referring to Benedict Carpzov’s *Jurisprudentia Ecclesiastica*.142

In general, the counsels given in the section on divorce in the case of adultery (3.4.4) assume that remarriage is permissible only for the innocent party to a divorce. The Wittenberg Consistory stated that a wife who was guilty of adultery and of attempted poisoning had to remain without marriage if she was not executed by the civil government. The Dresden Consistory discussed a case where the wife was adulterous and the government did not execute or banish her. The consistory granted permission for divorce, and


142. Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Tertium*, 346 (3.4.5, no. 38, at the end), referring to Carpzov, *Jurisprudentia Ecclesiastica*, bk. 7 (actually, bk. 3), tit. 5, defin. 71. Carpzov’s answer is: “Absque speciali dispensatione ex causâ rationabili factâ desertori ac desertrici haut novum inire licet matrimonium.”
granted the husband “as the innocent party” permission to remarry, thus implying that the guilty party was not allowed to remarry. The connection of innocence and the permission to remarry can also be seen in a judgment of the Meissen Consistory: testimonies of the innocent party’s chastity had to be presented to the consistory before remarriage could be permitted.  

An entire section, albeit a short one, is devoted to the question of whether, under certain circumstances, adulterers and deserters may be permitted to remarry. The first judgment, given by the Electoral Saxon Consistory, answers the question, “Are adulterers or malicious deserters to be permitted to remarry?” The consistory begins by giving the theological answer, based on Scripture: The guilty party cannot remarry. Jesus in Matt. 5:32 makes this clear for adulterers: “Whoever marries a divorced woman commits adultery.” (Here, the consistory seems to be understanding the “divorced woman” to be the guilty party in a divorce.) And St. Paul in 1 Cor. 7[:11] states the same principle for a deserter: “If she does not want to be reconciled, let her remain unmarried.”

However, the consistory recognizes that some will not be able to live outside of marriage without danger to their conscience, apparently because they would give in to the

143. Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Tertium*, 328–29 (3.4.4, nos. 6, 7, 3).

144. Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Tertium*, 373–75 (3.4.12).

145. “Ob dem Ehebrecher/ der Ehebrecherinnen oder den muthwilligen desertoren, sich anderweit zu verehelichen zu erlauben sey?” Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Tertium*, 373 (3.4.12, no. 1).
temptation to fornicate. In such cases, if the adulterer or deserter moves to another country (Land), the civil government there can permit them to marry, in order to defend their conscience.

The consistory then cites authorities from the Lutheran Reformation. Luther is cited\textsuperscript{146} as saying that God commanded in the Law to stone the adulterer; if that were done, this question would not arise. But where the government is lax, the adulterer can travel to a distant land and marry there if he cannot contain himself; but death would be better. The consistory says that Sarcerius, Hemmingsen, Bugenhagen, and Wigand agree with Luther on this point. In this place, Luther complains that adulterers should receive capital punishment, but the consistory says that many theologians point to John 8[:3–11] as a reason to let adulterers live.

A short mention is made at the end of this judgment on the new spouse of a deserter. “But if the woman who took the deserter discovers that he has a wife and wants to be free of him due to the deceit, Hemmingsen in his \textit{De conjugio}, p. 221, concludes that she should be pronounced free, and if she takes the deserter, that she is committing adultery.”\textsuperscript{147} From this statement, it appears that the guilty party in a divorce who wanted to remarry in a foreign land was supposed to keep his divorce a secret. Otherwise, why

\textsuperscript{146} Martin Luther, “On Marriage Matters,” 1530 (LW 45:32; WA 10/2:289).

\textsuperscript{147} “Wann aber die/ so den Desertorem genommen/ erfähret/ daß er ein Weib habe/ und will wegen des betrugs von ihm loß seyn/ Hemmingius de Conjugio p. 221. concludiret, man solle sie loß und ledig sprechen/ und wann sie den desertorem nehme/ daß sie adulterium committiren sollen.” Dedekenn and Gerhard, \textit{Thesauri Consiliorum Et Decisionum Volumen Tertium}, 373.
would a Christian woman and a Christian magistrate in the land permit this? Thus, it seems as though a guilty divorcé had no good option, but only a decision between two evils. In this case, lying by keeping one’s past a secret would be a lesser evil than falling into fornication. Also, the lesser-of-two-evils approach can be seen in the fact that, according to the passages from Christ and Paul quoted at the beginning of this judgment, remarriage is morally impermissible for the guilty party. Yet the consistory is willing to allow it anyway if the guilty party cannot contain himself rather than have him fall into a worse evil, such as fornication.

