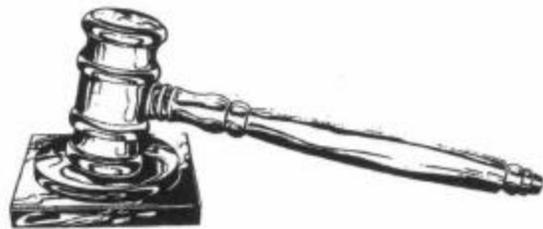


1 Corinthians 6:1-11

An Exegetical Study



**A Report of the
Commission on Theology and Church Relations
April 1991**

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INTRODUCTION

The society in which the church in the United States lives today is a litigious one. Few, if any, would disagree with this observation, an assessment supported by the increase in numbers of those involved in legal or paralegal professions, crowded court dockets, and especially the increasing number and variety of lawsuits that are filed daily at all court levels. Included among these lawsuits are not only those filed by Christians against non-Christians but also by Christians against fellow Christians.

The situation which confronts Christians today becomes increasingly complex in this contemporary context. "The world is too much with us" and is constantly seeking to make inroads into the church, and it is all too often successful in its efforts. This is especially true when Christians seek to settle their disputes through litigation. A few examples may help to illustrate this point.

A Christian banker, finding that a fellow member of his/her congregation can no longer meet the payments on a loan, forecloses on the property or business and forces this fellow Christian into bankruptcy. The banker feels that he/she has no choice but to do this, since the welfare not only of one but of many must be considered. Legally, no one can fault such an action. The property owner, however, in order to protect his/her interests, countersues. Both believe that they are only seeking simple justice.

A professional church worker is unemployed. He waits to receive a call and, when none is forthcoming, sues the district president for failure to secure a position. He has dedicated his life to this kind of work, has not been prepared to do anything else, and is of the opinion that the church owes him a living. After all, he believes, he is only seeking simple justice.

Two fellow Christians enter into a business partnership. After working together closely and successfully, one of them begins to feel that, because of the long hours which her particular responsibility in the business requires, she deserves a greater share of the profits. She takes her partner to court to secure what rightfully belongs to her. She believes that she is only seeking simple justice.

The list is endless: suits by divorced parents for support or visitation rights, suits for injury, suits for malpractice, suits for slander, equal rights, failure to perform as promised, and a host of other issues. Over and over again new reasons for taking legal action, or at least new *forms* of reasons, are "discovered." Because they live in the world, Christians are well aware of this situation and often conclude that Christianity, which is concerned about the cause of justice, gives the Christian not only the right but also the duty to utilize those legal procedures which promote and assist this cause. Can these procedures always be regarded as either right or wrong? Is there ever a time when legal action is not only proper but required? Obviously, it is impossible to identify and evaluate every situation which might arise.

This document seeks to provide a response to an assignment given to the CTCR to study “the whole matter of Christian brothers proceeding against one another in civil courts particularly in the light of 1 Corinthians 6 and other related Scripture passages.”¹

A cursory review of Scripture makes it clear that not all use by Christians of legally established procedures is wrong. Laws established by governments are to be obeyed if they do not clearly prohibit Christians from carrying out their calling as Christians. The government is God’s instrument for good, for maintaining peace and order and for establishing justice in the land. Indeed, there is a need to make decisions when people, even the people of God, disagree. This is clear from the responsibility which Moses was called on to carry out among the people of Israel, a responsibility which became so heavy and time-consuming that he found it necessary to appoint assistants. A theocracy did not eliminate the need for resolving disputes. The prophets were incensed when kings did not live up to their responsibilities but served their own interests, oppressed the people, and no longer served as ministers for good. They viewed the monarch as God’s intended instrument for justice, peace and order. Paul did not hesitate to make use of his Roman citizenship when incarcerated without trial. He insisted that, having been condemned publicly, his innocence should also be made clear publicly through a government escort provided to send him on his way. Nor did he hesitate to appeal even to the highest tribunal, Caesar, the supreme court of his day. His appeal was not based on a concern for personal vindication, safety and justice but on a concern for the Gospel which he proclaimed. Not to have appealed in this case would have left the impression that the Gospel was a message which deserved to be resisted and suppressed as evil and perverse.

Life for the Christian is always lived in two realms, that in which Christ rules by His grace and love and that in which He rules with His power, maintaining order in the world. According to the new man Christians live in the realm of grace and are ready to turn the other cheek, that is, to suffer wrong rather than to do wrong. Still living in the world, they recognize government as that power established by God for good, a power to be supported for the maintenance of order and justice. This is clearly stated in Romans 13.

