

# The Wauwatosa Gospel and the Synodical Conference: A Generation of Pelting Rain

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At no time was the theological life of the Lutheran Synodical Conference more dynamic than during the earliest decades of the last century. By 1900 the great election controversy, which had rocked the conference in the 1880s and led to the Ohio Synod's withdrawal, had mostly subsided. But fundamental questions of theology remained, questions that the two great Synodical Conference theologians of the nineteenth century, C.F.W. Walther and Adolph Hoenecke, had left largely unanswered or, at the very least, unaddressed. It was left to a new generation of Synodical Conference theologians to wrestle with these lingering questions. In the Wisconsin Synod that work would be done in large part by three especially gifted men, and after the death of Wisconsin's beloved Professor Hoenecke in 1908 the aegis of theological leadership within the synod was fully handed over to these fresh faces.

Already by the turn of the century things had begun to change at Wisconsin's Wauwatosa seminary. In 1900 Professor John Ph. Koehler (1859-1951) arrived from Northwestern College in Watertown to teach church history and New Testament exegesis. Professor August Pieper (1857-1946) was added to the faculty two years later, arriving from his pastorate at St. Marcus, Milwaukee, to teach Old Testament exegesis and isagogics. In 1908 Professor John Schaller (1859-1920) moved from his directorship at Dr. Martin Luther College in New Ulm to replace the sainted Hoenecke as the seminary director, inheriting also his courses in dogmatics and pastoral theology. All three men were graduates of Northwestern College and Concordia Seminary, St. Louis. All three had studied under the likes of Walther (1811-1887) and George Stoeckhardt (1842-1913). With the Spirit's guidance and blessing, these three men – Koehler, Pieper and Schaller – would change the course of Synodical Conference history with a fresh approach to theology, eventually tabbed “the Wauwatosa Gospel.”

As is the case with most fresh theological thinking, however, the Wauwatosa Gospel was looked upon by many with great suspicion. Even within Wisconsin the Wauwatosa theologians were questioned repeatedly when they didn't treat theological subjects in the same traditional, scholastic and dogmatic way they had often been treated.<sup>1</sup> The Wauwatosa trio was simply making a concerted effort to reintroduce the historical-exegetical approach so prevalent in the theology of Luther, yet this approach was questioned from the start and is still disparaged to the present day.<sup>2</sup>

In his seminal 1904 essay entitled “The Importance of the Historical Disciplines for the American Lutheran Church of the Present,” J.P. Koehler outlined the basic tenets of the Wauwatosa approach and its distinction from the over-reliance on dogmatic formulae that reigned supreme within Lutheranism after the time of Luther:

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<sup>1</sup> Koehler, for instance, was taken to task by certain synodical leaders for a *Theologische Quartalschrift* article he wrote on the temptation of Christ (V, no. 1), now found in translation in *The Wauwatosa Theology*, I (Milwaukee: Northwestern Publishing House, 1997), 371-386. Koehler gives details of his interview with these men in his *History of the Wisconsin Synod* (Sauk Rapids, Minnesota: Sentinel Publishing Co. for the Prot stant Conference, 1981), 218.

<sup>2</sup> For instance, the Concordia Lutheran Conference charges the Wauwatosa theologians, particularly Joh. Ph. Koehler, with false doctrine. One page on their website reads: “To this day in Wisconsin Synod theology, Dr. Adolf Hoenecke is avoided like the plague and their new ‘historical-linguistic-exegetical method’ of approach to Scripture, introduced by the Koehler, Pieper, Schaller faculty shortly after Hoenecke's death, is practiced. This method is the prime basis for their ‘new’ doctrine on Church and Ministry, and it can easily infect other clear teachings of Scripture as well” ([www.concordialutheranconf.com/c&mcatechism.html](http://www.concordialutheranconf.com/c&mcatechism.html)).

A degree of mental inflexibility (*Geistesstarre*) has begun to assert itself, coupled with a hyperconservative attitude which is more concerned about rest than about conservation. ... This mental inflexibility is not healthy, for if it continues it will lead to death. Both in the mental activity of an individual and of a community, fresh, vibrant, productive activity is a sign of health.

The inertia of which I am speaking shows itself in a lack of readiness again and again to treat theological-scholarly matters or practical matters theoretically and fundamentally without preconceived notions. This is necessary if we are to watch and criticize ourselves. ... And if we do not again and again rethink in detail the most important theological matters and our way of presenting them, it can happen that all of this can become mere empty form without spirit or life. As we practice such self-criticism, we shall find that the divine truths which we draw out of Scripture indeed always remain the same, but that the manner in which we defend them, yes, even how we present them is not always totally correct. Here we can and must continue to learn. This view is opposed by mental inflexibility. It rejects criticism and does not want the traditional to be disturbed.<sup>3</sup>

Koehler and the other Wauwatosa men have often been accused of being opposed to the pursuit of dogmatics and of “throwing off the shackles” of their Synodical Conference predecessors, Hoenecke and Walther. That charge, however, is simply unfounded. Koehler and his colleagues often described the blessings that good, lively and Scriptural dogmatics imparted to the spiritual life of the Synodical Conference. They readily admitted that the clear, concise Scriptural statements of Lutheran dogmatics played an invaluable part in the Conference’s orthodox stance, especially when that stance was threatened by European indifferentism and American pluralism. Koehler observed: “Firmness and clarity in confession and the right attitude toward Scripture were maintained thereby, while at the same time the influential quarters in Germany lost the Confessions and Scripture.”<sup>4</sup>

What the Wauwatosa men did decry was an overemphasis on dogmatic formulae and finally a legalistic unwillingness to treat and re-treat questions of theology on the basis of Scripture alone without preconceived, dogmatic notions. All too often they sensed a lackadaisical contentment to simply accept the theological conclusions of the Lutheran church fathers *a priori*. They heard, as Koehler put it, “the demand that in the case of Lutheran discussions, [they] are to be based only on the Confessions and the writings of the fathers. Another example is the principle that Scripture is to be interpreted by the Confessions and not vice versa.”<sup>5</sup> Such attitudes were anathema to the Wauwatosa men, but they repeatedly encountered those very attitudes within American Lutheranism and the Synodical Conference. In particular, Koehler recalled that within the Synodical Conference “a pragmatic dogmatism had set in, which aimed principally at keeping the peace.”<sup>6</sup>

An amusing example of such theological pragmatism in the history of the Lutheran church has been the hesitancy of many conservative theologians – even in the twentieth century – to question the *semper virgo* opinion of Martin Luther, an obvious remnant of the reformer’s Roman Catholic piety. This trend goes all the way back to the Latin version of Luther’s Smalcald Articles. It also lurked within the

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<sup>3</sup> John Ph. Koehler, “The Importance of the Historical Disciplines for the American Lutheran Church of the Present,” *The Wauwatosa Theology*, III (Milwaukee: Northwestern Publishing House, 1997), 434-435.

<sup>4</sup> *Ibid.*, 434.

<sup>5</sup> *Ibid.*, 435.

<sup>6</sup> John Ph. Koehler, *Reminiscences* (1930). Concordia Historical Institute: Koehler Family Collection, 7.

Synodical Conference. That's easily illustrated from the fact that, after authoritatively quoting Luther in his *Christian Dogmatics*, Franz Pieper conceded the following with evident uneasiness concerning those who held a differing opinion in opposition to Luther's traditional stance:

If the Christology of a theologian is orthodox in all other respects, he is not to be regarded as a heretic for holding that Mary bore other children in a natural manner after she had given birth to the Son of God. ... But we must emphatically object when those who assume that Jesus had natural brothers pride themselves on their more delicate "exegetical conscience" and disparage those who hold the opposite view. They certainly cannot prove their view from Scripture.<sup>7</sup>

It would seem, however, that the burden of proof would rest on those who with Luther suggest that a married woman such as Mary remained a virgin throughout her life. There is simply not a shred of Scriptural evidence that such was the case. However, this was and is often the *modus operandi* of many conservative Lutheran pastors and theologians in their pursuit of "maintaining" orthodox theology. So often they appear anxious about critically questioning and investigating long-held theological opinions of those faithful Lutheran teachers who have gone before us even if those opinions fly in the face of Scripture and common hermeneutical principles. Instead they simply quote *Vater Luther* or the Confessions or the orthodox dogmaticians or the Synod handbook, relying on their authority without doing original, historical-exegetical work in the Scriptures themselves. It's easier and safer to "keep the peace" and use the Scriptures as a handy rulebook.

The Wauwatosa theologians were refreshingly different in that respect. They were stirred by their original study of the language and history of Scripture to carefully scrutinize the pronouncements of the past. This, in turn, stirred suspicion. But this critical scrutiny was not undertaken for the purpose of circumventing Biblical truth, as is very often the case with so-called "exegesis" in liberal camps. Instead, their sole purpose was to be *truly* faithful to the Word of God and historically honest in their approach to the gospel of our salvation. The only way to do that was to go back to the *norma normans*, the Scriptures themselves, to the grammar and history of God's inspired Word. Most often the Wauwatosa professors found nothing awry with the doctrinal presentation of the orthodox dogmaticians. But sometimes they did, most notably in the hermeneutical approach to the doctrine of election and the traditional Lutheran position on church and ministry. The Wauwatosa men were brave enough to admit that some of our Lutheran forefathers simply didn't have those teachings right – or at least that they had spoken unclearly – and that in their attempt to understand and explain those teachings some men had simply said more than the Holy Scriptures say.

The Wauwatosa triumvirate was also astute enough to know that they were taking a huge personal and professional risk by bringing those long-held dogmatic aberrations within Lutheran theology to light, but Koehler comments: "It would show a lack of historical sense and judgment to be ashamed to make such an admission, a lack of which in part has been spawned by the still prevalent dogmatic insistence upon orthodoxy which leads to fear that with such an admission something of the former orthodoxy would be sacrificed."<sup>8</sup>

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<sup>7</sup> Franz Pieper, *Christian Dogmatics*, II (St. Louis: Concordia Publishing House, 1951), 308-309. It is interesting to note that in his Commentary on the Gospel of John (2:12), Koehler critically observed: "The sentimental idea that Mary had no other children, current in the Lutheran church too, is rather a relic of the early church's Mariolatry and Roman sacramentalism than a product of sound exegesis and the historical appreciation of marriage at the time of Christ" (*Faith-Life*, 17, No. 10 [October, 1944]: 9). Could it be Koehler that Franz Pieper is referring to in his diatribe against those with a "more delicate 'exegetical conscience'"?

<sup>8</sup> Koehler, "Historical Disciplines," 435.

In typical Wauwatosa fashion August Pieper, too, pointed out the blessings of dogmatics as used by Walther to maintain and clarify the church's confession. Almost prophetically, however, Pieper also warned about its dangers when too much reliance is placed on lifeless dogmatic formulae.

Walther could share with his students a directly scriptural theology that still presupposed a knowledge of the original languages, probably seldom realized. ... The watchword of that time was: Genuine Lutheranism! The Lutherans of America flocked around it; teachers and laypeople were enraptured with it. In the course of time, it was completely unavoidable that out of Lutheranism would come the war cry, "Missouri!" as synonymous with genuine Lutheranism. Through this conviction, the synodical league Walther founded became a solid, unbreakable phalanx which has so far victoriously opposed all the attacks of the enemy. That would not have been possible without Walther's rigorously polished dogmatic training, without the definite conviction of the possession of genuine Lutheranism.

However, this training in the long run also has its dangers. Dogma is the word crystallized into an inflexible human form. It says so much and no more; it does not express the full content of Scripture. That is its essence. Scriptural truth is so living and refracting, so fresh and fluent, that one can turn it a thousand times, inspect it from a thousand situations, without its losing any content or power. It is like a nimble giant, growing to every new situation, need, and danger. It is spirit and it is life, God's life. God's mind and life's blood for the saving of lost sinners. It remains eternally young and eternally new and makes everything new and anew.<sup>9</sup>

Negative reaction naturally followed this fresh approach. For instance, Koehler's comments about mental inflexibility within the Conference were taken personally by some, especially it seems within Missouri as they imagined Koehler pointing his bony finger at the sainted Walther. The author recalled that "Stoeckhardt, on instructions from his faculty, demanded that Koehler recant, particularly because in one sentence he was to have accused Walther of laziness. ... Now Stoeckhardt asked for a clarification, which Koehler produced in an article in which he critically examined Dr. Walther's theology with reference to exegesis."<sup>10</sup> He assured them, "When I spoke of mental inflexibility, I was not becoming personal, wanting to describe any one person or group of persons in the Lutheran church as being incapable of understanding or judging theoretical or practical problems objectively. I was concerned about remaining completely objective."<sup>11</sup> Instead his intent had been to describe and cast light on this recurring, problematic, theological phenomenon, especially as it reared its ugly head within the Synodical Conference:

The second or third generation rests upon the shoulders of their predecessors in this matter and does not treat it in the same original manner as they. They simply accept this or that idea as a finished product without having to go through the mental effort which the fathers put forth. So quite spontaneously it comes about that in this matter there is a lack of mental effort which gives the impression of inflexibility. Not only is there no more investigating, but there is also a vigorous championing of the matter because that which

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<sup>9</sup> August Pieper, "Stoeckhardt's Significance in the Lutheran Church of America," *The Wauwatosa Theology*, III (Milwaukee: Northwestern Publishing House, 1997), 423.

<sup>10</sup> Koehler, *Reminiscences*, 6.

<sup>11</sup> Koehler, "Historical Disciplines," 439-440.

has been received from the fathers has taken on the character of something that must be revered.<sup>12</sup>

Stoekhardt was apparently satisfied with Koehler's further elucidation; Franz Pieper was not, causing a reported rift within the St. Louis faculty.<sup>13</sup> A rift also began to clearly develop between the Wauwatosa and St. Louis seminaries "over the use of Holy Scripture in relation to dogmatical work,"<sup>14</sup> a division that would particularly be amplified in the 1910s after the deaths of the highly-respected Hoenecke and Stoekhardt.

The consequence of this division for the Wauwatosa seminary was that "the exegetical and historical studies received more attention."<sup>15</sup> St. Louis, on the other hand, became further steeped in its dogmatic approach, eventually leading – in the decided opinion of not a few – to that Seminary's confessional compromises later in the century when the dogmatic method finally ran its course toward a dead orthodoxism and rationalism. Some suggest that the Wisconsin Synod is herself on the same dead-end dogmatic track even now.<sup>16</sup>

Be that as it may, between 1900 and 1930 the Wauwatosa theologians made an attempt through their exegetical and historical studies to free the theological thinking within the Wisconsin Synod, the Synodical Conference and American Lutheranism from the clutches of a prevailing legalistic-dogmatic approach. Their attempt became known as the Wauwatosa Gospel, and history has proven that their attempt was largely unsuccessful. For all intents and purposes the Wauwatosa Gospel was a fast-moving shower of theological vitality within the Lutheran church in America, a pelting rain which very few noticed at the time and even fewer recall today.