The next judgment, given by the Meissen Consistory on July 31, 1560, takes a firm line, not allowing any exceptions to Matt. 5:32 and 1 Cor. 7:11. This case deals with a man who married a divorcée whom the Wittenberg Consistory had condemned for adultery and veneficium (“poisoning” or “witchcraft”). Besides Scripture, the Meissen Consistory also appeals to canon law, civil law, Luther, and Melanchthon. The marriage cannot be allowed. “For until now, here in the consistory marriage has never been permitted to a guilty and injuring party in this case, but in such cases the guilty party is always committed to the civil government to be punished.”

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148. “On Marriage Matters,” 1530 (LW 45:32–33; WA 10/2:289–90). If Luther was speaking of a case where the guilty spouse had concealed her previous marriage, then he could be cited correctly for the Meissen Consistory’s position.

149. “Denn biß anhero allhier im Consistorio keinem parti reae & nocenti dißfalls die Ehe verstattet worden/ sondern wird in solchen und dergleichen Fällen/ allewege der Weltlichen Obrigkeit zu straffen befohlen.” Dedekenn and Gerhard, Thesauri Consiliorum Et Decisionum Volumen Tertium, 373.
and example that would be set by granting this dispensation, and they say that the Elector should dissolve the marriage and banish the woman.\textsuperscript{150}

The third and fourth counsels in this section are from the same source: the Meissen Consistory, and they present practically identical cases. In both, a husband deserted his wife and children and left them in poverty. Then, the deserted wife became pregnant by someone else and wanted then to marry him. In no. 3, this is forbidden and they are to be punished. But in no. 4, a dispensation is given, but the wedding is to take place “without any celebration” (\textit{absque ulla solennitate}).\textsuperscript{151} Neither of these cases give any rationale or arguments. Why would Dedekenn\textsuperscript{152} present these conflicting verdicts side by side? No answer is given, though one could suspect a lesser-of-two-evils rationale here. In any case, Dedekenn’s arrangement shows the stark contrasts between the decisions which could be given—not only within Lutheran Germany, but even by the same adjudicatory entity.

Counsel no. 7 shows just how complicated these situations could become. Johann Gerhard, writing for the theological faculty of Jena on July 14, 1619, describes a case where a woman lied about her first husband, saying he was dead. Under this pretext, she

\textsuperscript{150} Dedekenn and Gerhard, \textit{Thesauri Consiliorum Et Decisionum Volumen Tertium}, 373–374 (3.4.12, no. 2).

\textsuperscript{151} Dedekenn and Gerhard, \textit{Thesauri Consiliorum Et Decisionum Volumen Tertium}, 374 (3.4.12, nos. 3–4). The sixth counsel in this section is nearly identical to no. 3, but is given by the theological faculty of Jena and is dated Jan. 15, 1621 (pp. 374–75).

\textsuperscript{152} The same counsels are in the 1623 edition.
remarried. Then her second husband truly did die, whereupon she became engaged to a third man. The faculty judged that this betrothal should be forbidden until she could prove that her first husband was really dead, or that she was truly permitted to divorce him.\textsuperscript{153} No principles are enunciated in this counsel, but it shows how complicated cases could become, and how the Jena theologians managed to untangle the mess.

In this section, the overwhelming message is that, theologically speaking, remarriage is not permitted for the guilty party in a divorce. Yet, due to the sad realities of the fallen world in which we live, there come about lesser-of-two-evils situations where remarriage is the best option for an adulterer or deserter. In all of these situations, the counsels included in the \textit{Thesaurus} show concern to prevent situations where divorces would become normal or common; civil penalties such as banishment remain even when adulterers and deserters are permitted to remarry.

\textbf{Conclusions}

The counsels dealing with divorce and remarriage in the \textit{Thesaurus} are taken from many sources: consistories, jurists, theologians, and church ordinances. The issue of aristocratic moral decision making is not addressed. Instead, it is modeled. People had requested decisions from respected authorities, and these decisions were reprinted here.