In view of the above a Christian needs guidance for action in legal matters. A key section of Scripture from which such guidance can be obtained is the apostle Paul’s discussion of this issue in 1 Cor. 6:1-11. (See *Appendix A* for pertinent citations from the Lutheran Confessions, and *Appendix B* for Canon IX of the Council of Chalcedon, which also speaks to this issue.)

¹ This is the specific request forwarded to the Commission by the Praesidium of the Synod.

I. The Context

“In the world but not of the world.” This common phrase reflects a thought which permeates Paul’s first letter to the Corinthians. In 1 Cor. 5:9 and the verses that follow, St. Paul clearly states that he is speaking to Christians about their attitude toward and relationship with those who are called brothers in contrast to those who are outside the Christian church. It is interesting to note that this apostolic directive immediately precedes the admonition regarding taking a brother to court contained in 1 Cor. 6:1-11. The fact that Christians are guided in their actions and relationships by a motivation different from that of the world is evident from this epistle as well as from the letter to the Roman Christians in which Paul writes, “Do not be conformed to this world but be transformed by the renewal of your mind” (Rom. 12:2). Repeatedly in chapters one and two of 1 Corinthians St. Paul contends that the wisdom of God, which is clearly revealed in the cross of Christ, is foolishness to the world. Yet it is just that wisdom which is both the motivation and the source of power for the believer. The wisdom of the world and the wisdom of God are in constant opposition to each other, and the life of the Christian is not to be conformed to the former.

A. A Hint of the Problems

Already in the opening chapters of 1 Corinthians Paul identifies the problems which were being encountered in the Corinthian congregation. He refers in 1:7 to the large measure of spiritual gifts (*charismata*) with which God has blessed the members, a blessing which later chapters indicate was being misused. In 1 Cor. 1:10-17 he refers to the various factions which had developed within the congregation and which were undermining the unity which should exist among them.

Furthermore, in 1:7-8 there is a hint of the importance of keeping in mind the future coming and judgment of the Lord Jesus Christ, a teaching which, according to the closing chapters of the epistle, was rejected by some within the congregation. While it exists in this world, the church is holy and its members are called to live holy lives (1:2). Therefore, the church cannot ignore immorality, especially sexual immorality, among its members. Nor does the church live, grow, and conquer on the basis of knowledge or strength (1:26-28).

B. The Spiritual Man and the Spiritual Way

All of the things referred to above are matters which are not immediately obvious. In fact, natural observation would lead to opposite conclusions. Paul unequivocally stakes out this position in 2:6-16 and specifically in the words of v. 14, “The natural man does not receive the things of the Spirit of God, for they are foolishness to him, nor can he know them, because they are spiritually discerned” (NKJV). On the other hand, the spiritual man can understand and

evaluate everything, because through the power of the Spirit he possesses the mind of Christ. A Christian views everything from this perspective.

C. **Wisdom of the World and the Problems in Corinth**

Many of the problems in Corinth were due to the fact that certain members of the congregation were making judgments and acting on the basis of the wisdom of the world rather than the wisdom of God. For them, the wisdom of the world was equated with “knowledge” (*gnosis*), a kind of philosophic wisdom referred to as gnosticism, which governed their attitude and actions.² This is reflected, for example, in 1 Cor. 4:9, where Paul points out that, while the apostles were being put on display as “a spectacle to the world” like gladiators condemned to death (*epi thanatos*) and labor in weakness for the Corinthians, they [the Corinthian Christians] have already (*eedee*) become kings apart from the preaching of the apostles (1Cor. 4:8)! It appears as if the Corinthians believed that the day of resurrection had already come. “For them there was no ‘not yet’ to qualify the

² Gnosticism, asceticism and antinomianism are closely related in the context of 1 Corinthians. Although a complete discussion of gnosticism incorporates many elements in an extremely complicated world view, it may be defined briefly as follows: “In contrast to the rational insight of the classical mind, the basic theme of gnosticism was redemption from the material world (matter considered evil; ordered cosmos had malevolent purpose) and escape into a world of freedom, thus achieving the liberty implied in human spirit. The soul, escaping from matter, is to be reunited with the *pleroma*, or fullness, of God.

“While this redemption took place through initiations, rites, mysteries, magic (each sect having its own peculiarities), the more speculative adherents needed philosophical basis. Hence the dualism inherent in the doctrine of redemption was expanded (supreme God-demiurge; good-evil; light-darkness; cosmic fall-historic fall; spirit-matter; *pleroma-hysterema*) and synthesized in the good God.” (“Gnosticism,” *Concordia Cyclopedia*, edited by Erwin L. Lueker [Concordia Publishing House, 1975], p. 337.)