### THE FIRST FEW DROPS: THE ANALOGY OF FAITH

The Wauwatosa Gospel first came to prominence during the Lutheran free conference era. These conferences were held in the Midwest during the first decade of the twentieth century. The purpose of these meetings was "by the grace of God to bring about through such frequent free conferences, if possible, unity in doctrine."<sup>17</sup> On the top of the agenda was the long-standing debate concerning the doctrine of election that had rent the Synodical Conference asunder twenty years earlier. Representatives of the Ohio and Iowa Synods continued to hold to the seemingly logical but unscriptural position of an eternal election *intuitu fidei* (in view of faith). The Synodical conference members were stalwart in their objection.

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<sup>12</sup> Ibid., 440.

<sup>13</sup> Koehler, *Reminiscences*, 6.

<sup>14</sup> Ibid., 7.

<sup>15</sup> Ibid., 7.

<sup>16</sup> The Protéstant Conference of the Wisconsin Synod, in particular, claims that the Wisconsin Synod "brutally repudiated" Professor Joh. Ph. Koehler and the Wauwatosa Gospel when Koehler was ousted as the director of the Seminary in 1930 as a result of the Protéstant Controversy that had raged in Wisconsin since 1924. A mostly young group of Wisconsin pastors had been suspended by the Western Wisconsin District for their disagreement with certain church disciplinary actions taken by synod and district officials. In an attempt to bring lasting peace, Koehler made every effort to put the best construction on the words of both parties in the controversy, but his perceived defense of the Protéstant point of view eventually led to his own demise and dismissal. The Protéstants see especially this action by the Wisconsin Synod as telling proof of the church body's rejection of Koehler and the principles he championed at Wauwatosa. Wisconsin Synod writers, for the most part, have asserted that the Wauwatosa Gospel is still alive and well at the Mequon seminary and within synodical ranks to this day.

<sup>17</sup> Koehler, *History*, 211-212.

It soon became apparent, however, that even those within Synodical Conference ranks were not in total agreement as to the precise Scriptural response to this doctrinal aberration. At the Watertown free conference (April 29-30, 1903) St. Louis professor Franz Pieper presented a paper entitled “Fundamental Differences in the Doctrine of Conversion and Election.” It is reported that his presentation “elicited a wide-ranging, ‘rather haphazard’ discussion during the two days of sessions.”<sup>18</sup> Finally an Ohio Synod pastor from Chicago named Martin Doermann questioned a statement by Pieper, suggesting that it did not square with the “analogy of faith.” In his *History of the Wisconsin Synod*, J.P. Koehler reports that Doermann used this phrase “without saying what this analogy is.”<sup>19</sup> Pieper answered his objection by stating that “virtually ‘the analogy of faith’ is the doctrine of justification with which every teaching must be in harmony.”<sup>20</sup> Koehler, who attended the second day of the conference, goes on to recount:

By no means all of those present agreed to this answer [sic], even though no one questioned the significance of the doctrine of justification in Lutheran teaching. So then, when the time of adjournment approached and the subject of discussion at the proposed fall meeting was under consideration, Prof. Koehler suggested “The Analogy of Faith” as the topic. At the second meeting [held in Milwaukee on September 9-11, 1903] there were as many opinions on the subject as speakers. No one had thought of carefully examining Rom. 12:6, where the phrase is used by St. Paul, and presenting his findings. The expression had been used for over fifteen hundred years in the church as a technical principle of interpretation, and so all the answers given at the meeting as to ‘the analogy of faith’ were based on various statements of the dogmaticians. The result was that no agreement was achieved; but the general idea remained that every teaching, and hence the interpretation of the respective Scriptures, must be ‘analogous,’ that is, conform to the doctrine of the Bible otherwise.

Koehler was not slow in offering this observation of the impasse: “The indiscriminate use of this principle in the attempt to explain the mysteries of Bible truth had served to emasculate some of its most vital teachings, e.g. the doctrine of election. The proper interpretation of the misapplied Scripture text became imperative.”<sup>21</sup> Simply put, many, if not most, Lutheran theologians since the Reformation gave the impression that it was impossible for the Scriptures to contain any human contradictions. They believed that ultimately all the doctrines of Scripture must conform to a logical rule, and they appealed to Paul’s words in Romans 12:6 – κατὰ τὴν ἀναλογίαν τῆς πίστεως – in an attempt to support their idea of this “analogy of faith” as a rule of interpretation.

Koehler disagreed. And so it was that in the 1904 inaugural issue of Wisconsin’s new theological journal, *Theologische Quartalschrift*, Professor John Ph. Koehler offered both the Synodical Conference and American Lutheranism their first taste of what would later be tabbed “the Wauwatosa Gospel.” He did this by means of an epic essay fittingly entitled “The Analogy of Faith.” Most readers, both outside and within the Synodical Conference, would find the article and the daring Wauwatosa approach hard to stomach because it seemingly “declared war” on a 400 year-old Lutheran tradition of using the so-called “analogy of faith” as a hermeneutical principle.

Koehler began his ground-breaking article by setting down what he saw as the opposing views of Scriptural interpretation found at the free conferences of 1903.

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<sup>18</sup> Armin Schuetze, *The Synodical Conference: Ecumenical Endeavor* (Milwaukee: Northwestern Publishing House, 2000), 180.

<sup>19</sup> Koehler, *History*, 212.

<sup>20</sup> *Ibid.*, 212.

<sup>21</sup> *Ibid.*, 212.

The Synodical Conference maintains that in explaining the so-called *loci classici* or the *sedes doctrinae* one may not, when it is a question of obtaining a doctrine, deviate from the grammatical-historical sense that is immediately and clearly contained in these passages. And if these passages contain terms that according to our human understanding even seem to contradict other doctrines of Holy Writ, one may not modify (*umgestalten*) these terms according to these other doctrines, provided that they are clearly present in these *loci classici* and are integral parts of this particular doctrine. ... Now it may happen that according to *purely human* understanding a difficulty is present which consists in this: that this doctrine according to our reason cannot be brought into harmony with other doctrines. Then it is part of correct interpretation and presentation of doctrine to establish this difficulty and make it known.

The position of the opponents is as follows: Not all doctrines are revealed with the same measure of clarity. The doctrine of justification is central to all doctrines and is unconditionally clear. It is not the case with the doctrine of election by grace. Now, the doctrines of Scripture cannot contradict one another, but must be in harmony with one another. It is, therefore, the task of the theologian to discover this harmony, which must also be recognizable to our reason, and present the doctrines in this sense. ... Of course, this does not mean that the clear doctrines of Scripture are somehow the source from which other doctrines could be evolved or constructed. But in the explanation of the so-called *loci classici* of the less clearly revealed doctrines, the expressions that contradict the clear doctrines of Scripture will have to be stripped of their usual, immediate meaning and be weakened or modified according to the pattern of other clear doctrines of Scripture.

Both parties lay claim to the term *analogy of faith* for their interpretation. They are convinced that in doing so, they at the same time are in agreement with the best teachers of our Lutheran church. It is the purpose of this investigation to discover which is the correct manner of interpretation.<sup>22</sup>

Koehler then outlined the path that his investigation would take and the conclusions that would be drawn. First, "we shall consider the passage of Scripture from which the expression *analogy of faith* is taken (Ro 12:6). An unbiased exegesis will show that it does not at all contain a principle of interpretation." Second, "we shall then inquire whether in the words of Christ and the apostles about Scripture ... there is something that justifies this expression and its application. Here again we shall find that this is not the case." Next, "we shall then use the natural method of interpretation which is inherent in the nature of thinking. ... Using this method, we shall find that the Synodical Conference's way of interpretation is the correct one."

Finally, we shall ask: How do the fathers of the Lutheran church of former days stand in this matter? In answer we must make the following admissions: a) The expression *analogy of faith* rests upon an erroneous conception of Romans 12:6; b) The fathers speak in various ways about the application of the rule and employ the rule in various ways. Hence it would be a fruitless controversy if one wished to claim the fathers' stand for one

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<sup>22</sup> John Ph. Koehler, "The Analogy of Faith." *The Wauwatosa Theology*, I (Milwaukee: Northwestern Publishing House, 1997), 221-222.

side or the other exclusively; c) The expression *analogy of faith* is an unhappy choice and really says no more than that the interpreter as a believer is not a so-called *tabula rosa*.<sup>23</sup>

Koehler also promised that his readers would see that “our understanding of Romans 12:6 was not at all unknown to the fathers ... [that] the fluctuation of the fathers is understandable because the question was not debated in the sense and in the acute form as it is today ... [and that] our fathers, however, Luther above all, are nevertheless *completely* on the side of the Synodical Conference as far as the essence of the matter is concerned.”<sup>24</sup>

Koehler summarized the exegetical finding of his exhaustive study in his *History of the Wisconsin Synod*:

His finding was that the Apostle is not stating a technical principal of hermeneutics in Ro 12:6 but saying that in the matter of the gift of “prophecy” such prophesying should be according to the proportion of faith (as it is translated quite aptly in the English Bible); in other words, those in the early church endowed with this particular gift should confine themselves in their prophesying, its content, scope, and exercise, to the measure or degree of faith with which they were endowed, by virtue of which they could exercise such gift through the Spirit; they should not try to go into higher flights of their own (Ro 12:3).<sup>25</sup>

Koehler’s conclusions were immediately questioned. Many of his own Synodical Conference brethren disagreed with his assertions and even seemed to resent what they thought was Koehler’s dubious characterization of the “Synodical Conference position.” Chief among the challengers was Franz Pieper who “told Koehler’s father-in-law: ‘I fear that Koehler has ventured on a dangerous field with his article, and his presentation of the subject might do damage to the Lutheran doctrinal position.’”<sup>26</sup> Even his own Wauwatosa colleagues were not directly won over. In his 1930 *Reminiscences*, Koehler recalled that “Hoenecke contradicted him, because Koehler’s approach to the matter in question was new to him. [August] Pieper made no reply whatsoever. Afterwards it required considerable effort on Pieper’s part to conquer his apparent misgivings.”<sup>27</sup>

Outside the Synodical Conference, opposition was predictably ardent. Koehler recalled how at the April 1904 Detroit free conference “[August] Pieper again tried to introduce the same topic for discussion. But he didn’t succeed. [The Norwegian Friedrich] Schmidt, [the Ohioan F.W.] Stellhorn, as well as Hoenecke and Franz Pieper were afraid of it.”<sup>28</sup> When Koehler was introduced to Professor Schmidt at that same conference, he was asked if he had been the author of the controversial article. “The affirmative answer elicited no further comment but the cryptic: ‘Well – so you wrote that!’”<sup>29</sup> He also reports on a private conversation he had with the now-famous Ohio exegete R.C.H. Lenski. Koehler “recognized the Ohio man’s deep interest in the subject ... The *intuitu fidei*, however, and ‘the analogy of faith’ were never surrendered by Lenski.”<sup>30</sup>

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<sup>23</sup> Koehler, “Analogy of Faith,” 222-223.

<sup>24</sup> *Ibid.*, 223.

<sup>25</sup> Koehler, *History*, 212.

<sup>26</sup> John Ph. Koehler, *Reminiscences*, 5. This comment is also found summarized in Koehler’s *History*, 212.

<sup>27</sup> *Ibid.*, 5.

<sup>28</sup> Koehler, *Reminiscences*, 5.

<sup>29</sup> Koehler, *History*, 212.

<sup>30</sup> *Ibid.*, 213.

One positive response that Koehler relates was that of an Iowa pastor named George Fritschel, the son of early Iowa Synod leader Gottfried Fritschel. The son had paid Koehler a visit in 1903 and was won over to Koehler's conclusions. He was later called to Wartburg Seminary in 1906.<sup>31</sup> The other positive reply came from Koehler's old St. Louis professor Stoeckhardt, who told the writer privately: "It was a good thing that you set people straight on that question of the 'analogy.'"<sup>32</sup> Few others apparently agreed, however, and the simple fact remained that a vast majority had not been "set straight" on the analogy of faith. Koehler himself recognized that "it was not very promising for the future that many closed their minds to new insights that might have promoted a more original and independent study of the Scriptures and thus invigorated the life of the church."<sup>33</sup>

Thus this first foray of the Wauwatosa Gospel into the public theological conversation of the Synodical Conference had fallen almost entirely upon deaf ears. The first few drops of rain had fallen, and the prevailing theological attitude of the Synodical Conference was seemingly unaffected. The old, legalistic dogmatism reigned supreme. But the Wauwatosa shower was not about to dry up and be whisked away. The storm would only intensify.

### THUNDER AND LIGHTNING: THE CHURCH AND MINISTRY DEBATE

In his introductory essay to Joh. Ph. Koehler's *History of the Wisconsin Synod*, Leigh Jordahl writes:

Koehler's consistent application of his hermeneutical method [as outlined in his "Analogy of Faith"] is apparent in all his exegetical work. Coupled with this is his insistence upon historical consciousness. ... Only with difficulty can one separate the essence of a thing from the historical form in which it finds its expression. Form and content tend to become one. Because this is true there is always the tendency to absolutize and read back into Scripture what were only historical developments. All this is illustrated in the doctrine of Church and Ministry where what had in fact developed historically was treated as though the forms themselves were absolute and valid for all times and in all situations. The Church and Ministry issue becomes an excellent example of the Wauwatosa's historical-exegetical methodology in practice. It is worth noting that on this specific issue Koehler's position was eventually adopted by the Wisconsin Synod. Nevertheless, it might also be suggested that even here what was important – the historical consciousness and the emphasis upon evangelical freedom – was not so well absorbed.<sup>34</sup>

Koehler himself recounts the history of the church and ministry debate within the Synodical Conference on the pages of both his *History of the Wisconsin* and 1930 *Reminiscences*. By any account, the debate had and continues to have a long and storied history. For the purpose of this study we will begin our account with the infant years of the Synodical Conference in the late-1870s.

Church and ministry questions were not new to American Lutheranism in the 1870s. Thirty years earlier the Missouri Synod's C.F.W. Walther and the Buffalo Synod's Pastor J.A.A. Grabau had gone toe-to-toe on this troubling issue. Grabau and his adherents held a strongly Romanizing position,

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<sup>31</sup> Ibid., 241-242.

<sup>32</sup> Ibid., 212.

<sup>33</sup> Ibid., 212.

<sup>34</sup> Leigh Jordahl, "John Philipp Koehler, the Wauwatosa Theology and the Wisconsin Synod," Introduction to *The History of the Wisconsin Synod* (Sauk Rapids, Minnesota: Sentinel Publishing Co. for the Prot stant Conference, 1981), xxiii.

maintaining that “the office of the public ministry is not conferred by the call of congregation as the original possessor of all spiritual power, but is a divine institution in the sense that it was transmitted immediately from the Apostles to their pupils, considered as a separate ‘ministerial order’ or caste, and that this order perpetuates itself by means of the ordination.”<sup>35</sup> Grabau also believed that the congregation owed obedience to the pastor in all things – both earthly and spiritual matters – so long as his regulations were not clearly unscriptural.