\textsuperscript{153} Dedekenn and Gerhard, \textit{Thesauri Consiliorum Et Decisionum Volumen Tertium}, 375 (3.4.12, no. 7).
It cannot be overlooked that many of the counsels in the divorce and remarriage sections of the *Thesaurus* do not agree with each other. This disagreement can be traced back to different approaches to Scripture. Dedekenn and the other writers of the prefatory material for the *Thesaurus* had stated that the primary norm for giving counsels is Holy Scripture, and then logical consequences drawn from Scripture. However, some authors allowed the teaching of the New Testament to rule their decision, while others, perhaps influenced by ancient Roman law or by the difficulties of life in the world, allowed exceptions to the New Testament causes of divorce—or interpreted this very broadly—on the basis of Old Testament civil law or at least Old Testament capital punishment.

After Scripture, Dedekenn and the other preface writers set forth church law, civil law, local custom, and natural law as authorities for deciding cases of conscience, to be used according to the matter at hand. In the sections on divorce and remarriage, we have seen these norms being used eclectically. Lutherans did not reject the old authorities, but instead subjected them to Scripture’s authority. Where Scripture did not speak explicitly on an issue, however, the other authorities were cited and often followed. In addition to them, some cases used the proportion argument and arguments based on a sense of fairness. As we have seen in the case of Hemmingsen, these arguments could be quite subjective and, when used, were not used consistently. The differing approaches to Scripture, as well as the differing norms and arguments, led to a lack of uniformity.

But how should this lack of uniformity be interpreted? If nothing else, it tends to support the view set forth by Piepkorn and Appold, that there was in fact much diversity
among Lutheran Orthodox theologians, at least on certain issues. Contrary to Joyce’s generalization that the practice of the “stricter school” had the same results as for the “laxer school,” several sections presented counsels which could not be reconciled but were instead contradictory, with the stricter “school” contradicting the arguments and answers of the laxer “school.”

One should not forget, however, that this lack of uniformity was already recognized as a problem by the Leipzig and Greifswald theological faculties in their letters of preface to this work. Also, the prefatory materials identified this non-uniformity as specifically a characteristic of the section on marriage, not of the entire work as a whole. This lack of uniformity also should not blind us to the large degree of uniformity that exists even within the sections on marriage within the Thesaurus.

Along with this diversity of answers, there is also a diversity in views of what would constitute danger for the conscience. Niels Hemmingsen, for example, usually shows an orientation toward finding an outlet for sexual desires: without such an outlet, the conscience would be in danger, even if God’s Word would not allow someone to have a legitimate outlet (such as would be the case for a deserter). The church ordinance of Sachsen-Lauenburg, on the other hand, shows an orientation toward obedience to God’s Word: to allow divorce or remarriage in contradiction to the New Testament would be


dangerous for the conscience. This latter view of the conscience is the one set forth in the prefatory material to the *Thesaurus*: the conscience is oriented primarily toward obedience to God’s Word.

Most useful for Christians today are those writers who distinguish the two governments (civil and ecclesiastical), since this best reflects our situation today as Christian churches independent of the state in a permissive society. Johannes Brenz is an example of a writer who makes this distinction.\(^{156}\)

The prefatory material for the *Thesaurus* had noted that there was a substantial degree of diversity in the counsels on marital matters, and it raised this as a potential area of concern for the readers. In this chapter, this diversity has been demonstrated: opposing arguments are used, and diametrically opposite answers are sometimes given. This diversity is not simply in the realm of positive, human law. Rather, it has to do with the moral law: some writers accept arguments drawn from Old Testament civil law and examples, and others reject these arguments. Some use the proportion argument, others reject it. The editors of the *Thesaurus* also do not seem to offer much guidance in navigating this diversity. A progression from lax to strict can be seen in some sections, but no theory is set forth for dealing with conflicts among authorities (e.g., tutiorism, probabiliorism, or probabilism).