Since matter was considered evil by the gnostics, some practiced ascetic disciplines to free the soul from its entanglement in matter, which they regarded as evil. Denying the body the enjoyment of material things by fasting, abstinence from marriage, withdrawal from the world and similar practices was considered a way to redemption for the individual. On the other hand, the gnostic who had escaped into the world of freedom as noted above was antinomian, that is, considered himself free from the moral law. (See “Asceticism,” *Concordia Cyclopedia*, p. 53; also, “Antinomianism,” p. 38.)

‘already’ of realized eschatology.” By believing that the consummation had already been realized, they misinterpreted Gospel and faith and changed both into *gnosis* (the Greek word for knowledge) and enthusiasm.³

Viewed in this context, the various problems at Corinth can be identified as having their origin in this false equation of wisdom with knowledge. We cite, for example, the following:

1. Chapters 3 and 4 state that some of the members had chosen to identify themselves with Paul, others with Apollos, and still others with Peter. Some even claimed the name of Christ himself. The wisdom of the world leads to the belief that success depends upon the choosing of the right leader. From this perspective, one might suppose that those who claimed they belonged to Christ would be praised by the apostle. It appears, however, that Paul’s reference in chapter 4 to those who believed they had special knowledge and insight, those who had become “kings,” is especially to this faction. The “leader” whom they had chosen to follow was in reality merely themselves and their special knowledge.⁴ This is wisdom of the world.
2. The wisdom of the world of the gnostic variety leads to the understanding that material thing (matter) are unimportant. Such an understanding easily results in either asceticism or antinomianism. The antinomian error, for example, no doubt gave rise to the case of a man living with his stepmother as his wife. The Corinthians felt that they were “free” from the law, and they were proud of their tolerance.
3. The wisdom of the world leads people to believe that they are free to do their own thing and make their own demands because they have special knowledge and insight. This attitude rather than love becomes the starting point for determining all action. Such knowledge leads some members of the congregation to ignore the effect which eating meat offered to idols may have on a fellow Christian, because those eating know that an idol really has no existence (Chapters 8 and 10). The knowledge that Christians are free may result in their placing their own rights and demands above the cause of the Gospel (Chapter 9). Such knowledge may

³ Jerald C. Joersz, unpublished essay on 1 Cor. 10:16-17, quoting C. K. Barrett, *The First Epistle to the Corinthians* (New York: Harper and Row Publishers, 1968), p. 109.

⁴ In the introduction to 1 Corinthians contained in the *Concordia Self-Study Commentary*, Dr. Martin Franzmann has provided an excellent characterization of this group.

lead to the assumption that Christians are chosen of God if they follow the ritual and therefore nothing evil can happen to them (Chapter 10). This is wisdom of the world.

4. The wisdom of the world concludes that the communion of the body and blood of Christ in the Lord's Supper is merely eating bread and drinking wine—just that and no more. In its failure to recognize the vertical relationship with Christ in the sacrament, a relationship which also makes the participants members of the same body, such participation ignores the horizontal relationship to the Christian brother or sister. The participants therefore conclude that the food which they bring to this meal at which the sacrament is to be celebrated is theirs to do with as they wish, even though a fellow Christian goes away starving. Such conduct is regarded as having no effect on the Christian's spiritual life. This is wisdom of the world (Chapters 10 and 11).
5. The wisdom of the world is convinced that individuals must stand up for their own rights. For that reason they will take their fellow Christians to court where the "superior wisdom" of the world will make the right decisions and see that justice is done. This is wisdom of the world.

St. Paul points out the incompatibility between the wisdom of the world and the wisdom of God. The wisdom of God rests on faith in Jesus Christ as Savior and Lord. In 1 Cor. 6:1-11, he demonstrates that incompatibility as it applies to the way differences which arise between Christians are resolved.

II. Lawsuits Among Believers

Paul begins his discussion with an expression that conveys his astonishment that Christians have taken each other to court, and that they feel no shame and have no recognition of the wrong involved when these matters are brought before the unrighteous. He is amazed that they can be so presumptuous.

Several points in 1 Cor. 6:1 are worthy of note. Attention may first be called to the words "when one of you has a grievance against the brother, does he dare go to law. . . ." In these words there is the implication of reciprocal action, one Christian bringing a claim and another making a counterclaim. The verb *krinesthai* is an idiomatic expression for "going to court." While the thought can be pressed too far, it is interesting to note that this verb (which is in the middle voice) could well also imply that the action is being taken for the benefit of self. Individuals have their own interests in mind and not the welfare of their fellow Christians.

There is no warrant for the view that Paul here manifests an unfavorable opinion of judges. Rather, he is simply saying that the civil magistrate cannot judge as would the Christian (i.e., one who is righteous

[*hagios*] before God) because he is unacquainted with the things that pertain to the kingdom of God. Even Christian judges must adjudicate the cases before them on the basis of laws which are determined by the wisdom of the world. The world is unrighteous (i.e., not righteous [*adikos*] before God) and the courts, while a part of God's rule for maintaining order and justice, are still a part and product of the world.