The Missourians strongly disagreed. In response to Grabau, Walther composed his now-famous “Theses on the Church and Ministry” in which he clearly states in accordance with Scripture that “the holy ministry of the Word is the authority conferred (*übertragen*) by God through the congregation, as the possessor of the priesthood and all church authority, to exercise the rights of the spiritual priesthood in public office on behalf of the congregation” (Thesis VII). The pastor was the servant to the congregation in the same way that Jesus had come to be a servant (Mt 20:25-28). Walther made it clear that the Scriptural idea behind ministry has nothing to do with *power*. It has to do with *service*.

Walther’s theses won the day, and the matter was settled for the Missouri Synod and the yet-to-be-established Synodical Conference: the pastor has no spiritual power or authority by virtue of his ordination; instead all the spiritual authority he exercises within a congregation is conferred on him by God through the congregation. He receives this authority solely through the call of the congregation, nothing else. End of discussion; the doctrine of the church and ministry had finally been threshed out in its entirety. Or so it was thought.

#### *The Doctrine of the Ministry: Is a teacher’s call divine?*

By the 1870s additional questions began to arise due to the rapid establishment and expansion of Lutheran elementary schools within the Missouri and Wisconsin Synods. The questions were innocent and obvious ones to raise: What about elementary school teachers? Where do they stand in relation to the public ministry of the gospel? Is *their* call divine like the pastor’s? Does the congregation confer the public ministry of the Word on *them* as well? Or are they simply doing a job that has been established by human beings, without divine institution? Koehler recalls the historical background to these questions being asked. His Wauwatosa perspective is unmistakable.

At the end of the 70s there was a discussion in Wisconsin among the teachers of the Synodical Conference as to the divineness of the teacher’s call. The conferences centering around Watertown, Oshkosh, Manitowoc and Sheboygan were mainly engaged in the discussion. The opinions voiced indicated that there was difference as to whether the Christian school derives directly from divine ordinance or from the course of development in human education. The argument proceeded along the current “dogmatic” lines, i.e. the reasons and counter-reasons advanced were not deduced by careful exegetical examination of the Scriptures and determination of doctrine and history, but from the theories that the current doctrine of the ministry or the ideas concerning the duties and privileges of parents suggested.<sup>36</sup>

There were two basic answers given to these questions at the time. Some held that the teacher’s office received its “divineness” only through the benefit of being associated with a pastor. In other words, if a pastor needed some help in teaching the children, he would simply delegate some of his divinely

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<sup>35</sup> F. Pieper, *Christian Dogmatics*, III, 447.

<sup>36</sup> Koehler, *History*, 230.

instituted ministry to a teacher. Without a pastor, however, the Christian teacher's call would be a purely human arrangement and thoroughly secular.

Others chose to address the question in a different, more roundabout way. They suggested that it was the parents' job – not the church's – to secure Christian education for their children, using Ephesians 6:4 as their proof passage. Therefore, since the establishment of Christian schools is nowhere enjoined upon congregations in Scripture, whenever a congregation chooses to establish one and secures a teacher, this is simply a free human arrangement left to Christian discretion and the teacher's calling is no different than any secular calling.

In Koehler's estimation, both these answers

betrayed the want of understanding for historical development. And the exegetical and historical operations were not calculated to discover the development of the teacher's calling so much as [it was] to formulate a thesis that was in line with the current system of doctrine. That even for the latter purpose something in the nature of historical-exegetical research was prerequisite, entered no one's mind in the dispute. If someone ventured out on that path he was given scant attention, and he himself was handicapped by the sense of being off the beaten track.<sup>37</sup>

Koehler, though, was willing to step off the "beaten track" of these dogmatic formulations to review these questions in the light of an historical-exegetical approach to Scripture. Although still a young pastor several years removed from his Wauwatosa professorship, Koehler began to question the "old ways" of answering these inquiries in the mid-1880s. The Wauwatosa Gospel was in its earliest stages of conception.

Koehler recounts the history of his entering the debate:

In the middle 80s a mixed conference of the Synodical Conference pastors and teachers in the Manitowoc-Sheboygan area witnessed a discussion of the subject that at least broke away from the usual line of dogmatizing. ... At this particular conference Pastor Reinhold Pieper [brother of Franz and August] read a paper on the question of the teacher's call and espoused the "secular" interpretation ... [The essayist suggested that it was] a commendable conception of their office when the teachers look upon it as divine, and that view of it no doubt will make for faithfulness on their part, but their calling belongs to the same category as that of the Christian cobbler or tailor.<sup>38</sup>

Koehler, who happened to be in attendance at this conference as pastor at St. John, Two Rivers, was not going to let what he thought was such a disparaging remark toward the teaching ministry pass without comment. Instead he contended that "the ministry belongs to the teacher and to every Christian as well as to the pastor. ... Because the Christian's teacher's whole work of teaching is governed by the Word of God, his work in the school merits the same appreciation of being 'divine' as that of the pastor of the congregation."<sup>39</sup> With this Koehler was saying nothing more than his beloved Seminary professor, C.F.W. Walther, had said to the 1866 Missouri Synod convention two decades earlier:

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<sup>37</sup> Ibid., 231. Koehler's last comment would seem to suggest that he wrestled with himself, wondering if he was simply misreading what Scripture actually teaches in this matter. Luther spoke of the same battles, especially concerning the doctrine of justification (LW 14:37-38).

<sup>38</sup> Ibid., 231. Koehler goes on to comment: "The last three sentences are quoted practically verbatim, in translation, excepting that the German '*Schuster und Schneider*' conveys something of a slight (which the English doesn't)."

<sup>39</sup> Ibid., 231.

The Apology does not have Grabau's understanding according to which "the office of the ministry" (*Predigtamt*) is always equivalent to "the office of a pastor" (*Pfarramt*), so that therefore the words of the 28<sup>th</sup> article of the Augsburg Confession: "These gifts cannot be obtained except through the office of preaching," are equivalent to saying that without the office of the pastor a person cannot obtain either faith or forgiveness of sins or salvation! No, when our old teachers ascribe such great things to the office of the ministry, they thereby mean nothing else than the service of the Word, in whatever way (*Weise*) it may come to us.<sup>40</sup>

We are told that there was "general agreement" at Manitowoc on the young pastor's statement, but Koehler himself characterized it as "half-hearted progress, ... [although] it may be said that the Manitowoc discussion signaled the beginning of a real exegetical and historical analysis of such questions in Wisconsin, and beyond, that was destined to have its repercussions."<sup>41</sup> The Wauwatosa ideal was ever in sight, even in the face of reprisal.

The public debate would continue within Wisconsin at Koehler's prompting in 1892. Of particular import was the exchange between Koehler and Adolph Hoenecke during a general pastoral conference held at St. Matthew, Milwaukee. There Hoenecke presented a paper on "The Divinity of the Teacher's Call," at the behest of August Ernst, the president of Northwestern College and the first president of the newly federated Synod. Dr. Ernst was a strong proponent of the idea that the teacher's call had its origin in parental establishment. Hoenecke, on the other hand, stressed that its origin was to be found in the pastoral office because, to Hoenecke's traditional way of thinking, the *Pfarramt* was the one and only public office in the church. "One must integrate the parochial schoolmaster's office with the pastor's office, because according to the Augustana nobody is to teach publicly without a proper call," he argued.<sup>42</sup> At least Hoenecke was willing to put the teacher's calling in a better light than Reinhold Pieper had back in Manitowoc, as the respected professor conceded that "the call of the teacher is to be considered divine, like that of the pastor."<sup>43</sup>

However, one man in attendance was not content with Hoenecke's concession, and that, again, was J.P. Koehler. He recounts the ensuing discussion:

This was questioned, even as at Manitowoc: Why detour through the office of the pastor in order to establish the divine character of the teacher's call? That which distinguishes the pastor's call and exalts it above others is the fact that he "labors in the word and doctrine." ... It is likewise true of the parochial school teacher; and he is called thereto by the congregation. Why then should not Acts 20:28: "The Holy Ghost hath made you overseers over the flock" apply to teachers as well as to pastors[?] ... Hoenecke acknowledged the comment as novel and worthy of careful study.<sup>44</sup>

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<sup>40</sup> C.F.W. Walther, "The True Visible Church," *Essays for the Church*, I (St. Louis: Concordia Publishing House, 1992), 102.

<sup>41</sup> Koehler, *History*, 231.

<sup>42</sup> Koehler, *Reminiscences*, 30.

<sup>43</sup> Koehler, *History*, 232.

<sup>44</sup> *Ibid.*, 232. In his *Reminiscences*, Koehler recalls: "Hoenecke replied to Koehler's explanation: 'These ideas sound all right, but they must be discussed some time in greater detail.' In private conversation Ernst expressed his appreciation of the fact that Koehler had led the discussion away from the mechanistic, external train of thought to a deeper, evangelical interpretation of all the pertinent concepts" (p. 30).

One common misunderstanding that became especially apparent at this conference was the intended meaning of the word “public” when referring to the *public* ministry. Hoenecke seemed to suggest that “public” (*öffentlich*) had to do with the number of people served by the person called. He “ventured to suggest that when a family, or even two, thus provided for the training of their children [by ‘calling’ a teacher], such a teacher’s call was not a public call. The situation might be different when three or more families acted together.” Koehler quickly spotted the arbitrariness of Hoenecke’s “theological mathematics” and went on to explain:

Prof. Hoenecke’s statement did not clarify the meaning of the word ‘public’ in the Augsburg Confession; so the writer now enlarged on the Latin term *publice* in the original version of the Confession ... [because] in the present case the Latin terminology [*publice*] is more significant than the German translation [*öffentlich*] ... (*Publice*) hasn’t anything to do with numbers, but was aimed at the enthusiasts and radicals who set themselves up as teachers in opposition to the church and state authorities, claiming that the Spirit spoke through them, without the written Word, by direct revelation ... So it was a matter of order, which on earth is governed by changes of time and circumstances, just so it is sensible and serves the Gospel. It is not a matter of Scriptural ordinance, and a congregation may very well, for a common-sense reason, make different arrangements than we have at present, regarding the relationship between pastor and teacher and other offices. The Bible itself, indeed, reports on changes, not only between Old and New Testament institutions, but in the organization of the Apostolic church during the short space of fifty years.<sup>45</sup>

Even with Hoenecke’s concession that the issue warranted further study, after 1892 public dialogue seemed to die down, although the dispute no doubt continued to rage behind closed doors.

Public debate would not resume until the year after Hoenecke’s death (Jan. 3, 1908), with Koehler standing mostly alone, even among his Wauwatosa colleagues. “Disputes arose on several occasions between Henry Gieschen [pastor at Jerusalem, Milwaukee] and Koehler, both in Gieschen’s home and at Mixed and Wisconsin Synod Conferences, concerning the one Office, each time in the presence of August Pieper, in which Koehler stood alone, without Pieper’s support.”<sup>46</sup>

In that same year, the new Seminary director John Schaller presented a paper at a mixed conference in Milwaukee on “The One Office of the Pastor.” As can be deduced from the title, he too concluded that there is one divinely ordained office in the church, the pastor’s office. “All other offices that have been created in the course of church history are deaconate offices, that is, auxiliary offices not ordained by God but branched off from the pastoral office by the church in the exercise of its Christian liberty. Such offices are those of the parochial school teacher, the church council, the high school, college and seminary professors, the synod presidents, visitors, missionaries, etc.”<sup>47</sup>

Again Koehler publicly objected, though recognizing that Schaller had not been party to previous discussions. He argued that a dogmatic statement – namely, “the pastorate is the only divinely ordained office in the church” – was being presumed at the outset and Scripture passages were being taken out of context and made to support this “presumed truth.” “Koehler showed that this procedure was a falsely so-called dogmatical method of determining doctrine by citing doctrinal statements of the Scriptures without paying attention to the historical context and its way of presenting things.”<sup>48</sup>

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<sup>45</sup> Ibid., 232.

<sup>46</sup> Koehler, *Reminiscences*, 31.

<sup>47</sup> Koehler, *History*, 232.

<sup>48</sup> Ibid., 232.

Among the debated passages, 1 Corinthians 12:28 was perhaps the most significant. Here Koehler argued that the extensive list of spiritual gifts mentioned in this passage are all “of divine origin, so the ‘God hath set some in the church ...’ is not simply identical with the institution of the ministry of ‘the Word and Sacraments.’”<sup>49</sup> God institutes – he sets in place (τίθημι) – every spiritual gift among the Church through the working of the Holy Spirit by means of the gospel. In this way, many forms of ministry are “divinely instituted,” but not in a legalistic way by means of a legal precept. Instead they are evangelically instituted by the Spirit through the gospel.

Koehler mentions that his “views did not meet with vigorous denial; they were tolerantly received, but not followed up. Alongside, there were other discussions that eventually had their bearing on the question of the Church and Office and its practical application and finally led to drastic opposition.”<sup>50</sup>

### *The Doctrine of the Church: Who's got the power?*

Sadly, the discussion of church and ministry issues quickly degenerated in the early twentieth century, due mainly to practical concerns arising out of a long and hotly-debated case involving Trinity Congregation (LCMS), Cincinnati. Ultimately this case was nothing more than one big power struggle.

In 1899 a Mr. Schlueter decided that he was going to remove his eleven year old son from Trinity's school so that the boy could get caught up on his English instruction. The man thought that the Cincinnati public schools would be better suited for the task. Within a week he was called on the carpet by the congregation for his allegedly scandalous conduct. The church demanded that, in addition to an apology, he return his boy to the parochial school at once. When Schlueter refused, he was classed among those who had excommunicated themselves.

The synod and district officers of the LCMS, most notably Professors F. Pieper and William Dau, then became involved in the case. They did not approve of the congregation's action, and the final upshot was that Pastors A. and E. von Schlichten and their Trinity Congregation were suspended by the Central District officials of the LCMS.

In 1904, the congregation and their pastors sought refuge in the Wisconsin Synod, applying for membership, but the synod convention resolved that their application could not be considered since the congregation was still dealing with the Missouri Synod. A “pamphlet war” ensued within Missouri, prompting the 1905 Missouri Synod convention to demand that the Cincinnati pastors and their congregation recant. Instead Trinity renewed their application request to President Philipp von Rohr of the Wisconsin Synod, and this time von Rohr appointed a committee to investigate the matter. The committee spent nearly a week pouring over material supplied by Pieper, who had been elected as the Missouri Synod president in 1899. In June 1906 the Wisconsin committee spent three days discussing their written findings with their Missouri counterparts. The Missourians demanded that the Wisconsin committee denounce the actions of the congregation and her pastors, but by that time the Wisconsin committee report had already been published, a report which suggested that Schlueter's excommunication had been warranted.

However, the larger, more fundamental issue involved in this whole fiasco was whether a synod or district had any say in the disciplinary actions taken by a member congregation. Many within both the Missouri and Wisconsin Synods had long held that the local congregation had an absolute and unquestionable autonomy in every matter of doctrine and practice and that the synod had no right to tell a member congregation how to “conduct its business.” They argued that this was Walther's doctrine of the church (congregational autonomy), as opposed to Grabau's false Romanist view. In order to buttress their point of view, the argument was advanced that the local congregation is the *only* divinely-instituted

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<sup>49</sup> Ibid., 232.