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156. E.g., Dedekenn and Gerhard, *Thesauri Consiliorum Et Decisionum Volumen Tertium*, 323–24 (3.4.3, no. 2).
Perhaps the inconsistencies in the marriage section are due to the inconsistencies in how these matters were really handled in Lutheran Germany during the 17th century. If so, then the Dedekenn-Gerhard *Thesaurus* is like a snapshot of the contemporary practice, which, though messy around the edges, was for the most part principled and consistent, seeking to order its life according to Holy Scripture. The *Thesaurus* does not solve all the problems; it gives representative voices of the leading thinkers of the day and, by doing so, sharpens readers’ thinking on these matters.
CHAPTER 6. OUTCOME AND CONCLUSION

After the second edition of Dedekenn’s *Thesaurus* was published in 1671, Lutherans continued to write and publish casuistry and collections of theological counsels. Later casuists such as Johann Olearius, Friedemann Bechmann, and David Sigmund Bohnstedt continued to deal with dogmatic questions as well as ethical questions, treating both alike as cases of conscience. Religious pluralism continued to be a problem. The later casuists stayed with the same definition of conscience as it was laid out by Friedrich Balduin. Into the 18th century, Lutheran casuists such as Otto Gotthold and Adam Rechenberg opposed probabilism and espoused, instead, tutiorism. The official opinions of theological faculties continued to be published.


Yet by the second quarter of the 18th century, the wave of Lutheran casuistry publication had subsided.\textsuperscript{5} Why was this so? Some have laid the blame at the feet of pietism. Either pietistic subjectivism or pietistic rejection of church organization and discipline is thought to be the cause for casuistry’s decline.\textsuperscript{6} An indication that this explanation is problematic, however, is that a pietist such as Philipp Jacob Spener could write quite a lot of casuistry.\textsuperscript{7}

Heinz-Dieter Kittsteiner identifies a few lines of criticism against casuistry that arose from the mid-1600s through the 1700s. First, the relation of norm and exception to the norm was touched on, with casuistry, seen as exceptions to the general law, going out of fashion.\textsuperscript{8} Related to this are the Protestant opposition to probabilism in general and


\textsuperscript{8} Kittsteiner, \textit{Die Entstehung des modernen Gewissens}, 211–12; Kittsteiner, “Kant and Casuistry,” 190;
Blaise Pascal’s “Provincial Letters” in particular, an attack on casuistry especially as practiced by the Jesuits.\(^9\)

Another line of critique attacked the externality of conscience, its orientation to a law outside of the individual. This critique appealed more strongly to an inwardly felt conscience. This type of *vox-Dei* conscience, which was not seen as being much darkened by human sinfulness, became more prevalent in the latter half of the 18th century. With norms internal to the conscience, there was no longer any great need for instruction from casuistry.\(^10\) For Immanuel Kant, the conscience needs no guiding. If one has a conscience, it will be able to make decisions on its own in the most doubtful moral situations. Because it does not deal with actions as cases that stand under the law, Kant’s view of conscience is a break with the moral-theological tradition before him. Also, for Kant, “casuistry” is just a way for one’s personal inclinations to rebel against the loftiness of the moral law. The casuistic situations that Kant does discuss are not part of the tradition of casuistry before him. He is not really considering whether there might be exceptions to the general laws. Kittsteiner calls Kant’s cases of conscience “negative casuistry,” a casuistry whose only purpose is to deny exceptions to the Categorical Imperative. To each case, Kant gives the stereotypical reply, “Act in such a way that the maxim of your will


can at all times also be a principle of universal law.” Kittsteiner sees this as the major difference between late 18th-century German views of conscience and the views of earlier casuistry, both Catholic and Protestant. For the earlier casuistry, the conscience must be informed by external authority. For Kant and others in the late 18th century, the conscience brings moral information with itself and does not need external authority. Thus, “Casuistry goes out of fashion through a change in conscience itself.”

Yet even before the time of Kant, Lutherans in the Germany had ceased to find the genre of casuistry as interesting and useful as they once had. Casuistry had come to be seen as unnecessary. Johann Georg Walch, writing in the mid-18th century, makes notable remarks to this effect. He did not see any need for a separate classification of “casuistic theology” in his Bibliotheca theologica selecta. The reason is that

those who explain cases of conscience do nothing other than accurately judge deeds with each of their reasons, apply divine laws to them, and judge which are good or bad, licit or illicit. Therefore, this can easily be done by anyone who rightly understands the divine laws and diligently considers the nature of the actions about which the question has been proposed. This is how he acquires for himself a more accurate knowledge of them. Nevertheless, the books which are written on cases of conscience can display some light.