Arguing from the major premise to the minor, Paul reminds the Corinthians of their exalted position, namely, their participation in the ultimate judgment of the world and even of angels. The world will not judge the Christian, but vice versa. In Christ everything is turned upside down. In view of this, allowing the world to judge Christians and to settle their differences would be to dishonor God, who has given them this glorious position. If the Corinthian Christians were in a position to judge the world and angels, then it is inconceivable that they were incapable of judging matters which relate to their physical and everyday life (*biotika*).⁵

In an apparent use of irony Paul asks, to the shame of these Christians, whether there is no one among them wise enough to adjudicate disputes between individuals among them (*diakrinai ana mesoun tou adelphou autou*, v. 5). Two things are especially worthy of note here. First, though the Corinthians boast ever so loudly of their wisdom, by their

⁵ It is difficult to arrive at a precise definition for *pragma* in 1 Cor. 6:1. J. H. Moulton and G. Milligan (*The Vocabulary of the Greek Testament, Illustrated from the Papyri and Other Non-Literary Sources* [New York: Wm. B. Eerdmans, 1930; repr. 1982], p. 532) cite examples from the papyri where the term commonly means "lawsuits." Perhaps it is best, however, to take the term generically as "a matter" and allow the context to indicate what the matter is. In an article entitled "First Corinthians 6:1-11: An Exegetical Paper" appearing in *Ex Auditu*, 1986, Reginald Fuller states that "*biotika* are cases involving money and property. Such cases, as we have already mentioned, were distinguished in rabbinic Judaism from capital cases" (p. 99). But the definition of the *pragma* as a matter relating to money or property cannot be established with certainty. Beyond the bare statement, Fuller provides no supporting evidence.

actions in taking one another to court they indicate that they believe there is no person among them whose wisdom equals that of the pagan judge.⁶ Second, it should be noted that what the apostle implies here is an amicable settlement of differences by means of a decision by fellow Christians. One wise person should be able to decide the issue in dispute.⁷

Instead of doing what ought to be done, however, one Christian takes a fellow Christian to court. Such action reveals an evil attitude. Puffed up with knowledge, the Corinthians did not recognize their faults and considered something which was actually a sin a matter of Christian

⁶ 1 Cor. 6:4 presents us with an interpretive problem. Opinions differ concerning the reference to the phrase “those of little account.” Gordon Fee holds, on the one hand, that this expression probably occurs in a satirical reference to worldly judges whose values and judgments the church has rejected by its adoption of totally different standards. To go to pagan courts is to ask those who have absolutely “no standing within the church” to make a ruling among Christians (*The First Epistle to the Corinthians* [Grand Rapids: William B. Eerdmans Publishing Company, 1987], pp. 234-36). On the other hand, J. Duncan Derrett does not see Paul’s words in v. 4 as having an ironic character and therefore concludes that “the men of little account in the church” cannot refer to pagan judges. Derrett has recently argued that all the people of Yahweh are righteous and will participate in the final judgment. The power to judge is not merely collective but distributive. Consequently, what Paul insinuates here “is that even the poorest member may well be competent [to judge], even **ought** to be” (“Judgment and 1 Corinthians 6,” *New Testament Studies* 37 [1991], p. 29; see pp. 22-36). It is difficult to decide which of these options is best. We agree with Derrett that all believers will be judges of the world in the end time. However, in view of the arguments presented by Fee, we favor his view that “the least worthy” are probably the pagan judges whom the Corinthians “set up as their judges” when they go to secular courts with fraternal disputes.

⁷ R. C. H. Lenski, noting the use of the singular *adelphou*, observes that the chief difficulty is usually with one who brings charges, demands his rights, insists on admission on the part of the brother or demands that the brother be expelled. While it cannot be demonstrated, he speculates that this may be the reason for Paul’s use of the singular. *The Interpretation of St. Paul’s First and Second Epistle to the Corinthians* (Columbus, Ohio: Lutheran Book Concern, 1935), p. 246.

liberty. The apostle's point is that only when there is no love for fellow Christians is it possible to go to court against them.⁸ Taking a dispute before unbelievers gives the impression that the church is inferior. This is a scandal. The very fact that a Christian goes to court against a fellow Christian is altogether a defeat, a total loss.⁹ There should be a bond of unity in Christ but instead there is disunity.

The real problem in Corinth was that the attitude of the heart was wrong. Paul asks rhetorically, "Why not suffer wrong? Why not rather be cheated?" (v. 7). He indicates that there are other possibilities which apparently have not even occurred to the Corinthians. Perhaps recalling the Lord's teaching (see Matt. 5:21-26, 33-42), Paul suggests that suffering injustice is something which is expected, even commanded, for the follower of Christ. To be sure, justice may be sought in the congregation (6:5), but justice is not to be regarded as having the highest value. As Paul points out in chapter 13, the more excellent way is that of living a life according to the law of love, which includes doing no injustice.