<sup>50</sup> Ibid., 233.

form of the church. All other forms, including synods, are simply human arrangements.<sup>51</sup> Therefore, the Missouri Synod officials had no right to “stick its nose” in the Cincinnati congregation’s business.

In 1907 the Wisconsin convention answered a memorial submitted by Franz Pieper by instructing von Rohr’s committee to continue its work and consult with the Wauwatosa Seminary if necessary. They did eventually turn to Wauwatosa, particularly to Hoenecke, and “in June 1908, with Hoenecke now gone to his rest, [they] submitted their answer to Pieper’s memorial and the Missouri commission report, primed with Dr. Hoenecke’s comments that contradicted the Missouri views and augmented ‘by quotations from the minutes of the Cincinnati congregation for comparison with Dr. Pieper’s memorial.’”<sup>52</sup> In summary, the Wisconsin committee stood firmly in the corner of the Cincinnati congregation, but the convention chose not to act on their report.

The 1909 Wisconsin convention also skittishly refused to take up the report, stating: “Since a judgment of our committee’s action necessitates a judgment of the action of officials of the Missouri Synod, we deem it advisable to refrain from any judgment, but express the hope that the Missouri Synod, before whom the whole case by its origin belongs, will still find ways and means to bring the matter to a God-pleasing conclusion.”<sup>53</sup> Wisconsin historian E.C. Friedrich commented: “The report, however, continues, ‘But protests in the protocol were registered against this resolve by numerous synodical delegates.’ No doubt committee members and their supporters were irked that their support of the original excommunication of the Cincinnati layman had been shunted and shelved.”<sup>54</sup> Afterwards, some of those irked committee members made the unwise decision to visit the Cincinnati congregation and “fraternize” with them – even taking the pulpit<sup>55</sup> – prompting Koehler to write: “There is hardly a question that the expansionism moving the Wisconsin Synod’s administrative circles was a contributing factor in their espousing the Cincinnati cause, and a hindrance in bringing the case to a more worthy conclusion.”<sup>56</sup>

But the case was eventually brought to a conclusion in 1911, almost by default. One of the Cincinnati pastors had died in 1909; the other was deposed, along with the church council, by the congregation in 1911. A new council and pastor were quickly elected, with one of their first orders of business being the lifting of Schlueter’s excommunication. Koehler reports: “Before the vote was taken, [newly elected Missouri Synod president Frederick] Pfothauer emphasized that the resolution did not say that the excommunication ever had been right, but that the congregation lifted an excommunication that until then had been legally in force (*rechtsgiltig*).”<sup>57</sup>

Even though the Cincinnati case was now resolved, the fundamental questions still loomed large in the minds of many: What authority does a synod have in matters of a member congregation’s doctrine and practice? Is synod “church”? Are synods divinely-instituted or simply man-made arrangements? Sadly, for many the ultimate question was this: Who’s got the power? That such a question would even be raised betrayed a very basic misunderstanding concerning the nature of the church and its ministry. Jesus had to explain to his disciples more than once that the church and its ministry is very different from the way the world thinks (Mt 20:25-28); it’s not a question of power but of service. Now that lesson needed to be taught once again.

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<sup>51</sup> This whole argument is directly analogous to the discussion of the church’s ministry, concerning which many stated that the only divinely-instituted form of the ministry was the pastorate. All other forms of ministry are simply human arrangements.

<sup>52</sup> Koehler, *History*, 233.

<sup>53</sup> Quoted in Edward Friedrich, *The Wisconsin Synod Lutherans* (Milwaukee: Northwestern Publishing House, 1992), 109.

<sup>54</sup> *Ibid.*, 109.

<sup>55</sup> Max Lehninger, “The Development of the Doctrinal Position of the Wisconsin Synod During The Century of Its History,” *Wisconsin Lutheran Quarterly* 47, no. 2 (April 1950):102.

<sup>56</sup> Koehler, *History*, 234.

<sup>57</sup> *Ibid.*, 234.

“It remained for the three Wauwatosa Seminary men, after Synod had washed its hands of the Cincinnati affair in 1909, by their joint work to clarify the doctrine of the Church and the Ministry, as a direct outgrowth of that case.”<sup>58</sup> The Wauwatosa storm was about to jolt the Synodical Conference with its noisiest episode yet.

*Shoulder to Shoulder: The Wauwatosa Gospel comes of age*

By 1912 it was no longer possible to ignore the reformation that had taken place in the theological perspective and approach at the Wauwatosa Seminary. Joh. Ph. Koehler, August Pieper and John Schaller had all been convinced how important it was to do solid, confessional, theological work without the burden of preconceived, dogmatic notions. By 1912 all three men had begun that work in earnest so that Koehler could report that “the three Seminary men stood shoulder to shoulder.”<sup>59</sup> Nowhere did that become more evident than on the pages of the *Theologische Quartalschrift* between 1912 and 1918. It was in these extraordinary issues that the Wauwatosa men would publicly hash out the comprehensive and Scriptural doctrine of church and ministry, something that hadn’t been objectively done since the days of Luther.

But before that “hashing out” could be accomplished with the *Quartalschrift* articles it had to first be completed in the Wauwatosa faculty room. In Koehler’s view, both Pieper and Schaller – while acknowledging that there was a problem with the doctrine of church and ministry as it had been traditionally handled in the Synodical Conference – were still approaching the question in the traditional dogmatic fashion by first formulating dogmatic statements and then going back to Scripture in attempt to prove their assertions with proof passages that were very often torn out of context. In this way, Koehler recalls, “the Wisconsin position was arrived at dogmatically by Pieper and Schaller from the statement that the Office of the Keys was given to the [Christian] Church and not to the local congregation as such.”<sup>60</sup> Koehler goes on to write that he “emphasized exegetically that in the Scriptures no mention is made of an ‘institution,’ which might serve as a basis for [Missouri’s] external, legalistic claims. ... There is not enough said in Scripture to formulate a Missourian doctrine of the local congregation and the local ministry [as being the only divinely-instituted forms].”<sup>61</sup>

Pieper’s first public attempt in taking up the question came in the form of a 1911 *Quartalschrift* article entitled “*Menschenherrschaft in der Kirche*” (“Lording It Over Others in the Church”). Koehler recalled that it met with immediate objection:

What chiefly aroused opposition was the statement that suspension is “*der Idee nach Bann*” which the objector understood to imply that suspension and excommunication are identical, while it does say that suspension to all intents and purposes means excommunication. Another statement that was objected to was ... that a whole congregation might become subject to the action. The background of Pieper’s discussion was an obvious case of impenitence regarding false doctrine or public offense in conduct, of which the body, whether a local congregation or a synod, had to clear its skirts. A suspension ordered in accordance with the synodical constitution should be respected by withdrawing from the accused.<sup>62</sup>

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<sup>58</sup> Ibid., 234.

<sup>59</sup> Ibid., 234.

<sup>60</sup> Koehler, *Reminiscences*, 32.

<sup>61</sup> Ibid., 32.

<sup>62</sup> Koehler, *History*, 236.

In Koehler's opinion, Pieper's whole line of reasoning still betrayed a dogmatic approach, especially in his distinguishing between synodical suspension and congregational excommunication, as if synodical suspension was based upon man-made constitutions and excommunication upon Scripture. Koehler concluded that "Prof. Pieper still had the idea that a synod is not of divine ordinance like a local congregation."<sup>63</sup> Koehler also questioned what he perceived to be Pieper's emphasis on the idea that suspension and excommunication were practiced for the purpose of "cleaning house." Rather, Koehler later wrote, "excommunication, finally, rightly understood is not an enforcement of damnation, but should serve the sinner's ultimate salvation, by bringing him around, and, failing that, serve the sanctification of the church."<sup>64</sup>

Synodical dissension finally led to the calling of a Synod-wide pastoral conference, which met at Manitowoc, Wisconsin, on September 27-28, 1911. Pieper was asked to present a paper on "The Doctrine of the Church, of Synodical Discipline, and especially Doctrinal Discipline." In this paper he made it clear that he believed synodical suspension and congregation excommunication were essentially the same thing. When some protested that a synod couldn't exercise the Keys, Pieper reportedly retorted: "If you stick to that, then we have come to the parting of the ways," to which someone responded: "We are ready for that right now."<sup>65</sup>

It was at this point that Koehler once again intervened with his fresh exegetical approach. In particular he conveyed his misgivings about the traditional, legal understanding of the word "institution" as it related to the New Testament institutions of our Savior. He now addressed and answered two fundamental questions at the Manitowoc conference: 1) *What* has the Lord instituted for his New Testament church and; 2) what is the *nature* of our Savior's institutions in the New Testament?

First, concerning *what* our Lord Jesus instituted, Koehler advanced these points:

This "institution" means that the Lord has commissioned his disciples with the ministry of the Word and Sacraments to the whole world, with the promise that he would endue their work with his Spirit, to the end that all believers will be saved. The latter are "his church" (Mt 16:18), which he has built on a rock, the communion of those who eventually will enter into life eternal with him. ... The use of the Keys here depends on the specific circumstances of time and place, here of course the congregation or body of those that are immediately concerned.

To elucidate: Christ has only one concept of the church, but at Matthew 18 he, of course, speaks of the (in time and space) localized church as a part of the whole, the congregation of those Christians directly concerned in the matter of the brother's sinning. That may mean a synod as well as a so-called *Ortsgemeinde* (local congregation). ... As a matter of course, the larger body will consider the smaller group that is involved by further ties with the erring brother. But that cannot mean that a righteous judgment pronounced by the larger body, say a synod, is not honored in heaven until the smaller has had its say. And it is the effectiveness in heaven around which Matthew 18 revolves, not outward organization membership here on earth.<sup>66</sup>

Based upon his exegetical examination of Matthew chapters 16 and 18, Koehler finally concluded that a synod of Christians established for the purpose of proclaiming the gospel was as much a church or

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<sup>63</sup> Ibid., 236.

<sup>64</sup> Ibid., 236.

<sup>65</sup> Ibid., 236.

<sup>66</sup> Ibid., 236.

congregation as was a localized congregation of Christians established to do that same work. In addition, every grouping of Christians had the right and responsibility to use the Keys:

The present-day distinction between the local congregation and the synod has no place in the Lord's discourse at Matthew 18. ... Moreover, the contention regarding the present distinction between local congregation and synod, to wit: that the former has the purpose of spiritual edification, the latter that of outward business, is a fallacy, notwithstanding what synodical constitutions and quotations from the fathers, early and later, may say. As far as the Holy Spirit is concerned, a local congregation and a synod as well are called into being by the same promptings of fellowship and of the purpose to promote the Kingdom. ... There is no objection to the use of the term "*Ortsgemeinde*" (local congregation) if it is rightly understood as meaning the congregation of believers at a given time and place concerned with a given matter, and that applies to a synod as well as to the smaller group.<sup>67</sup>

And what is the *nature* of our Savior's New Testament institutions? Are they legal or evangelical institutions? Koehler answered:

... the Lord's parting statements instituting the ministry of the Word and Sacraments ... [are] not the creation of a certain office, attached to certain ordained persons, or a distinct clerical order, or of any specified forms of carrying out that ministry to the entire world. ... [Instead] this ministry, in its human forms, is no longer, as a matter of New Testament liberty, tied to the Old Testament ceremonial law, though that doesn't spell freedom to do things contrary to the will of God or without the prompting of the Holy Ghost; it means that Christians are free to organize and carry on their ministry according to the moral values that are inherent in the concept of the fellowship that is sanctified by communion with our Lord and Savior.<sup>68</sup>

Koehler later recalled the reaction to his presentation, particularly of his two Wauwatosa colleagues.

Pieper and Schaller remained silent, but [Pastors Richard] Siegler and [Herman] Brandt, and later Christian Sauer, opposed this particular interpretation. Even [Pastor Christian] Doehler [Koehler's successor at Two Rivers], who otherwise agreed with Koehler's elaborations on other topics, could not follow him here. Christian Sauer considered a vacant congregation as no congregation at all, because it lacked an essential part, namely the called preacher. Dogmatism pure and simple!

When the professors returned home from Manitowoc, Franz Pieper visited his brother August, and their discussion of the matter again raised doubts in August Pieper's mind. Thereupon Koehler told August Pieper plainly: "As long as you and Schaller do not clearly declare yourselves for my [exegetical] interpretation, you shall not be able to maintain your dogmatic position." Schaller and Pieper got busy then with their series of articles on the subject.<sup>69</sup>

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<sup>67</sup> Ibid., 236.

<sup>68</sup> Ibid., 237.

<sup>69</sup> Koehler, *Reminiscences*, 33.

Most Wisconsin men were not ready to accept the fresh ideas coming out of the Wauwatosa faculty room, which would now be splashed on the pages of the *Quartalschrift*. Chief among the nay-sayers was Prof. August Ernst, who prepared sixteen theses for his pastoral conference taking issue with the Wauwatosa position. Of special note was Ernst's contention in theses ten and eleven that "Synodical discipline is not church discipline, but is derived from human regulations, even when administered by Christians according to the Word of God" and "Suspension from synodical fellowship is not excommunication but for the time being discontinuance of synodical fellowship and in itself not discontinuance of church fellowship." Thesis sixteen summed up Ernst's ultimate bone of contention with the Wauwatosa men: "Only the local congregation with its pastor can excommunicate, but only its own members."<sup>70</sup>

Koehler was once more critical of Ernst's traditional, dogmatic procedure which put a serious, exegetical study of Scripture in the backseat: "Each of these sixteen theses was implemented with more or less proof-texts from the Scriptures, the Confessions, Luther's, Hoenecke's and Walther's writings. The objections to the Wauwatosa faculty's teachings were refuted in the *Quartalschrift* and at conferences and some of the misunderstood proof-matter, adduced in support of the theses, placed in the right light."<sup>71</sup>

Among the most important *Quartalschrift* articles written at this time to expound the Wauwatosa approach was August Pieper's January 1912 critique of Walther's book *Die Stimme unserer Kirche in der Frage von Kirche und Amt* (The Voice of Our Church on the Question of Church and Ministry). While granting the strengths of Walther's presentation, Pieper also pointed out that there was "room for misunderstanding the fathers or Walther himself, and that even Walther himself misunderstands at times."<sup>72</sup> Pieper concluded in typical Wauwatosa fashion: "The third generation of pastors since Walther are now in the ministry. To us applies the proverb, 'What you have inherited from your fathers, acquire anew in order to possess it.' ... We need to appropriate the doctrines of church and ministry once again with a fresh start through personal and thorough study."<sup>73</sup>

In the April 1912 *Quartalschrift* article, "The Doctrine of the Church and Its Marks Applied to the Synod," Pieper continued his study, writing that "wherever on earth, be it in Wauwatosa or Asia Minor, there are two or more believers, there is a congregation; a people of God is present whether or not they have united in an outward church organization, whether they have formed one outward church organization or 73. ... Not the external association makes the true congregation, but the faith of a number of people combined in the same way."<sup>74</sup> He finally concluded, "In short, the synodical assembly has the infallible marks of the church in the proper sense; therefore it is church in the strict sense of the Word. ... And the synod itself is church just as certainly. ... The Wisconsin Synod is church in the strict sense of the word."<sup>75</sup>

John Schaller also entered the fray, particularly with his signal treatise on the ministry entitled: "The Origin and Development of the New Testament Ministry," first published in the 1911-12 Seminary

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<sup>70</sup> Quoted in Koehler, *History*, 237.