13. “Qui enim de casibus conscientiae exponunt, illi nihil aliud agunt, quam vt facta cum singulis eorum rationibus accurate expendant: leges diuinas ad ista adplicent ac diuidicent, quae bona; aut mala: licita; aut illicita sint. Facili igitur negotio hoc ab eo fieri potest, qui leges diuinas recte intelligit ac rationes actionum, de quibus quaeestio proponitur, diligenter considerat; ita autem adcuratiorem eorum cognitionem sibi adquirit[.] Attamen libri, qui de casibus conscientiae scripti sunt, lucem quamdam prae-
For Walch, resolving cases of conscience was not so difficult, and therefore casuistry writings were not so helpful. Walch did not have to claim that the law was internal to the conscience for him to claim that casuistry was unnecessary.

Kant’s change in the view of conscience signaled not just a change in philosophy, but a change in theology as well. A. F. C. Vilmar suggested that the decline of Lutheran casuistry could be traced to a new theology. The late 18th-century rationalists delighted in so-called “collision cases,” which they then judged according to the “rules of practical reason.” Vilmar characterizes this as superficial, flat, ludicrous, and an extremely paltry eudaemonistic system. He writes,

At the end of the last [the 18th] century, as moral theology gradually was disintegrating into general principles, abstractions, and ostensible speculation, it was natural for casuistry to come gradually out of use and esteem. Finally, when the doctrine of sin had practically fallen out of moral theology, people forgot completely that there is and must be an Evangelical casuistry; with the word “casuistry” people understood nothing but Jesuit morality. The theological environment is not the same today as it was for Vilmar in the 19th century, yet modern Protestant theology still eschews casuistry. Due to a basic suspicion of


casuistry’s emphasis on the law and due to underlying anti-authoritarianism, modern Protestantism is estranged from casuistry.16

Yet the memory of Lutheran Orthodoxy’s casuistry survived not just with August Vilmar, but also among other confessional Lutherans in the 19th century. Wilhelrn Löhe, a supporter of Lutheran missions to North America, saw the classic Lutheran casuistry literature as being especially useful for pastors in hearing private confessions.

The strain of the soul, of the nerves, yes, of the body is great, if one wants to hear confessions seriously. Even the willing, seeking, striving is hard. But if one can only do what he wills and ought, he finds what he seeks, and the effort reaches its goal! But no pondering will help him who knows and can do nothing. No phrases will help, and the meager gunpowder that he brings from his poor experience is soon shot. He becomes hungry for counsel and instruction. There, no school notes will help; the school has no counsel for the business of the highest ministerial life. For there are no Protestant books from which a curate of souls [Seelsorger] can get the desired, necessary blessing—especially if we are dealing with the care of souls in the high sanctuary, with the care of souls in the confession chair—unless he takes refuge in the theologia conscientiaria, in casuistry. A father confessor needs scarcely anything more than casuistic studies.17

Löhe also identifies the objection to casuistry that Walch had mentioned:

In recent times, many people have wanted to know nothing of casuistry, because the step from general knowledge and recognition of the truth to the particular is [thought to be] easy and the anointing teaches everything. But it is not at all clear that in casuistry this all-teaching anointing remains. And on the other hand, despite the anointing that we have, many weak minds—even many minds that think they are richt and great—in this particular case do not know where to turn for counsel and help.18

Löhe wanted to make a clear distinction between the well-known Jesuit casuistry and the nearly-forgotten Lutheran casuistry.

If Jesuits have brought casuistry into ill repute, still they could only actually bring their casuistry into ill repute, while casuistry itself must remain valuable to all those who know how weak we are and how necessary, for this reason, is the counsel and instruction of those who saw clearly by God’s anointing. Thus, far be it from us to consider casuistry superfluous, for it is precisely this which can help the young clergyman the most, which he can also learn, and which makes him prudent and humble if he studies it rightly, precisely because the cases are an unending sea, and often two cases which appear similar to each other must nevertheless be explained differently. In earlier ages of the Lutheran Church, no one thought so contemptively of casuistry as do many today.19

On the other side of the Atlantic, the memory of the old Lutheran casuistry was, likewise, not forgotten. C. F. W. Walther recommended this literature to any pastors who could acquire such books, and incorporated much of it into his own “American Lutheran Pastoral Theology.”20 But with the switch of languages among Lutherans in America from German to English, the memory of the old Lutheran casuistry was lost for a time.21