⁸ The question has been raised as to whether Paul's use of *pros* in 6:1 is to be contrasted with *meta* in 6:6, the one being a reference to going *against* the brother to court, the other to going *with* the brother. Neither the Bauer-Arndt-Gingrich-Danker lexicon (BAGD) nor the *Theological Dictionary of the New Testament* (TDNT) provide support for such a view. The former states with regard to *pros*, "denoting a hostile or friendly relationship—a. hostile *against*, *with* after verbs of disputing" (p. 710). The latter states that *pros* is commonly used "with verbs and nouns which express an affective attitude to someone or something, whether friendly or hostile, and often in relation to God, one's neighbor, or the power of evil" (6:723). With regard to *meta* BAGD states,

The fact that the activity or experience took place in the company of others can also be made clear by the influence which two opposite parties exert upon each other or together, or, on the other hand, by which one party brings the other to adopt a corresponding, and therefore common attitude.

a. in hostile fashion; after verbs of fighting, quarreling, etc. to denote the pers. w. whom the strife is being carried on . . . (p. 509).

Both *pros* and *meta* in this context are therefore to be taken in the sense of hostility, of the Christian going to court *against* another Christian.

⁹With respect to the word *heetteema* (v. 7), Robertson and Plummer in *The International Critical Commentary* (Edinburgh: T. & T. Clark, repr., 1963) cite Origen, who contrasts *heetasthai* with *nikan*. They note that "he says that the man who accepts injury without retaliating *nenikeeken*, while the man who brings an action against a fellow-Christian *heetatai*. He is worsted, has lost his cause, by the very fact of entering a law-court. Similarly, Clem. Alex. *Strom.* vii. 14, which is a commentary on this section: 'To say then that the wronged man goes to law before the wrongdoers is nothing else than to say that he desires to retaliate and wishes to do wrong to the second in return, which is likewise to do wrong also himself'" (p. 116).

In verses 8-11 Paul expands on this wrong attitude of the heart which results not in the willingness to *suffer* injustice but rather in *inflicting* it upon the brother or sister. Such a way of proceeding is typical of the unrighteous, not the believer. Thinking they were free and using their liberty for license, the Corinthians were making themselves kings and running the risk of standing outside God's kingdom. While they may not have been guilty of all the specific sins which Paul lists in verses 9-10, by their actions they were allying themselves with the unrighteous. The Corinthians needed to remember that they were no longer people of that kind. Rather, through the gracious action of the Triune God they had been declared righteous and had become new and different beings (verse 11).¹⁰

¹⁰J. Duncan Derrett supports this view. He cites various methods of dealing with disputes and lists judgment, arbitration, conciliation and compromise. He concludes by stating,

All four methods of dispute-settlement agree in ignoring one factor, the psychological sources of the dispute, and the unconscious motives for sustaining it. A fifth method may be resorted to where courts have no jurisdiction, issues cannot be formulated, consciences are troubled, or harmony is threatened by deviant behavior, especially such as resists rational admonitions. Whatever its limitations, *an ascetic's non-judgmental advice to antagonists*, including the worst (*brothers and spouses!*), appealed to many pagans and was far from unfamiliar. The Jews, a litigious people, at least knew of it. It is illustrated at Luke 12: 13-21, typically an inheritance-case between brothers. The stronger had evidently resisted the weaker's claim for partition. Prejudice and reason (partition reduces productivity) will have sustained him. Typically Christ does not sit down, call for maps, the deceased parent's will (if any), evidence of advances made to the brothers, and so forth: he calls their attention to the sin of avarice! The applicant's natural disappointment might not be the end of the matter, but this curious method of 'cure' might be highly expedient, taking a long view. The frequency and rancor of inheritance disputes would try the patience even of Augustine of Hippo.

If a skilled person attends to the *hearts* (1 Cor. 4.5) of the antagonists the true cause of the dispute may well be exposed. A true 'court of conscience' (not the English ecclesiastical courts of Chaucer's time) might disclose how the dispute shames the parties and their church, whereupon they can find the solution for themselves (p. 26).

Later, he also concludes:

Paul's formula, that any such problem (not being a criminal case) should be brought before even the lowest-prestigious 'saint', provided he is 'wise', as representative of the whole body, is supported . . . by the principle that it is the heart, the core of the person, not so much *facts*, which is to be tried by God, or his surrogate (p. 32).