<sup>71</sup> Koehler, *History*, 237.

<sup>72</sup> *Ibid.*, 238. In a later article entitled "Luther's Doctrine of Church and Ministry" (*The Wauwatosa Theology*, III), Pieper would write that the Wauwatosa men "do not consider Walther's identification of the public preaching office with the pastoral office as a happy one. From this some people who have not thought or studied independently have drawn the conclusion that the public office, that is the office of the Word which is transmitted from the church to an individual person, and the pastoral office are equal and exchangeable concepts and that therefore only that form of the public preaching office which we call the pastoral office is of divine origin" (193).

<sup>73</sup> Quoted in Edward Fredrich, "The Scriptural Basis and Historical Development of WELS Doctrine of Ministry," (*WELS Ministry Compendium*, 1992), 778.

<sup>74</sup> August Pieper, "The Doctrine of the Church and Its Marks Applied to the Synod," *The Wauwatosa Theology*, III (Milwaukee: Northwestern Publishing House, 1997), 64.

<sup>75</sup> *Ibid.*, 70.

catalog. Here Schaller concluded, as Koehler had previously, that the pastoral office is not the only divinely-instituted office in the Church. Instead Schaller, writing for his Wauwatosa associates, maintained:

If ... we want to gain a correct understanding of the forms of the ministry as we find them in the church of all times, we have to free ourselves from the thought that only official public proclaiming is gospel preaching. This false view betrays itself immediately when one simply identifies the ministry [*Predigtamt*] with the pastoral ministry [*Pfarramt*], even when the clear presentation of thoughts demands something else, as for example, if one takes the sentence, "The ministry [*Predigtamt*] is the only office [*Amt*] that Christ ordained in his church," and construes it without further thought as if it were speaking exclusively about the pastoral office. Our studies, which have adhered strictly to what is set forth in the Holy Scriptures, incontrovertibly show that the ministry, that is, the commission to preach the gospel, is given to every Christian; that at conversion not only the ability but also the impetus for this preaching is implanted in him; and that the gospel by its very nature as a *message* presupposes this preaching activity and at the same time by the effect it has guarantees it will occur.<sup>76</sup>

Schaller correctly emphasized the service aspect of ministry, whether public or private, when he suggests that the word *Predigtendienst* (the service of preaching), better than *Predigtamt* (the office of preaching), describes the servant attitude that Christians will have as they fulfill the Great Commission.<sup>77</sup> Finally, he also asserted that any and all New Testament forms were of a different sort than those of the Old Testament. In other words, all New Testament forms were not of a legal but of an evangelical kind, set in place (instituted) entirely by the Holy Spirit through the working of the gospel in the hearts, minds and lives of Christians. As a result, the Wauwatosa men declared that all New Testament forms of ministry are divinely-instituted but not legally-mandated or coerced, as such.

As soon as a group of Christians gather together as such in any manner and at any place ... it must make provisions to let the Word of Christ ring out in its gathering. That this takes place is essential; *how* it takes place is incidental and depends on the circumstances of the congregation and on the opportunity. Among us it usually delegates to a single individual the responsibility to do the formal, solemn preaching on a regular basis, to conduct the public worship services, and in addition to serve the individual members of the congregation with the Word according to their needs. These things could also be arranged in an entirely different way since the pastorate in the form that is customary among us was very likely totally unknown in apostolic times.

... As soon then as the congregation has established any such ministry and has called men for it, God gives it his approval and calls the men whom he bestows on this church "gifts" and assures them that they have been appointed by the Holy Spirit. For whatever the Christian congregation decides upon to further the preaching of the gospel it does at the instigation and under the guidance of the Spirit of Jesus Christ.<sup>78</sup>

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<sup>76</sup> John Schaller, "The Origin and Development of the New Testament Ministry," *The Wauwatosa Theology*, III (Milwaukee: Northwestern Publishing House, 1997), 81.

<sup>77</sup> *Ibid.*, 89.

<sup>78</sup> *Ibid.*, 93-94.

E.C. Fredrich wrote that the “three Wauwatosa teachers had not set themselves an easy task in this effort to change traditional thinking. It took many one-on-one discussions, many conference papers and debates, and many articles in the *Quartalschrift* before their position became a generally held position. Some never agreed. ... The strongest and longest opposition came from the Synodical Conference brethren in the Missouri Synod.”<sup>79</sup> The Wauwatosa Gospel was about to face its stiffest challenge yet.

*The Beginning of the End: The Wauwatosa-St. Louis debates*

The Wisconsin and Missouri Synods always had an interesting relationship during their years together in the Synodical Conference. Even previous to their 1868 declaration of fellowship and the 1872 formation of the Synodical Conference, the two Synods had been rivals, with Missouri serving in the role of the domineering big brother and Wisconsin the pesky little one. There is no question that Missouri had had an overwhelming influence upon Wisconsin, both doctrinally and practically. Humanly speaking, the men of the Wisconsin Synod owed many thanks to their brethren in Missouri, yet Missouri seemed always to sense an air of ingratitude – perhaps rightly so – on the part of Wisconsin, especially when their friends to the north would throw doctrinal flies in the ointment, as if almost to question Missouri’s Lutheran orthodoxy. For this very reason alone there can be little doubt that the Wauwatosa theologians were a great source of angst in the St. Louis faculty room, leading to an almost spiteful suspicion of the Wauwatosa Gospel and its principles.

Nowhere did this rivalry and suspicion become more apparent and intense than in the hotly-contested Wauwatosa-St. Louis debates of the 1910s and 1920s concerning the issues of church and ministry. Fredrich quips that “attacks from Missouri leaders were launched almost before the ink had dried on the *Quartalschrift* pages.”<sup>80</sup> However, the first formal protest didn’t take place until the 1914 Synodical Conference gathering in Milwaukee, when the St. Louis faculty sought an interview with their Wauwatosa counterparts. One session took place during the morning of August 11 in the Trinity (LCMS) parish hall; the other in a Wauwatosa classroom on the evening of August 12. Representing the Missouri Synod were Professors Franz Pieper, George Metzger, Ludwig Feuerbringer, Friedrich Bente and William Dau. The Wisconsin contingent included Koehler, Pieper, and Schaller, along with Pastors Gustav Bergemann and William Dalmann.

Koehler briefly summarized the days’ events in his *History of the Wisconsin Synod*:

Since there was no definite program, and the Wauwatosa men mostly replied to objections to their personal statements, it is hard to recall just what was said. The upshot, however, was that there was no agreement, both in regard to the formulation of the doctrine and the method, as well, by which it is to be derived from the Scriptures.<sup>81</sup>

The extant minutes of the August 11 meeting report that August Pieper presented six theses representing the Wauwatosa position, concluding that “proof for the special divine institution and moralistic obligation of the Apostolic episcopacy ... is impossible and vain. Whoever maintains this must be able to point out a clear and specific word for it or prove that it is contained in either the Law or the Gospel.”<sup>82</sup>

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<sup>79</sup> Fredrich, *Wisconsin Synod Lutherans*, 110.

<sup>80</sup> Fredrich, “WELS Doctrine of Ministry,” 781.

<sup>81</sup> Koehler, *History*, 238.

<sup>82</sup> Quoted in Jon Ladner, “The Church and Ministry Debate Between the Missouri and Wisconsin Synods” (Essay delivered to the St. Croix Conference of the Minnesota District of the WELS, June 12, 2001), 12.

When Koehler and Schaller assented to their colleague's presentation, the St. Louis men charged that "the Wauwatosa men denied the divine institution of the pastorate."<sup>83</sup>

In his 1930 *Reminiscences* Koehler filled in more details about the prevailing tone of this first exchange:

It was at this meeting that Prof. Metzger flew into a rage when Koehler made the remark that the opponents must learn to pay attention to the narrative of Scriptures – in other words: The historical interpretation. "We don't have to allow ourselves," said Metzger, "to be treated by Koehler like schoolboys." But he quieted down when Koehler called attention to the fact that the remark about learning was after all a matter of stylistics, while on the other hand there are stylistically correct ways, too, of treating an opponent as a schoolboy, which were calmly put up with by [the Wisconsin contingent]. Mutual trust must be the basis of all discussion. About this Franz Pieper laughed, but his brother August rebuked this sternly as a way of sneering. Koehler, however, said he did not regard Franz' laughter as derision, but as recognition of the truth of what Koehler had said.<sup>84</sup>

Finally, a written protest was formulated and sent by the St. Louis faculty on August 3, 1916, "against various statements of the three elder Wauwatosa professors."<sup>85</sup> The Missourians were confused, stating "we do not really know what is public doctrine [concerning church and ministry] in the honorable Wisconsin Synod at this time."<sup>86</sup> They observed a difference in recent *Quartalschrift* articles when compared to Adolph Hoenecke's earlier *Dogmatik*, with which they heartily agreed.

Three issues in particular troubled the St. Louis men about the Wauwatosa approach. First, they believed that in Wauwatosa's presentation of this doctrine "the divine arrangement of the public pastoral office is pushed too much into the background, even openly denied," although admitting that the Wauwatosa men did "indeed also speak of a divine origin of the office, and indeed in a preeminent sense over against all other callings, but this only after all manner of detours."<sup>87</sup> The St. Louis faculty strongly asserted that the office of the pastoral ministry (*Pfarramt*) was a legal command and regulation of God to be enforced within the Church, adding that "one must not be frightened or permit himself to be terrified by 'legalistic' or 'ceremonial laws,' etc. One could with as much right charge that concerning both Sacraments."<sup>88</sup> Still, the Missourians had to admit that they were "indeed able to offer no word of specific institution"<sup>89</sup> which set apart the ministry of the congregational pastor (*Pfarramt*) as a specially and legally-binding form of gospel ministry within the Church.

The second area of concern dealt with the meaning of the term "local congregation" (*Ortsgemeinde*). The Missourians asserted that "the local congregation [within a fixed geographical area] is the divinely-willed outward form of the Church, while you assert many outward forms on the Church: synods, conferences, yes, two or three Christians on trips, etc."<sup>90</sup> They went on to suggest that by taking such an approach "the concept of the local congregation is destroyed" by the Wauwatosa faculty, adding, "we believe that here lies the real basis of the difference, as indeed the treatment of the whole matter in the *Quartalschrift* has been developed from this original point [namely, the Cincinnati case]."<sup>91</sup>

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<sup>83</sup> Ibid, 13.

<sup>84</sup> Koehler, *Reminiscences*, 34.

<sup>85</sup> Koehler, *History*, 238.

<sup>86</sup> "Basic Documents in the Church and Ministry Discussions," *The Faithful Word* 7, no. 1 (February 1970): 23.

<sup>87</sup> Ibid., 24.

<sup>88</sup> Ibid., 25-26.

<sup>89</sup> Ibid., 25.

<sup>90</sup> Ibid., 26.

<sup>91</sup> Ibid., 26.

The third objection was that the Wauwatosa men placed “various synodical offices, etc., on the same plane with the pastoral office”<sup>92</sup> in terms of their divine institution. The St. Louis men stated that “with the exception of the ministry of the Word to ‘those without,’ that is, the ministry of evangelization, we find the office and the work of the ministry spoken of only in connection with the local congregation.”<sup>93</sup> Only the congregational pastorate is divinely mandated; all other offices in the Church are simply human arrangements and are to be considered auxiliary.

In order to respond to the protest the four Wauwatosa faculty members – with Professor Herman Meyer as their newest member – agreed that each would formulate his own statement in writing and then arrive at a common statement.

Schaller and Pieper both offered a number of theses in the usual form; Herm. Meyer had assembled a long list of quotations from the Confessions; Koehler submitted three points in which he gave his view, in agreement with the colleagues’ position, by a summary of his statement at Manitowoc. It embodied a warning against Roman sacramentalism in its outwardness, which in the end, as history teaches, manages to work hand in glove with the world, since both try to build a kingdom here on earth.<sup>94</sup>

At first, his “colleagues could not understand what he meant by [‘sacramentalism’]. After Koehler had explained this, his theses were adopted by the faculty on a motion by Schaller. ... But nothing came of their publication.”<sup>95</sup>

The two faculties met again on December 20-21, 1916, in Chicago over the Christmas break. Koehler would later reminisce at length about the happenings of those acrimonious days:

Franz Pieper was really being sarcastic, when he replied to another one of Koehler’s historical remarks: “History only establishes the facts.” “Yes, indeed,” said Koehler, “it is only questionable what the facts are. These certainly are not the isolated observation, but the continuity of historical evolution.”

In the evening [of December 20], Franz Pieper used the expression “Analogy of Faith” which we ought to observe. Koehler remarked: “Yes, if you still wish to use this now obsolete expression, you ought to observe the analogy throughout.” Franz Pieper, as a matter of fact, had never accepted Koehler’s critical analysis and debunking of [the] Analogy of Faith formula. He now became angry and exclaimed in a huff: “If you make another remark like that, I’ll leave the meeting.” Koehler looked at Franz intently for a moment, and said: “In that case, of course, you shall have to go, because I’m staying here.” August Pieper then remonstrated with his brother that one ought not to weigh the words of an opponent in such a manner. Koehler, he explained, had a way that can easily provoke a person, especially when one did not know him well.

In the evening, on the way home, Koehler took Franz Pieper aside and said: “We ought to come to an understanding in regard to this incident.” Pieper: “That is not necessary, I am not angry at you.” Koehler: “You misunderstand me. I want to make a necessary explanation. You thought I meant to scoff. About that you were in error, although I now

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<sup>92</sup> Ibid., 26.

<sup>93</sup> Ibid., 26-27.

<sup>94</sup> Koehler, *History*, 238.

<sup>95</sup> Koehler, *Reminiscences*, 44.

can well see how, with your interpretation of the situation, you might have taken my remarks as mockery. But you, as a matter of fact, have always scoffed – this afternoon, for example – about my conception of history. It is just about the latter that I want to say something. My conception of history you ought to leave to me, for concerning it we would have quite a bit more to discuss.” We had just approached the corner, where we had to board the street-car, and were standing there, when Franz Pieper suddenly turned about and went into the nearest sweetshop, where the others had entered, and left me standing alone outside.