But all of this is the story of a later day. In the mid-17th century, Lutherans appreciated casuistry, if done properly. When people had doubts about what was the right thing to do or believe, their first task was to learn from the wise. And this wisdom is what Dedekenn’s Thesaurus presented to them. In regard to all three “estates”—church, poli-

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21. Though Walther in his Pastoraltheologie had explicitly reviewed and recommended the Lutheran casuistry literature, Fritz, Pastoral Theology, and Mueller and Kraus, Pastoral Theology, omitted any such mention.
tics, and domestic life—the Thesaurus set forth a plethora of questions and answers, and thereby the majority of life situations were covered in which people might find themselves perplexed. The Thesaurus is mainly an anthology of cases and official opinions, but it is also a reference work, directing readers to a growing body of literature outside its volumes. The significance of the Thesaurus lies especially in its comprehensive nature. Dedekenn and the editors who followed after him brought about what was likely the largest, most detailed Lutheran casuistry that had ever been produced.

The Thesaurus was especially intended to aid pastors in the conduct of their ministry as they instructed and consoled Christian consciences. At times in their lives, people are not always sure about what to believe or what to do. Holy Scripture does not give explicit instructions on all the quandaries of life, and yet this fact does not excuse Christians from seeking and finding what is right in the particular case before them. Because Scripture gives general principles which can be applied to individual situations, cases not handled in Scripture are still questions of conscience with right and wrong answers. The Thesaurus sets forth the wisdom of respected teachers to help people—both preachers and hearers—to navigate the turbulent seas of conscience.

Scripture, of course, was the preeminent norm for casuistry. Answers dare not conflict with Scripture, for this would burden consciences. Yet for Orthodox Lutherans, sola Scriptura did not mean a clean break with other norms. When Scripture is not specific, then an “aristocratic” process of decision making would be used. This “aristocratic moral decision making” was a way of deciding cases that was based neither on the moral
opinion of the ruling class, nor on the opinion of the majority, nor on an individual’s autonomous choice. Lutherans such as Georg Dedekenn directed people to learn from the wisdom of the wise—pastors, experts in various fields of knowledge, and especially university theologians. Cases were to be decided on the basis of Scripture, then on the logical consequences drawn from Scripture, church law, civil law, local custom, natural law, and Christian equity. The Orthodox Lutheran view of Scripture did not mean a clean break with other norms, but it did mean a reinterpretation of them. The cases included in the *Thesaurus* were eclectic in their use of extra-biblical norms. All norms were subjected to the biblical Word of revelation, which allowed the other norms to be used in a supplementary fashion. As for the verdicts printed in the *Thesaurus*, these were not to be seen as independent authorities. The decisions included in the *Thesaurus* were not obligatory, but instead were meant for instruction. The arguments themselves were the most important. These arguments themselves could obligate Christian consciences; the authors of the arguments did not matter. In the end, however, it was clear that each Christian had the responsibility for deciding what was the correct thing to believe or do.

The *Thesaurus* contains, for the most part, cases of conscience that arose from real-life experiences. Indeed, much of Lutheran casuistry is the handing down of decisions given to real questions and conflicts that arose in the life of the church. This tradition of Lutheran casuistry, with precedents in Felix Bidembach and Conrad Porta, was

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carried out by Dedekenn, the *Consilia Theologica Witebergensia*, Dunte, Börner, and others.\textsuperscript{23} The counsels of individual authors can be included here as well, with Melanchthon’s counsels on the front end of the era of Lutheran casuistry, and Philipp Jakob Spener’s counsels on the other end.\textsuperscript{24}

The cases in the *Thesaurus* have to do not just with correct action, but also with correct belief. The answers to the cases pay close attention to circumstances, and yet radical situational uniqueness is denied. Cases can be equal to other cases in such a way that there can be precedent. The topics included in the *Thesaurus* deal especially with situations a Lutheran pastor would have faced. This is to be expected, considering that the *Thesaurus* grew out of the parish experience of Georg Dedekenn, a Lutheran pastor.