III. Basic Conclusions

What conclusions are we to draw from these words of St. Paul? What is the basis for his statements? The words of our Lord in Matthew 18 immediately come to mind. Disputes between Christians are always a concern for fellow Christians, who will do everything possible to resolve them and to restore broken or damaged relationships caused by them. Because of their unique position as members of the body of Christ, especially if members of the same church body, they have a responsibility to deal with these matters. In fact, when the church allows its members to run to the secular courts with problems between Christian brothers and sisters and imposes no check on such action, it is derelict in its duty. Every dispute which occurs among Christians, even the smallest dispute, includes aspects that are spiritual in nature. The secular law and the secular court, which are established on the basis of the wisdom of the world, are not in a position to judge the fundamental spiritual issues which are always involved.

A. Scriptural Context

Is there any other basis for the words of Paul in 1 Corinthians 6? In an excellent article appearing in *Ex Auditu* entitled "Toward a Biblical Theology of Litigation: A Law Professor Looks at 1 Cor. 6:1-11,"¹¹ Robert Taylor proposes three approaches for explaining the message of St. Paul in these verses. The author cites three theological arguments in support of the position stated by the apostle.

The first is described as the Christological scheme or rationale,¹² and is based on what Jesus said and did. Jesus' words from the Sermon on the Mount in Matt. 5:39-40 are especially pertinent when he tells his listeners, ". . . do not resist one who is evil. But if anyone strikes you on the right cheek, turn to him the other also; and if anyone would sue you and take your coat, let him have your cloak as well. . . ." Jesus not only gave that advice; he also lived it. When he was reviled, he did not revile in return but entrusted his cause to the God who judges justly. In his elaboration on this approach, the author states, "What a Christian cannot do directly when injured, namely, employ physical violence, he should not then be able to do indirectly by employing the impersonal instrumentality of the judicial system of the state." He writes that the terminology sometimes used indicates that "litigation is a fight unto death in

¹¹Robert D. Taylor, "Toward a Biblical Theology of Litigation: A Law Professor Looks at 1 Cor. 6:1-11," *Ex Auditu* 2 (1986), pp. 105-116.

¹²*Ibid.*, pp. 109-10.

which irreparable harm (economic, psychological, and spiritual) is done to parties. . . .” He further points to the dehumanizing factor which includes the “‘masking over’ of the reality of persons which the legal system fosters.” People involved in litigation tend to be viewed as legal objects rather than as persons. Taylor quotes the “Hungarian maxim, ‘May you have a lawsuit in which you believe you are right,’” which is considered to be a curse.

The second theological approach is identified as anthropological-moral.¹³ It involves the impact of litigation on the “moral or relational life of the litigants.” According to this approach, the causes for litigation are greed, the failure to bear injury patiently, revenge, anger and obstinacy. Litigation is thus wrong because it involves a wrong attitude of the heart. It destroys that love which is to bear all things. Involvement in litigation rarely allows the litigant to emerge from the litigation without love having been damaged or destroyed.

The third theological approach is described as ecclesial-eschatological, i.e., the “missionary task of the *ecclesia* and its eschatological context.”¹⁴ Taking matters of dispute before the secular court undermines the Gospel which stresses reconciliation and forgiveness. It causes the message of the church to ring hollow in that it reveals that the words and actions of Christians do not agree. Furthermore, any dispute between Christians ought to be viewed in the light of the ultimate, that is, the end time or the world which is passing away. In this way the significance of the dispute is relativized. It is placed into proper perspective.

B. Judicial System as God’s Gift

The judicial system must also, of course, be regarded as a gift of God, as a part of that realm by which He maintains order in this world. Accordingly, there are undoubtedly instances in which the Christian not only may but must utilize the secular court system. We cannot, for example, deny the benefits to our society occasioned by the increased safety of products due in no small part to the substantial increase of product liability lawsuits; the noticeable improvement of professional services (medical, legal, accounting, etc.) resulting from the increase in malpractice actions; and the fairer treatment of minorities and the less fortunate because of civil rights actions, discrimination cases and labor lawsuits. Because of this, both Christian and non-Christian have benefitted from our legal system.

¹³*Ibid.*, pp. 110-13.

¹⁴*Ibid.*, pp. 113-15.

This does not mean to say, however, that the system has not been abused by those motivated by greed, anger, revenge and similar unchristian motives.

On occasion it may be necessary for the church to test a ruling of an agency or court. This would include such things as the determination by the Internal Revenue Service that women who are considered by a church body to be commissioned ministers of religion are not eligible for that classification.

Another example is when the work of the church in spreading the Gospel would be hindered in cases where a Christian day school is not considered to be an agency of the church and is therefore subject to certain regulations affecting the viability of maintaining such schools. While similar to the first example, the matter of defining the task of the church is here even more directly involved. Another agency (at least on the surface) appears to be determining for the church what the limits of its activity should be by defining what is or is not intimately related to the church's mission. Such a decision requires the determination of the validity of an interpretation of the law. If the church believes that a ruling against its position is incorrect, it may seek to use the influence of its members to bring about a change in the law itself.