On the next morning August Pieper flew into a rage at a not entirely harmless utterance of his brother’s, danced about in the school-hall and scolded quite incoherently. Koehler finally arose and reprimanded him, then turned to Franz Pieper and showed, by his brother’s example, how little sense there was in pressing each other’s words spitefully, when otherwise the conduct did not offend against the spirit of love. As August was thus standing in front of his brother, he commenced to laugh, and said: “Just look at the gesture (Koehler had extended the index finger of his right hand similar to the way Dr. Walther had been in the habit of doing). That is enough to drive me mad.” Koehler, then, related to the assembly the contents of his conversation with Franz Pieper of the night before, because the latter had not uttered one word conducive to mutual understanding. But when at noon the conference was over and Koehler said farewell to Franz Pieper, the latter clasped his hand in reconciliation. This suffices for a man for whom it is difficult, because of his dogmatic approach to nearly all questions, to confess that he was wrong. On the homeward journey, August Pieper expressed only criticism of his brother. But Koehler defended him.<sup>96</sup>

Eventually, the two faculties formulated what became known as the Wauwatosa Theses, which stated the following:

1. The Church in the intrinsic sense of the term is the sum total of all those who have come to faith in Christ through the Gospel.
2. Local congregations are organizations of Christians who, conforming to the will of God, according to locality and circumstances, have associated themselves for the public administration of the Means of Grace and for joint work in the Kingdom of God. They are associations formed according to the will of God. An occasional and casual meeting of Christians, also in the name of Jesus, is no local congregation in this sense.
3. The parish pastorate (*Pfarramt*) is the ministry delegated (*übertragen*) by the congregation to persons with the required aptitudes in order to exercise the rights of the spiritual priesthood of all Christians on behalf of the congregation.
4. The office is of divine institution, and its functions are exactly appointed in the Word of God. Hence the establishment of this office is not a matter of the Christians’ option. The external form and arrangement of this office God has left to the wisdom and the liberty of the Christians under the leading of the Holy Spirit.

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<sup>96</sup> Ibid., 34-36.

August Pieper would later comment in 1929: "With the common adoption of certain theses in 1916 the discussions were essentially concluded, even though unanimity was not attained in all points."<sup>97</sup> However, in a 1970 essay published in *The Faithful Word* outlining the Wauwatosa-St. Louis discussions, Harold Romoser challenged Pieper's contention. Romoser claimed that "the issues were met and settled" but that the Wauwatosa faculty quickly reneged on the agreement. He points an accusing finger especially at the 1917 publication of Koehler's *Kirchengeschichte* as the "deal breaker" since, in his opinion, it included an "endorsement of [Johann] Hoefling's position (p. 659)<sup>98</sup> and [a] repudiation (p. 712) of the plain statements of the 1916 Theses."<sup>99</sup> Romoser, though, offers no evidence that the fundamental issues had truly been resolved with the drafting of the Wauwatosa Theses since their wording tended to be just as ambiguous as that contained in the later Thiensville Theses, drawn up in 1932.<sup>100</sup>

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<sup>97</sup> August Pieper, "Concerning the Doctrine of the Church and of Its Ministry, with Special Reference to the Synod and Its Discipline," *The Wauwatosa Theology*, III (Milwaukee: Northwestern Publishing House, 1997), 98.

<sup>98</sup> Erlangen professor Johann Hoefling (1802-1853) opined that, while the ministry of the gospel carried out by the priesthood of all believers is divinely-instituted, the public ministry as established by the congregation is of human origin "developed from inner necessity." Most of all, Hoefling was concerned not to make rules, where God made no rules. In his Church History text Koehler commented: "In the first years after 1848, a controversy existed over the teaching of Church and Ministry. Kliefoth, Vilmar, Muenchmeyer and Loehe had a High-Church view of the pastor's office and the church, similar to that of Grabau in America. Most Lutherans of other circles stood against it, especially the Erlangen faculty. Very freely and correctly – according to Scripture – stood only Hoefling with some of his colleagues. This controversy also took place in the Free Church. Huschke held the position that the office was a *juris divini* [divine decision], while the outward form was a *juris humani* [human decision]. Its head opponent was Pastor Dietrich, who in 1861 emerged and established the Immanuel Synod" (659). In his critique of Hoefling, F. Pieper wrote: "He holds that if one assumes a divine command for the administration of the means of grace by public servants, one carries over into the New Testament Church an Old Testament feature, a legalistic element, a trace of the Old Testament bondage" (*Christian Dogmatics*, III [St. Louis: Concordia Publishing House, 1953], 445). It is true that Koehler and the other Wauwatosa theologians were also wary of introducing divine commands where no divine commands existed, but they also stressed that the public ministry and its different forms were all divinely-instituted by the Holy Spirit through the gospel. Finally, the definition of the word "institution" became the real sticking point between the St. Louis and Wauwatosa faculties.

<sup>99</sup> Harold Romoser, "The Church and Ministry," *The Faithful Word* 7, nos. 3 & 4 (August-November, 1970), 45. Concerning the Synodical Conference debate, Koehler states: "In the last few years the faculty of the Wauwatosa Seminary has come out in favor of a presentation of the doctrine of church and office which appears opposed to that held by Walther. Walther identified the pastorate and the preaching ministry and gave greater prominence to the local congregation than to other church bodies in that he claimed a separate special divine institution for both. The Wauwatosa faculty maintains that the pastorate is a species of the preaching ministry that originated first in Germany in the Middle Ages, and likewise that the local congregation is a species of the concept Church; and it maintains in both cases that the term 'institution' is not to be understood [as if] God has distinguished these two species by a special ordination compared to other similar forms of Christian and church life which have also been created by the Gospel. On the contrary, by the term 'institution' is meant a divine creation of forms (pastorate, local congregation, synod, office of school teacher, office of professor, et al) through the work of the Holy Ghost in Christendom, in which with Christian freedom Christians organize these things as suited to the external existing conditions. The discussions concerning these questions have not yet come to an end, but because both parties at heart take the same evangelical stand toward the concrete things that are concerned, it is to be expected that in the intellectual conception and presentation of the matter there will also come an agreement based on the Word of God" (715).

<sup>100</sup> Koehler viewed the 1932 Thiensville Theses as a compromise that accomplished nothing because they use the "weasel" words, "It is God's will and order." In his *History of the Wisconsin Synod* Koehler posed the question: What is meant by "will" and "order"? Does that mean legal "command" or evangelical "pleasure"? Does that mean legal "ordinance" or evangelical "arrangement"? (239) Koehler commented that these theses "are externalistic, couched in the terms of law, in that they are concerned about jurisdictions, when, of all things, the doctrines of the Church, the Ministry and the Office of the Keys cry for a presentation from the Gospel point of view." The *real* issue separating

Yet Franz Pieper, too, seemed to blame Koehler for this latest impasse. When the two met at the 1917 Missouri Synod convention that next summer in Milwaukee, Pieper stopped Koehler in the corridor and said: "In your Church History you touched upon the dispute between our faculties. By that, you made it impossible for us to recommend your History. We shall point out that the local pastor's office (*Pfarramt*) has existed since the time of the Patriarchs and before." Koehler calmly explained: "A correct historical perception (*Auffassung*), of course, is not determined by the sale of the book, but is guided by the truth. The dispute between us is commonly known among Lutherans. That is why I had to touch upon it. The manner of presentation, I'm sure, you will not contest." Koehler later recalled: "To date [1930], Missouri has failed to produce the proof of Franz Pieper's assertion regarding the antiquity of the *Pfarramt*."<sup>101</sup> He never saw Franz Pieper again.

### COMING IN OUT OF THE RAIN: ATTEMPTING TO ROOT OUT LEGALISM

As far as the Wauwatosa faculty was concerned, there was one fundamental issue in the church and ministry debate that needed addressing, namely: what is meant by the term "divinely-instituted"? In his *History of the Wisconsin Synod*, Koehler states it quite plainly: "The real issue was the definition of the term 'institution' as applied to the church and the office of the ministry in their concrete form."<sup>102</sup>

The St. Louis faculty held a legalistically-inclined position. They argued that Christians are conscience-bound to form and join local congregations because they are the strict, legal command of God, the only divinely-mandated form of the church. Synod membership, on the other hand, is not commanded; they are man-made and therefore not divinely-instituted. In the same way, the office of pastor is the one divinely-mandated form of the public ministry, an imperative to be obeyed. All other forms of the ministry are simply human inventions. In his *Christian Dogmatics* Franz Pieper asserted that "the formation of Christian congregations, and membership in them, is not a human, but a divine mandate [*mandata Dei*]."<sup>103</sup> The same held true for the office of local pastor. "Here, too," Pieper argues, "we are dealing with imperatives, therefore with a divine arrangement in the sense of a divine command."<sup>104</sup> The St. Louis faculty was adamant that the local congregation and the local pastorate are both legally-binding, divine institutions of the New Testament. All other forms in the church are human inventions, brought about apart from divine mandate. Many within Wisconsin concurred without objection.

Ironically, and contrary to popular opinion, the Wauwatosa faculty *agreed* that the local congregation and local pastorate are divine institutions. However, it was their understanding of the word "institution" that was far different and decidedly more evangelical than the one commonly held by their Missouri counterparts. So different, in fact, was their outlook that it ultimately led to an impasse. More importantly, the faculties' disagreement on the meaning of the word "institution" for New Testament Christians uncovered an even more fundamental difference of opinion on and approach to Article VI of the Formula of Concord, which deals with the so-called "third use of the law" and its application to the Christian life. The St. Louis faculty held a traditional, dogmatic opinion, while the Wauwatosa men would in time be charged with antinomianism<sup>105</sup> because they didn't approach the law's third use in the

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these two faculties was this: Are New Testament divine institutions law or gospel? St. Louis said law; Wauwatosa said gospel. Both the Wauwatosa and Thiensville Theses are simply ambiguous on this question.

<sup>101</sup> Koehler, *Reminiscences*, 36-37.

<sup>102</sup> Koehler, *History*, 238.

<sup>103</sup> F. Pieper, *Christian Dogmatics*, III, 421.

<sup>104</sup> *Ibid.*, III, 446.

<sup>105</sup> The charge of antinomianism is still made today. For examples, see Erling Teigen, "The Universal Priesthood in the Lutheran Confessions," *LOGIA* 1, no. 1 (Reformation 1992):12; Harold Romoser, "Church and Ministry," *The*

traditional, Melanchthonian way that was typical within Lutheran Orthodoxy after the time of Luther. This would quickly become *the* principal topic of discussion.

Between 1914 and 1916, the Wauwatosa trio set out to enlarge upon their evangelical perspective in a series of *Quartalschrift* articles. In particular, they now dealt extensively with that most beloved of Lutheran subjects, namely, the proper distinction between law and gospel with special attention being given to the third use of the law. These *Quartalschrift* articles, containing vintage Wauwatosa Gospel, would ultimately become the catalyst for the deepest rift yet between St. Louis and Wauwatosa. The Wauwatosa Gospel would now begin to face a most vehement rejection, eventually to be whisked away from Synodical Conference consciousness by the winds of legalism. Simply put, the gospel of Christian freedom was unwittingly surrendered by many, only to be replaced by a legalistic bent that would have lasting repercussions on the Conference as a whole.

The first article in this law-gospel series is perhaps the crown jewel of Joh. Ph. Koehler's *Quartalschrift* contributions, "*Gesetzlich Wesen unter uns*" ("Legalism Among Us"), published in the last number of 1914 and the first two numbers of 1915. As Koehler informs us in his introduction, this article was written as a direct result of "a remark made at a larger mixed [Synodical Conference] conference" which led him and others to believe that the "term *legalism* was not generally understood."<sup>106</sup> Koehler now addressed this important issue on the basis of four theses:

1. Legalism among Christians consists in that they take the motives and forms of their actions from the law instead of letting them flow from the gospel. This comes from the flesh, which blends this inclination into every expression of the Christian's life and thereby makes it superficial.
2. This behavior manifests itself in the Lutheran church chiefly and principally in bravado of orthodoxy. Connected to it is a bravado of *sanctification*, which asserts itself particularly by measures of church government. ...
3. Where these factors gain the upper hand in every phase of ongoing church life and become a condition to the point of style, the decline sets in, evident externally when we adopt all kinds of unhealthy traits copied from the sectarian churches.
4. Only the repentant recognition throughout the church of these conditions can offer the prospect of halting the outright opposition to the working of the gospel. But this working is brought about when again we search more deeply into the gospel and cling to it all the more incessantly.<sup>107</sup>

One prominent example of legalism in the Lutheran church that Koehler instantly spotted involved the doctrine of church and ministry, particularly Missouri's insistence that the local congregation and the office of the parish pastor are instituted by means of divine law. Koehler wrote: "At issue here are the association of Christians in congregations and synods, the conduct of officials and congregation members, of congregations and synods toward one another ... We need hardly pause to prove that it is the old Adam that also in this area engenders legalism."<sup>108</sup> Koehler had in mind the formulation of "church laws" where God makes no laws, especially when it comes to the forms of gospel ministry. He conceded that "when Christians assemble to do what flows spontaneously from the gospel, namely, to

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*Faithful Word* 7, nos. 3 & 4 (August-November 1970):43-44; and Neil Hilton, "Church and Ministry," *The Faithful Word* 6, no. 2 (Summer 1969):28-29.

<sup>106</sup> Joh. Ph. Koehler, "Legalism among Us," *The Wauwatosa Theology*, II (Milwaukee: Northwestern Publishing House, 1997), 229.

<sup>107</sup> *Ibid.*, 229-230.

<sup>108</sup> *Ibid.*, 264.

speak about the great acts of God, then the human circumstances at once produce certain limitations with regard to persons, time, place and actions. ... The requirement for external regulations is inherent in the organic character of human fellowship, and the regulations take form through human intercourse."<sup>109</sup> But he also added in opposition to Missouri's legalistic approach:

So far as the gospel is concerned, we would need no modes and regulations at all beyond Word and sacrament. ... For any other kind of modes and regulations [such as the local congregation and parish pastor] no such [legal] institutions appear [in Scripture]; to try to derive divine ordinances from historical events and examples in the life of the apostolic church is inadvisable; and for all such cases the apostle's word is sufficient, namely that one should not allow external things to be made matters of conscience. ...

But the flesh intermingles in these matters *that* character and *that* conception which accompanies these matters in all sinful human existence, that is, selfishness. Because it has something to do with *regulations*, the legal character is at once present for the flesh, which emphasizes the mode, the *external* mode, the fact *that* it is regulation. Thereby, the content, the gospel, the primary object in the individual case, recedes [emphases in this and all future quotations are original].<sup>110</sup>

Professor Joel Fredrich explains Koehler's perspective and the cause for his unease in his 1994 essay, "The Divine Institution of Gospel Ministry":

A large part of Koehler's concern is that when a thing such as the preaching of the gospel has its impetus and authority in the life-creating gospel itself, we should not adopt modes of speech and thought which imply that the gospel is a poor, dead thing. We should not imagine that the ministry of the gospel would somehow lack legitimacy or authority without a separate [legal] institution or command [*mandata Dei*]. We should not suppose that gospel ministry must perish unless we can maintain it by basing it on a divine law.