Inter-confessional disputes formed a field of concentration within the *Thesaurus*. The editors of the *Thesaurus* and and the authors of the counsels sought to confess the distinguishing features of their Lutheran doctrine and practice clearly. Another field of concentration is seen in the counsels on Baptism, the Lord’s Supper, and private confession and Absolution—important pastoral functions that were central in the Lutheran Christian’s life of faith. The government of the church and the office and duties of pastors form another field of concentration. Finally, marriage and sexual ethics are very impor-

\textsuperscript{23} Calov, Meisner, Quenstedt, and Deutschmann, *Consilia Theologica Witebergensia*; Dunte, *Decisiones mille et sex casuum conscientiae*; Börner, *Auserlesene Bedenken der theologischen Facultät zu Leipzig*.

\textsuperscript{24} Melanchthon, *Berathschlagungen und Bedenken*; Spener, *Theologische Bedencken*; idem, *Consilia et iudicia theologica latina*; idem, *Letzte Theologische Bedencken*. 
tant in the *Thesaurus*, with betrothal being the biggest topic both in terms of questions and of pages.

Christian Grübel’s *Appendix Nova* is in many ways its own book. It is a pastoral handbook, similar to the *Thesaurus*, but not as full and complete. The main value of Grübel’s work is that it presents much source material on 17th-century controversies, including disputes surrounding Hermann Rathmann and Georg Calixt. Thus, Grübel’s volume is a valuable historical source, as well as adding cases here and there to the main volumes of the *Thesaurus*.

One thing lacking in the *Thesaurus* is a treatise on conscience, such as Balduin and Dannhauer included in their casuistries.\(^25\) For Dedekenn and the other editors of the *Thesaurus*, conscience seems to have been self-understood. Conscience was a necessary foundation, but Dedekenn did not find it necessary to weave it into each question, or even to include a doctrine of conscience at the beginning. The interest is on what the right opinion or action is in each case. There is no need to make the link to the conscience explicit at every turn.

Yet as the prefatory material makes clear, the cases presented in the *Thesaurus* are indeed presented as cases of conscience, and thus the writers of these counsels write with confidence and seriousness. Indeed, without a certain degree of ethical seriousness, it is doubtful whether any genre of casuistry could exist in the first place. This attitude of seri-

\(^{25}\) Balduin, *De casibus conscientiae*; Dannhauer, *Theologia Casvalis*. 
ous contemplation of right faith and behavior is coupled with reverence for God’s institutions, whether those institutions be sacraments (Baptism, Lord’s Supper) or offices (princes, pastors, husbands and wives).

Cases dealing with husbands and wives were troublesome. Diversity among marital cases were acknowledged and seen as a problem. The eclectic use of authorities outside of Scripture might not have presented a problem if the hermeneutical approach to the Bible’s teaching of divorce and remarriage had been uniform. Many authors of responses on this issue allowed the teaching of the New Testament (especially Matthew chapters 5, 19, and 1 Corinthians 7) to trump Old Testament civil law and to be normative for the present, while others, perhaps influenced by ancient Roman law or by the exigencies of life, allowed exceptions to these New Testament passages or interpreted them broadly on the basis of Old Testament civil law. The use of subjective arguments in some of the cases also likely contributed to the problem. For example, Niels Hemmingsen did not use the proportion argument and arguments based on a sense of fairness consistently. The differing approaches to Scripture, as well as the differing norms and arguments, led to a lack of uniformity. This lack of uniformity was already recognized as a problem by the Leipzig and Greifswald theological faculties in their letters of preface to the *Thesaurus.*

However, this non-uniformity was not seen as characterising the *Thesaurus* or Lutheran casuistry as a whole; rather, it was a problem specifically with the volume on marital mat-

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ters. This lack of uniformity also should not blind us to the large degree of uniformity that exists even within the sections on marriage within the *Thesaurus*.

In any case, the continuing use of old Roman Imperial law and especially of medieval canon law shows that Lutherans did not completely reject the old authorities, but instead subjected them to Scripture’s authority. Where Scripture did not speak explicitly on an issue, however, the other authorities were cited and often followed.