St. Paul's admonition in 1 Corinthians 6 does not appear to address the use of the courts in regard to such issues. Rather, he here is speaking of the action of one Christian *against* (*pros*) a fellow Christian. This word provides a clue to the understanding of a proper or improper use of the legal system in such matters. While it is true that, in order to determine a matter under the law of the land, a Christian may have to file a suit *against* a fellow Christian, in reality this action might be more precisely thought of as a suit filed *with* him or her, that is, a suit filed by mutual agreement. There is no antagonism, no greed, no thought of revenge, no obstinacy, but merely a desire to determine what is right under law. In other words, the term *pros* may provide guidance in determining the legitimacy or lack of it for suits by Christians against fellow believers in Christ.

IV. Guidelines for the Christian

A course of action is not always clear and the society of today, which includes many factors which were not in existence at the time of St. Paul, provides unimagined complications. The original context in which St. Paul addressed the Christians at Corinth involved disputes among members of the congregation and may well have been motivated, at least in part, by the scorn and ridicule cast by the non-Christians upon the body of believers who were apparently unable or unwilling to resolve their disputes among themselves. To those who may claim that St. Paul's admonitions do not have direct application to today's society, including the relationship between the church and state generally and the use of the courts by

Christians and non-Christians specifically, it should be emphasized that the guidelines suggested below are based on relevant Scriptural dictates. 1 Cor. 6:1-11 does have direct application to disputes among fellow Christians today.

- 1) The legal system by which order is maintained is a gift of God not to be despised. It may be used properly for certain purposes. The statements in 1 Corinthians 6 are not to be understood as absolute prohibitions against the use of courts by Christians. When the legal system is used and when action is motivated by reasons other than those such as identified below, the use may not only be appropriate but may be of benefit to both Christian and non-Christian.
- 2) In addition and more specifically, Christians may indeed have a responsibility, if not a duty, to pursue, on behalf of any fellow human being in need of help, legal action against others (whether or not they are Christian) (e.g., in Christians' capacity as guardians, trustees, parents or other fiduciaries on behalf of their ward, beneficiary, child or charge).
- 3) The motive for taking legal action is more crucial than the action itself. Action taken by one Christian *against* another, which has at its root motivations of greed, anger, revenge, the desire strictly to defend one's own rights, or similar causes which are incompatible with the Christian faith, is always wrong.
- 4) When action is taken *against* a fellow Christian for reasons such as those cited above, the one bringing the action is harmed as well as the one against whom the action is brought. The entire body suffers.
- 5) Because of the spiritual insights which they have and are expected to exercise, Christians are uniquely qualified to assess problems among themselves and to resolve them. This does not mean that each Christian possesses unique natural abilities for dispute resolution or that others, including non-Christians, may not be in a position to provide assistance in such matters. However, Christians have the mind of Christ. This is their uniqueness, and the church should be able to identify persons best qualified to serve to assist in resolving conflicts between fellow Christians. For this reason, it is "shameful" to take ecclesiastical matters to civil courts.¹⁵
- 6) Christians are not to insist on their own rights but, in a spirit of love and concern for fellow Christians, should be willing to forego them, if necessary, out of concern for reconciliation. When wronged, they

¹⁵ See synodical *Handbook*, "Article VIII. Reconciliation, Adjudication, and Appeal," 1989, pp. 129-35.

are to forgive as they are forgiven by Christ and should be willing to suffer injustice, placing their cause in the hands of God.

- 7) Christians recognize that taking fellow Christians to court in a spirit of greed, revenge, etc., is a cause of offense and undermines the effect of the Christian witness to the world.
- 8) The proliferation of lawsuits between Christians is to be deplored and the church needs to address the issue. The church which fails to discipline its members when they go to court *against* fellow members in a way which violates the intent of the Word of God and fails to act to correct and eliminate that practice is abdicating its responsibility. It is allowing the wisdom of the world to govern its actions.
- 9) To approve the use of the secular court “as a last resort” is to imply that the church is unwilling to carry out its responsibility by allowing a brother or a sister to have a matter placed before it. Such an action becomes, in effect, a condemnation of the church and an evidence of the defeat to which Paul refers. If “as a last resort” is interpreted to mean that, since certain individuals may believe that they have not received justice through the decision reached by fellow Christians when a matter was placed before them, they are therefore free to approach the secular court, this would contradict the word of Paul, “Why not rather be wronged? Why not rather be cheated?” Such an action would once again call into question the ability of the Christian to judge and would constitute an assertion that the secular court can more properly provide justice.