A similar concern for the supremacy of the gospel led Koehler to emphasize the principle that the gospel creates its own forms as the church pursues its mission in changing circumstances. That is part of our New Testament freedom in Christ. ... Hence we should not expect God to prescribe arbitrary, external forms for ministry in the New Testament, or expect to find such forms instituted as necessary for the life of the New Testament church. The forms will take care of themselves since the gospel will move God's people to find appropriate ways of letting the good news be heard.<sup>111</sup>

John Schaller further elucidated the Wauwatosa concerns and approach with his 1915 article entitled "God's Will and Command." Schaller began by posing this question: "How does the Christian as a child of God stand in relation to the so-called legal will of God?"<sup>112</sup> He made the following, typically-Wauwatosan observation about the Synodical Conference:

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<sup>109</sup> Ibid., 265.

<sup>110</sup> Ibid., 265, 267.

<sup>111</sup> Joel Fredrich, "The Divine Institution of Gospel Ministry," Unpublished essay, 14.

<sup>112</sup> John Schaller, "God's Will and Command," *The Wauwatosa Theology*, II (Milwaukee: Northwestern Publishing House, 1997), 150.

In spite of all the correct phraseology in use among us, we are still far away from the point where the correct point of view on this matter actually rules in public preaching. ... It is obviously Jesus' will and command that we celebrate the Lord's Supper, that we baptize, and that we carry on mission work, in which we publicly and specially proclaim his Word or have it proclaimed. ... [However,] do divine commands of this kind belong in the same category with the commands that, e.g., God has expressed in the Ten Commandments? If not, then where does the difference lie? In the course of this discussion it will confront us ever more clearly how very much the correct answer to these questions depends upon the correct understanding of the gospel, so that our conclusions will in fact be a contribution to the proper distinction of law and gospel – if these conclusions are scriptural.<sup>113</sup>

Schaller then pointed out a basic distinction we need to make and a basic difficulty we need to confront in discussing this issue:

He who *accurately* examines the commands of God in Scripture, that is, in the light of the knowledge of God which the gospel bestows, will soon notice that human language lacks the capability of distinguishing in the external form of presentation between a command of God *which we are to carry out* and one of his commands *which requires nothing of us, but which as an effectual power produces in and on us what God wills*. In human language we have only one form of expression for both types of God's will, the imperative. ... Both kinds of imperatives appear linguistically to be completely alike, and yet, as expressions of will, they are of a completely different nature. ... The one kind simply expresses what ought to happen according to God's will, without guaranteeing that it will happen. The other kind expresses a *creative will* of God and is the effective Word of God itself, which has the inherent power to establish, make, and create what the imperative designates as the will of God.<sup>114</sup>

As an example of God's creative will, Schaller used Jesus' Great Commission to preach the gospel in Word and Sacrament:

That is also a categorical imperative, in its outward form no different from the command to love enemies. But here from the very outset it is not the intent of God that this command should work death, the very opposite of the expressed purpose, but through this very Word God wants to create and produce precisely what the Word itself says. When he says, Preach the gospel, God by this command sets in motion [i.e., institutes] the activity of preaching the gospel.

The same holds true in the same way for the commands of God which we designate as the institution of the Sacraments: Baptize – This do! From our youth on it is an established fact that the sacraments are nothing else than a special clothing of the gospel. ... The added imperative points out the will of God, that these actions are to serve as means of grace for all time, and authorizes the continuing use of both sacraments. But the

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<sup>113</sup> Ibid., 150.

<sup>114</sup> Ibid., 150-151.

imperative is not that of the moral law, but here also we have a creative Word of God, through which he wants to effect what he wills.<sup>115</sup>

Based on this understanding, Schaller took umbrage at the suggestion that God has legalistically commanded certain outward forms of gospel ministry, particularly the local congregation and the office of the parish pastor, binding his Church to these forms in all places for all time. He finally pointed out that any attempt to foist such commands upon the Church, passing them off as divine law, is pure legalism. In truth, the Holy Spirit works among Christians through the gospel in a very different manner. Yes, God has instituted the local congregation and the local pastorate, but not by means of the law. They have been instituted (i.e., set in place and set in motion) – along with all other forms in the Christian church – by the Holy Spirit through means of the gospel.

[The church] knows of no determined form, no limiting precept. Her one concern, like that of her Lord, is that the Word of grace may sound forth richly; therefore she sets her standards according to the circumstances in complete freedom, influenced only by the will of her Lord. She grants no man, no group of men, no creature whatsoever ... the right to saddle her with an outward form of gospel-preaching as divinely ordained, because in this matter her Lord has not expressed any particular will. ...<sup>116</sup>

In other words, the *verba institutionis* are lacking even for the office of bishop and presbyter in apostolic times, and certainly also for any additional special forms of congregational ministry. Through the gospel God creates [i.e., institutes] this ministry always and everywhere on earth where he gathers his congregation, and he always leads his church in such a way that it makes use of the persons he gives it, suitable to circumstances at the moment. Here again God's creative will is quite clear, but he has not expressed it in the form of a command.<sup>117</sup>

And then, in what is perhaps a direct allusion to the legalistic perspective of the St. Louis faculty, Schaller brings his article to the following pointed conclusion:

God's evangelical will and command has nothing legalistic in it, either according to its nature or according to God's intention. ... But how far removed from the understanding of the gospel must one be who would conclude this from these things: Because those evangelical commands produce what the law demands, therefore they themselves are legalistic commands! That is the logic of the natural man, who only knows the law. ... The true logic of the Holy Spirit teaches us, rather, to conclude: If someone has true confidence in God and freely confesses his name, loves the preaching of the gospel, cannot get along without it, and willingly helps to bring its saving use to others; therefore, if someone does these greatest and most excellent works a man can possibly do, he is no longer under the law, has not come to those works through the law, but he is under the life-giving gospel, which alone makes a man capable for such works and produces them in him.<sup>118</sup>

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<sup>115</sup> Ibid., 153-154.

<sup>116</sup> Ibid., 154.

<sup>117</sup> Ibid., 166.

<sup>118</sup> Ibid., 167-168.

August Pieper followed up his colleagues' masterful articles with three masterpieces of his own: "The Law Is Not Made for a Righteous Man," "The Difference between the Reformed and the Lutheran Interpretation of the So-Called Third Use of the Law," and "Are There Legal Regulations in the New Testament?" all published in consecutive issues in 1916.

In the first-mentioned article, Pieper stated that he would "treat a question often aired, but never, at any time, treated exhaustively among us. This question concerns the meaning of the law for the Christian."<sup>119</sup> After an extensive exegetical study, particularly of 1 Timothy 1:9, Pieper drew this conclusion:

Absolutely: *There is no such thing as law for the just.* Only he, who knows this and holds fast to it, can use the law, good as it is in itself, rightly and usefully, whether he be teacher or hearer. The Christian teacher, who does not cling to this knowledge, will always corrupt the gospel and confuse and despoil his hearers. ... We are free and released from the law *as a doctrine and rule of conduct, because we have all been taught by God through faith.*<sup>120</sup>

Here Pieper wrote the "magic words" that were bound to stir up controversy in the Synodical Conference, arguing that the Christian was free from the law in all respects, even as a rule or guide, the so-called "third use of the law." Pieper's words would seem to be a direct attack upon Article VI of the Formula of Concord, which concerned the third use of the law and was written to oppose the antinomians. But Pieper addressed the question he knew would be forthcoming from his critics. His answer is both interesting and important to note.

Is our church then wrong when she teaches in great detail the third use of the law for Christians, as in the Formula of Concord, Article 6? No, the church is right. The Confession teaches that not only the "third," but all "uses" of the law are still needed by the Christian: the law as mirror, rule, coercion, and punishment. And that also is right. The church teaches the use of the law by the Christian *because of the flesh which still adheres to him* and as applicable to it.<sup>121</sup>

However, Pieper also suggested some lack of clarity and preciseness on the part of the Article VI formulators when defining the law, especially as St. Paul presents it, stating that their "definitions ignore the *characteristics* which the law without exception possesses over against the *sinner* in all his activities and accomplishments. For it confronts him as an alien will, coming from without."<sup>122</sup> Pieper suggested that "it will contribute more to clearness and a more precise understanding of the difference between law and gospel, if one takes the term 'law' in the sense we outlined above, according to which the 'Thou shalt' belongs to the essence of the law."<sup>123</sup> In other words, Pieper argued, the law by its very nature pushes, prods, coerces and punishes sinners; it does not and cannot guide the Old Adam (Ro 8:7). On the other

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<sup>119</sup> August Pieper, "The Law Is Not Made for a Righteous Man," *The Wauwatosa Theology*, II (Milwaukee: Northwestern Publishing House, 1997), 73.

<sup>120</sup> *Ibid.*, 87-89.

<sup>121</sup> *Ibid.*, 92-93.

<sup>122</sup> *Ibid.*, 90. Koehler, too, suggested that it was more precise to reserve the term *law* "for the legalistic conception, for the sake of *distinction*, exactly following Paul's example" ("Legalism," 233; emphasis in original). He also intimated that the formulators had not been careful enough in their definition of the so-called *third use of the law* in FC VI (see "Legalism," 256-258).

<sup>123</sup> *Ibid.*, 91.

hand, the law has nothing to say to the Christian as New Man at all, even as a guide.<sup>124</sup> The New Man is guided by the Spirit, not the law (Ga 5:18; Ro 6:14; 1 Ti 1:9). Pieper boldly stated:

Therefore it is false in every way and contrary to the clear word of Scripture and also of our Confession, to say: The Christian *as Christian*, as a believer, is still under the law, at least in its use as a rule of conduct. We must not form the habit of using this manner of speech, not even if it were found in some explanation of the catechism, in a schoolbook, a synodical report, a volume of dogmatics, or elsewhere. Such talk not only diametrically opposes our chapter but the entire Scripture, creating confusion and wavering in regard to the whole doctrine of grace, the “glorious gospel of the grace of the blessed God.” It mixes law and gospel, falsifies the gospel, and again makes it to be law.<sup>125</sup>

In his next article, “The Difference between the Reformed and the Lutheran Interpretation of the So-Called Third Use of the Law,” Pieper would need to address his critics when his previous article elicited one letter “that did not agree and one that expressed hesitation regarding the main point.”<sup>126</sup> Here he warned anyone who would listen about the dangerous temptation of taking a Reformed view of the law. He summarized the important distinction this way:

It could not be expressed more definitely than this, namely, that [in Reformed theology] the law applies to *the believer as such*, while Lutherans declare that the believer is free from the coercion (*coactio*) and threat (*comminatio*) of the law in that he as a believer voluntarily (*sua sponte*) does what is God-pleasing [guided by the Spirit, not by the law]. Consequently, he does not need the external prod of a demanding law standing over him. ... The Reformed, on the other hand, let law apply to the believer *because and in so far as* he is a believer. ... This insistence that the law applies to the Christian has often given the application of Scripture to morals and life in the Reformed Church a distressing and rigoristic quality. ... So, just *because* faith has been kindled, *for that reason* the law is necessary, which urges one on to action. It is precisely the regenerate person who needs the law for his development, his perfection, his positive progress, his manifestations of obedience, and his good works, which should glorify God. ... This, then, is the basis for the Lutheran charge that *Reformed piety is servile, legalistic and not evangelically free*.<sup>127</sup>

Scripture approaches our Christian lives of sanctification in a much different manner, pointing to and relying on the power of justifying faith in the gospel, worked by the Holy Spirit. Pieper asserted:

... in the justified person faith ... is such a unity of the human substance with the divine that he finds in himself the norm and stimulus for his actions. He no longer needs to

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<sup>124</sup> The Wauwatosa faculty was of the distinct opinion that even the command given to Adam in the Garden was not “law,” as that term is normally used and understood in Scripture. Pieper writes: “The concept ‘law’ does not exist *prior to sin*, because that thing did not exist which confronted man with demands *from without*, with threats, and with destruction by God’s moral will. Men blithely inject the commandment, not to eat of the tree of knowledge, at this point. ... But it was no demand, made on unwilling persons, as the law is since sin entered the world. It was a special commandment, given to willing observers” (Ibid., 80-81). The law is not intended or necessary for the New Man in any way.

<sup>125</sup> Ibid., 93-94.

<sup>126</sup> August Pieper, “The Difference between the Reformed and the Lutheran Interpretation of the So-Called Third Use of the Law,” *The Wauwatosa Theology*, II (Milwaukee: Northwestern Publishing House, 1997), 101.

<sup>127</sup> Ibid., 106, 109.

receive this from the outside. Because he has been given the Holy Spirit, he is an independent source of a divine manifestation in his life and his activity. The law, therefore, does not stand *over* him anymore as something *foreign* to his will, but it *has passed over into his will* as the impulse of love, inflamed by the Holy Spirit. ... *Only because of the old man* does the believer also need the law as a taskmaster of the flesh in the interest of the spirit. Thus the law has for him a negative function. All truly Christian, positive action, however, proceeds *from faith itself*, which receives from itself guidance and impulse. ... the law always serves him only to convict him of sin. That which is positively good is only a work of the freedom of faith in the Spirit.<sup>128</sup>

In the last of the three articles in this series, "Are There Legal Regulations in the New Testament?" Pieper finally applied these abstract ideas to concrete examples of legalism he perceived in the visible church. In particular he now targeted the Missouri opinion that certain forms of church and ministry have been strictly commanded by divine law. Such a view was incongruent with Christian liberty, Pieper argued. "If no law is meant for a righteous person, then no legal regulations are given to him either. For a legal regulation or arrangement is nothing but a species of the genus law."<sup>129</sup>

In the end, Pieper returned to the fundamental question that separated the Wauwatosa and St. Louis faculties on the question of church and ministry, namely, what is meant by the term "divinely-instituted"? Is it a legal concept? As Koehler and Schaller had previously, Pieper now warned against a misunderstanding of "divine imperatives" found in the New Testament, particularly as they relate to the preaching of the gospel and the administration of the sacraments.

One cannot dispute the fact that the preaching of the gospel is in the fullest and most intensive sense an ordinance, arrangement, institution, and establishment; indeed, it is the one great general and permanent commission of the Lord in the New Testament. No command of the Lord addressed to his disciples is as great, as comprehensive, as intensive, as general, as permanent as this one. It is the great kingdom commission of the Lord addressed to every believer, to the entire church, and in effect until his return. This is to such a degree the one great arrangement of the New Testament that the preaching of the gospel has rightly been called the one task of the church. ... If we have carried out only this command with everything that we think, imagine, speak, and do, we have fulfilled every will of God. ...

The preaching of the gospel is the one great outward ordinance of the New Testament. Added to it are the sacraments. ... Thus the gospel, Baptism, and the Lord's Supper are indeed outward ordinances in the New Testament. But the question is not whether they are outward but whether they are legal regulations, ordinances of legal character, having the same nature, the same effect, and the same purpose as the outward regulations of the old covenant. All this is plainly and categorically to be denied.