The Lutherans inherited many of these contradictions from history (e.g., divorce and remarriage in Roman law and canon law). When doubts arise about what is the right thing to do or believe, the first step is to learn from the wise. Then, if the wise do not agree, one must determine how to proceed. The Dedekenn-Gerhard *Thesaurus* marks the first step, learning from the wise, but not the second step. There is little “conflict management” within the sections of the *Thesaurus* dealing with divorce and remarriage. An arrangement of materials from most detailed (and sometimes most lax) to more strict on individual points can be recognized sometimes, but no theory is set forth. The notion of probability (e.g., tutiorism, probabiliorism, or probabilism), by which many casuistic conflicts were being dealt with among contemporary Roman Catholic writers, does not appear in the divorce and remarriage cases of the *Thesaurus*. Readers are left to derive principles for themselves and to apply them correctly in other situations.

All in all, the *Thesaurus* is uniquely Lutheran, pastoral, dogmatic, and practical. The issue of inter-confessional relations runs throughout the cases. The doctrinal focus of the counsels likewise presented uniquely Lutheran views. The underlying position is the
certainty that what is being set forth is the truth. And it is this truth which can instruct and assure doubting consciences. A major focus of the *Thesaurus* is the pastor’s office and duties, and the work can be seen as a thorough pastoral theology whose contents come from the leading theologians and faculties of post-Reformation Lutheranism. The dogmatic focus is seen in the broad spectrum of topics addressed. The cases dealing with doctrine would have been helpful to Lutheran pastors in their duty of preaching and would have informed also their lives and their influence upon the lives of their hearers.

Perhaps it is fair to say that the process of categorizing knowledge leads to casuistry. Casuistry is where general knowledge is applied to particular cases. Such casuistic categorizing was esteemed especially for Lutheran pastoral care in the 17th century, for it is here that the doctrine of the Gospel (*doctrina evangelii*) comes into contact with the many situations and trials of life. To the extent that Lutherans like Dedekenn sought to keep track of those many situations, to that extent casuistry arose. In the *Thesaurus*, we see the Lutheran casuistry literature in bloom. It arose to meet the needs of people who had doubts, and it would continue to instruct and console Christian consciences for many generations.

SOLI DEO GLORIA
APPENDIX: THESES

1. According to classical Lutheran theology, the conscience functions as a practical syllogism in the human mind or soul, in which the major premise is the law of God or the Word of God; the minor premise and conclusion are the application, approving something done rightly or condemning a transgression; and this approval is followed by happiness in the heart, and the condemnation is followed by grief.

2. Lutheran casuistry can be defined as the effort to apply general moral principles in particular circumstances for the purpose of freeing the Christian conscience from error and doubt, and to document this application for future use.

3. For Lutheran casuistry, Holy Scripture is the highest norm. But when Scripture is not specific, then an “aristocratic” process of decision making is to be used in which one consults the wise, who draw from Scripture, church law, civil law, local custom, and natural law in giving their counsel.

4. The decisions given by Lutheran casuistry are not to be seen as independent, obligating authorities, or as an authority between the conscience and God, but are only meant to instruct the conscience. Yet the arguments that are used in casuistry, depending on their strength, may obligate Christian consciences.

5. According to the New Testament, there are two legitimate causes for divorce: adultery and malicious desertion.

6. According to St. Augustine, Pelagius was in error when he taught that Christ is not the Savior of infants, that God’s grace has not brought us to freedom, and that there are some people who no longer need to pray “forgive us” in the Lord’s Prayer for themselves.

7. According to St. Augustine, the conversion of a sinner is God’s work alone, but the final attainment of salvation is the work both of God and of the human being who is being justified.

8. According to the early 18th-century Lutheran Johann Jacob Rambach, the mystical sense of Scripture is not an alternative to the literal sense, but is rather dependent on it. Just as many words in the Bible were prophetic, especially in the Old Testament, so also Rambach claims that things were often prophetic as well (e.g., people, places, objects, animals, numbers, and events).
9. In Reformed theology, there are one or two covenants, and sometimes a pact in addition; whereas in Lutheran theology, there are two covenants: the Law and the Gospel.

10. Wolfhart Pannenberg does not clearly distinguish the begetting of the Son of God from the creation of the world and, like the ancient Arians, Pannenberg defines the divine sonship of Christ in subordinationist terms.

11. In the 16th and 17th centuries, loci communes was not only the name of dogmatic works, but was also a popular method of learning used while reading and excerpting in order to categorize knowledge.

12. According to Reformed covenant theology, there are between two and seven sacraments in the Bible; whereas according to the Lutheran confessions, there are two, three, four, seven, or even more sacraments.
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