The Lutheran Confessions

It should be noted that there is no reference at all to 1 Corinthians 6 in connection with the issue discussed in this paper in either the Augustana or its Apology. In fact, the only citation of 1 Corinthians 6 in the Lutheran Confessions is verse 9, “Do you not know that the unrighteous will not inherit the kingdom of God? Do not be deceived; neither the immoral, nor idolaters, nor adulterers will inherit the kingdom of God.” (FC SD, IV, 32)

A number of passages from the Lutheran Confessions, however, have been cited in the discussion of the question of whether or not a Christian may utilize the civil courts. A careful examination of these citations indicates that the guidelines set down in this document are in harmony with them.

1. Augsburg Confession, Article XVI.

Our churches teach that lawful civil ordinances are good works of God and that it is right for Christians to hold civil office, to sit as judges, to decide matters by the imperial and other existing laws, to award just punishments, to engage in just wars, to serve as soldiers, to make legal contracts, to hold property, to swear oaths when required by magistrates, to marry, to be given in marriage.

Our churches condemn the Anabaptists who forbid Christians to engage in these civil functions. They also condemn those who place the perfection of the Gospel not in the fear of God and in faith but in forsaking civil duties. The Gospel teaches an eternal righteousness of the heart, but it does not destroy the state or the family. On the contrary, it especially requires their preservation as ordinances of God and the exercise of love in these ordinances. Therefore, Christians are necessarily bound to obey their magistrates and laws except when commanded to sin, for then they ought to obey God rather than men (Acts 5:29).

What is confessed here, in contrast with the Anabaptists, is that both the left-and the right-hand realms of God’s reign are *God’s*. Because it is part of God’s left-hand government, Christians may participate in all civil action and must not forsake such action in order to be pleasing to God, as was taught regarding monasticism.

2. Apology of the Augsburg Confession, Article XVI.

Our opponents approve Article XVI without exception. (1)

In elaborating on Christian behavior in this matter, the Apology goes on to say:

The Gospel forbids private revenge, and Christ stresses this so often lest the apostles think that they should usurp the government from those who hold it, as in the Jewish dream of the messianic kingdom; instead, he would have them know their duty to teach that the spiritual kingdom does not change the civil government. Thus private revenge is forbidden, not as

an evangelical counsel, but as a command (Matt. 5:39; Rom. 12:19). Public redress through a judge is not forbidden, but expressly commanded, and it is a work of God according to Paul (Rom. 13:1 ff.). Now the various kinds of public redress are court decisions, punishments, wars, military service.(7) Endless discussions about contracts will never satisfy good consciences unless they keep the rule in mind, that a Christian may legitimately make use of civil ordinances and laws. This rule safe-guards consciences, for it teaches that if contracts have the approval of magistrates or of laws, they are legitimate in the sight of God as well. (12)

It should be noted that the issue at stake here is the false claim that Christian perfection consists in not holding property, and that the Gospel requires people to hold property in common.

3. Augsburg Confession, Article XXVI.

That a prince and magistrates should govern land and people is noted in Article XXVI of the Augsburg Confession as one of the works which every body is obliged to do according to his calling. Such works, commanded by God, were regarded by opponents as secular, imperfect, and unspiritual.

4. Formula of Concord, Epitome, Article XII.

This article cites as one of the errors of the Anabaptists the view:

That as occasion arises no Christian, without violating his conscience, may use an office of the government against wicked people, and that subjects may not call upon the government to use the power that it possesses and that it has received from God for their protection and defense. (14)

5. Formula of Concord, Solid Declaration, Article XII.

This article refers to the errors of the Anabaptists in these words:

That no Christian may with an inviolate conscience use an office of the government against wicked persons as occasion may arise, nor may a subject call upon the government for help. (19)

All of these confessional statements exemplify the principles set down as guidelines for the Christian in this document.

APPENDIX B

Council of Chalcedon, A.D. 451

Canon IX

If any clergyman have a matter against another clergyman, he shall not forsake his bishop and run to secular courts; but let him first lay open the matter before his own bishop, or let the matter be submitted to any person whom each of the parties may, with the bishop's consent, select. And if any one shall contravene these decrees, let him be subjected to canonical penalties. And if a clergyman have a complaint against his own or any other bishop, let it be decided by the synod of the province. And if a bishop or clergyman should have a difference with the metropolitan of the province, let him have recourse to the Exarch of the Diocese, or to the throne of the Imperial City of Constantinople, and there let it be tried.¹

¹*The Nicene and Post-Nicene Fathers, Second Series, ed. by Philip Schaff and Henry Wace, Volume XIV: The Seven Ecumenical Councils [Grand Rapids, Michigan: Wm. B. Eerdmans, 1979], pp. 274-75.*