When the Lord says preach, baptize, do this, then these are in themselves neither moral nor ceremonial, symbolic demands through which obedience toward God is meant to be exercised and faithfulness toward him is to be manifested. ... [Instead] the New Testament deals with the regenerate and mature (Ga 4:1ff.). If the preaching of the

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<sup>128</sup> Ibid., 108-110.

<sup>129</sup> August Pieper, "Are There Legal Regulations in the New Testament?" *The Wauwatosa Theology*, II (Milwaukee: Northwestern Publishing House, 1997), 115.

gospel, Baptism, and the Lord's Supper were legal ordinances, they would have to lock up and preserve until Christ would appear, and be a custodian until his coming. But the New Testament is the fullness of time, is itself Christ's appearance. It is just through these ordinances that Christ imparts himself to the world. As legal arrangements, the preaching of the gospel, Baptism, and the Lord's Supper would be powerless, impotent ordinances not imparting salvation but killing and damning us; under them we would be frightened and yearn for other, new ordinances which would give us salvation.

The proclamation of the gospel, Baptism, and the Lord's Supper are not legal but *evangelical* arrangements. ... after we have come to know the gospel in faith, preaching, Baptism, and celebrating the Lord's Supper become for us Christians not a duty – for duty is a legal concept – but an inner compulsion. “I believe, therefore I speak,” says David. “We cannot help speaking,” says Peter. “You will be my witnesses,” says the Lord. Yet this is not a legal compulsion, but a compelling force inherent in the Christian's new spiritual nature. ... Also without the express command of Christ, the church, the assembly of believers, would have preached, baptized, and administered the Sacrament after the Lord had ordained them as means of grace. The preaching of the gospel, like prayer, is, because of the Christian's very nature, the immediate, the most immediate and necessary outpouring of faith. It is so inevitable that the stones would cry out should we keep the gospel hidden. As Christians our hearts would burst if we would not confess our own and the world's Savior and praise his soul-saving grace. That is why we would not need the command to do so if we were wholly spiritual. Only because we are not that as yet, but still have the shy, worldly-minded, lazy flesh clinging to us, has the Lord expressly given us the command.<sup>130</sup>

However, as the Wauwatosa theologians had repeatedly asserted, unlike the preaching of the gospel and the administration of the sacrament, there are no “words of institution” for specific ministerial forms such as the local congregation and the local pastorate, to which the church was bound by divine law. Instead, Pieper wrote,

The concept *the ministry of the church* embraces absolutely all forms of the administration of Word and sacrament, while the *congregational pastorate* designates only a specific form of the public administration of the means of grace. Not to distinguish these two concepts ... and imply to identify them with one another means confusing everything and arriving at the ill-boding error that actually only the one form, the congregational pastorate, has been instituted by God, whereas every other form is of human origin. As soon as the two concepts are clearly distinguished as genus and species, and what Scripture says is carefully noted, everything becomes clear and plain. ... nowhere is it stated as a permanent regulation of the Lord, valid for all times and circumstances: Every local congregation is to have pastor!<sup>131</sup>

It is the same with the doctrine of the local congregation. There are various forms of the church: the house congregation, the local congregation, the institutional congregation (instructors and students), the council or the synod ... Wherever, therefore, two or three are gathered in Christ's name, there is the visible church; there Christ is in their midst;

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<sup>130</sup> Ibid., 121-123, 125-126

<sup>131</sup> Ibid., 126-127.

there is absolutely all power of the church, including also all power to exercise it, whether this church is called local congregation or house congregation, council or synod, conference or institution, whether it is mobile or stationary. The power of the church does not depend on its outward form, nor does the right to exercise it; this lies in the essence of the church. The only concern is that everything be done decently and in order (1 Co 14:40) ... Moral matters, love, and order (1 Co 16:14) regulate this exercise, as they do among the gifts given to the church and in the filling of the office of the congregation likewise. Also here there is no legal or evangelical regulation. .. After the Lord gave the church the gospel and the sacraments and his Holy Spirit, he left all outward forms and arrangements, everything of a ceremonial nature, to the free determination of the church governed by the Spirit.<sup>132</sup>

So then, if there is no divine command for the specific forms of congregational pastorate and local congregation, are all forms of the public ministry simply human arrangements, instituted by men for mere expediency? "Then" as Pieper himself queried, "the church or a congregation could perhaps do away with the present congregational pastorate and introduce a Quaker type of proclaiming the Word?"<sup>133</sup> To both these questions Pieper and his colleagues answered unequivocally: Absolutely not. The Wauwatosa men stressed again and again, as Paul had nineteen centuries earlier: Just because Christians are free from the law, it doesn't mean that they will use their freedom for licentiousness, to do as they please. Instead, through the gospel the Holy Spirit leads Christians to make use of the best and most beneficial forms.

... while we have no explicit, simple, legal, or evangelical regulation for any one of them, all possible forms of the office [of the ministry of the gospel] are not purely of human but of divine origin. We human beings do not govern the church; when we do govern it, it regularly becomes ill-governed; but the Lord, the Holy Spirit governs it, and he governs it in a proper and wholesome manner. He wants his church to be edified by Word and sacrament to attain a perfect manly age in Christ. That this may come about, he at all times gives his church just those gifts, types of offices and men to fill them, which it needs at every place and under every course of events and will best serve its edification.<sup>134</sup>

In other words, all forms of the gospel ministry *are* divinely-instituted, that is, set in place and set in motion by the Holy Spirit working in the hearts of believers through faith in the gospel. The Spirit leads and guides the Church to make use of the best forms not by means of divine law but by means of the gospel of grace. All forms in the Church – indeed, all fruits of faith produced by Christians – are divinely-instituted, brought about by the Holy Spirit through the gospel. They are not our legal duty *per se* but an evangelical compulsion.

Such evangelical pronouncements, however, made others nervous within the Synodical Conference. They thought, perhaps unconsciously, that proclaiming such absolute freedom in the gospel – as the Wauwatosa men were doing – would surely bring about a disorderly mess. Much better to make rules and laws to keep people in line and to keep the church's business running smoothly. Yes, use the law for the maintenance of outward peace and tranquility! Such was the thinking of legalists then, and such is the thinking of legalists today. Such is the thinking of us all by nature, since sinners are by nature legalistic;

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<sup>132</sup> Ibid., 139-141.

<sup>133</sup> Ibid., 132.

<sup>134</sup> Ibid., 130.

they respond to the law. Simply put: trusting the gospel to produce proper and God-pleasing fruits of faith in the fullness of time is risky business in this world, especially when dealing with sinful people. It won't always work in just the way or as quickly as we may want or expect. In most cases, the law will certainly get more immediate and more quantifiable results.

But the Wauwatosa men would have us ask ourselves: Is *that* the goal? Immediate and quantifiable outward, earthly results? Pieper granted that if we use the law to motivate our lives of "good works"

our zeal ... would perhaps be greater. But that we would thereby be richer in real good works cannot be proved, for all good works are good only insofar as they proceed from faith itself *freely* and not forced by the law. Accordingly, the cure for our lack of works does not consist in this, that we become more legalistic in our Christianity and adopt something of the Reformed spirit, but in this, that we, in a genuinely Lutheran spirit, apply the law in its sharpness as a mirror to our lazy flesh, that we allow ourselves to be judged and condemned by it, that we become alarmed at our lack of energy because of which we neglect God's kingdom and poor souls, and that we flee again to grace and from its fullness and fervor, which surpasses all human thought, acquire for ourselves new, *free*, spiritual willpower.<sup>135</sup>

Sadly, the Wauwatosa plea for a more evangelically-centered doctrine and practice within the Synodical Conference went mostly unheeded in its day and is mostly strange and unfamiliar to Lutheran ears today. The rainstorm of the Wauwatosa Gospel pelted the Synodical Conference for almost thirty years, but most simply chose to come in out of the rain.

## EPILOGUE

In the middle and late 1920s the Wisconsin Synod was embroiled in the bitter Protes'tant Controversy. In some respects this controversy was a by-product of the Wauwatosa approach to church and ministry<sup>136</sup> and an ever-worsening relationship between its chief proponents, John Ph. Koehler and August Pieper.<sup>137</sup> A group of recently-graduated pastors, who sat at the feet of Koehler and Pieper, saw doctrinal and practical disintegration taking place in the Synodical Conference, mostly – they suggested – because of the Conference's legalistic underpinnings. The evangelical call of their Wauwatosa professors had been rejected, and dogmatism was setting in on the Lutheran church once again. August Pieper had sounded the warning in an essay to the 1919 Wisconsin Synod convention entitled, "The Despising of Grace Is the Death of the Church," in which he stated:

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<sup>135</sup> August Pieper, "Difference between the Reformed and the Lutheran Interpretation," 110n.

<sup>136</sup> The Protes'tant Controversy revolved around the actions taken by synodical and district officials in disciplinary cases at Northwestern College, Watertown, WI, and St. Paul, Fort Atkinson, WI, beginning in 1924. At first glance it may seem that these officials were simply putting the Wauwatosa approach to church and ministry into practice, involving themselves in discipline cases that, as some may and did argue, were not their immediate responsibility or business. However, the manner in which the officials dealt with these cases tended to be quite contrary to the Wauwatosa ideal of evangelical practice.

<sup>137</sup> Professor John Schaller had died on February 7, 1920, leaving – in the opinion of many – the Wauwatosa Seminary without a mediating influence between Koehler and Pieper. The Protes'tant Conference suggests that the real source of later conflict between Koehler and Pieper was Pieper's jealousy of his colleague, a jealousy that increased when Koehler was named as Seminary Director, replacing Schaller in 1920. While this certainly may have been a contributing factor in the acrimony between these two men, to lay the blame entirely at Pieper's doorstep is an overly simple answer to this very vexing and complex historical question.

We here in America, especially through the work of Walther, have had the gospel among us in great clearness, fullness, and power throughout two generations. But we will not have it forever. Unthankfulness and despising will not allow it to remain. These are already present to a frightening extent. The death of the church has already set in with us. ... [Christian faith and love have] so strongly decreased among us that we have become to a great extent lukewarm and sluggish, cold and indifferent toward grace, toward all that is the kingdom of God. We have again to a great extent sunk down into the world's way of thinking, the spiritual life in us has become weaker, the unspiritual, stronger – and that is the beginning of the death of the church. Our church, professors, pastors, teachers, administrators, congregational members have begun to become spiritually weak with old age. Our spiritual, youthful strength is gone, we have begun to decline spiritually, to wither away and thereby to go to meet spiritual death. ... We are in *danger of hardening (Verstockung)* without suspecting it.<sup>138</sup>

Now, the young Protes'tant pastors proposed to take up the call of their Wauwatosa mentors. In theory they fancied themselves as Koehler disciples. In practice they tended to follow in the footsteps of Pieper, whose acrid message to the 1919 convention was fast becoming standard fare for him, though Koehler, too, had certainly spoken candidly in his criticisms of the legalistic spirit pervading the Synodical Conference and the Wisconsin Synod. In September 1926, a young Wisconsin Synod pastor named William Beitz – an enthusiastic disciple of the Wauwatosa Gospel – took his stab at rooting out the cancer of legalism with a pastoral conference paper originally intended for a mixed Missouri-Wisconsin gathering. It was entitled: "God's Message to the Galatians: The Just Shall Live by Faith," and in many ways it imitated the theme and message of Pieper's 1919 convention essay, almost to the point of plagiarism.

Beitz's words were swiftly rejected, as he was charged with a loveless judging of hearts. Within two years he and a majority of his defenders were suspended by the officials of the Wisconsin Synod. Some of that was his own fault; he had not written as clearly as he might have and refused to change one word of his paper. But much of the negative reaction to his words also suggests that Beitz's paper hit a nerve that most in the Synodical Conference had chosen to ignore for more than twenty years. They had tired of hearing this "Wauwatosa blather" from the old professors. Now that young pastors were the messengers, they were going to act.

Koehler urged his young friends to exercise restraint, wondering if they had the pastoral and Christian maturity to endure the rebuke they would face. He also questioned their grasp of the subject matter. He wrote a letter to Beitz on October 26, 1926, just a month after Beitz had first delivered his now infamous paper. In it Koehler expressed his concern that Beitz's presentation had much in common with Jacob Spener's pietistic scoldings of the past. "It differs in this respect, that whereas Spener recommends external means, you emphasize the inwardness of faith. But this emphasis can just as easily turn external again. I am afraid that your tract would bring about external results in this way, that we would in spite of all relapse into Spener's mistakes. There is still a great deal that needs to be clarified for our time."<sup>139</sup>

Koehler goes on to explain the Wauwatosa ideal:

Lamenting and criticizing is the easiest thing to do; mostly everybody is going to pick up that habit, and it isn't going to rouse the rest from their security. What is called for is

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<sup>138</sup> August Pieper, "The Despising of Grace Is the Death of the Church," *The Wauwatosa Theology*, II (Milwaukee: Northwestern Publishing House, 1997), 306-307.

<sup>139</sup> John Ph. Koehler, letter to William Beitz (October 26, 1926), *Faith-Life*, 74, No. 3 (May/June, 2001):20.

getting down to joyful work with a purpose. To make that happen, a whole new attitude has to come about, and that is what we must strive for. How to begin? By pointing out the great, joyous prospect; by actually proclaiming the Gospel. This is the only way a sharp critique will gain the cutting edge. I know that I don't have to explain something so elementary to you. You yourself make the same point in the tract. But mentioning it isn't enough, the tract itself should have demonstrated this. Don't you see that [your] Gospel of faith, even if not exactly Law, nevertheless amounts to an ordinance?<sup>140</sup>

Despite Beitz's lack of precision in writing his paper, Koehler could still easily sympathize with his frustration concerning the Synodical Conference scene:

Don't think I don't know how a humor like this develops, because I have experienced it in myself. A man sees what is going wrong, and observes the wrong turns taken again and again, and how the mistakes saturate everything. One comes to realize what is the right position, and takes for granted that the communion of saints ought to know about it. But people who live by the book don't share this assumption. That is why they ascribe their own incorrect views to the opponent; and all this terminates in a futile feud. It is really getting to be a nuisance for me to have to spell out in detail self-evident matters, and to repeat them over and over. But still, you have to do it. ... When all is said, that is our principal assignment, to publicize the glory of the Gospel in the face of every detraction.<sup>141</sup>

Within a year William Beitz would be suspended from the Wisconsin Synod, charged with "judgment of hearts and public slander of his teachers and brethren, with his enthusiasm and false doctrine." John Ph. Koehler, who came to the defense of Beitz when he sensed that his young friend and supporters were being treated unfairly, was himself ousted as the Director of the Seminary in 1930 and suspended from the Wisconsin Synod in 1933.

The Synodical Conference would survive for almost another thirty years, but already new storm clouds were quickly forming in the early 1930s. This new storm, however, would not water and nourish the Synodical Conference fields with the truths of the gospel, as the Wauwatosa shower had. Instead those same fields would now be stripped and uprooted, and the gentle rains from Wauwatosa would only be a distant, mostly-forgotten memory.

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<sup>140</sup> Ibid., 20-21.

<sup>141</sup> Ibid., 21.