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Two Responses to the "Aryan Clause"

Translated by Harold Remus

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Report of the Theological Faculty University of Marburg Regarding the Church Law on the Legal Status of Clergy and Church Officials

The Theological Faculty received the following request:
The pastors and clerical and secular delegates of the Church Assembly of Electoral Hesse, convened in Marburg from the three Upper Hesse church districts of the Evangelical Provincial Church in Hesse-Kassel, request that the esteemed theological faculties of Marburg and Erlangen instruct German Evangelical Christianity, formally and accountably, on whether the law governing conditions of employment for clergy and church administrators, which contains the Aryan clause and was recently passed by the General Synod of the Church of the Old Prussian Union and which is envisaged for the whole German Evangelical Church, accords with or contradicts the teaching of Holy Scripture, the Gospel of Jesus Christ and the teaching of the apostles, the nature of the sacraments, baptism and Holy Communion, the ecumenical creeds, and the teaching of the Reformation on salvation through Jesus Christ, on the church and its ministry, on Baptism and Holy Communion, as well as the Preamble of the Constitution of the German Evangelical Church.

Marburg, September 11, 1933.

Signed, Schmidmann, District Pastor.

The Faculty, after discussion in its September 19th meeting, resolved unanimously to communicate the decision reached to the signatories of the request and at the same time to bring it to the attention of the German Evangelical Church governments, the theological faculties, and the members of the German Evangelical National Synod, as well as the church press.

The law regarding the legal status of clergy and church officials, which was passed by the General Synod of the Evangelical Church of the Old Prussian Union as well as by the provincial synods of some other provincial churches and will likely be brought before the upcoming German National Evangelical Synod, contains the following basic regulations taken from the new Imperial law governing officials:

¶1(1) Only those persons may be called to serve in the clergy or as an official of the general church administration who possess the prescribed qualifications for the position and support without reservation the national state and the German Evangelical Church. (2) Anyone not of Aryan ancestry, or married to a person of non-Aryan ancestry, may not be called to serve in the clergy or as an official of the general church administration. Clergy or officials of Aryan ancestry who enter into marriage with a person of non-Aryan ancestry are to be removed from office. The definition of non-Aryan ancestry is to be determined according to the stipulations of Imperial laws.

¶3(1) Clergy or officials whose performance record does not offer evidence that they at all times support the national state and the German Evangelical Church without reservation can be retired. (2) Clergy or officials of non-Aryan ancestry or married to a person of non-Aryan ancestry are to be retired.

¶8(1) The decision regarding retirement, the removal from office... is to be made by the provincial church government, definitively and without recourse to legal procedure.

¶11 The stipulations of ¶¶1 and 3 apply in an analogous way to members of church bodies as well as to holders of honorary church offices.

Those exceptions envisaged in ¶3, Articles 3 and 4, authorizing the non-enforcement of ¶3, Article 2,¹ can here be ignored as not affecting the principle involved, although they can be seen as making clear the lawmaker's uncertainty regarding his own principles as well as their political origin and their hostility to the special nature of the church.

The Faculty regards the two quoted basic regulations of ¶¶1 and 3 or ¶11 as irreconcilable with the nature of the Christian church as that is determined by Holy Scripture—the only authority—and by the Gospel of Jesus Christ, and as that is attested by the confessions of the Reformation. The Faculty points out at the same time that the Concordat concluded by the German Reich with the Holy See concerning the legal status of the Catholic Church in Germany contains nothing that corresponds to these regulations.

The first of the regulations noted above (§1, Art. 1; §3, Art. 1) threatens the clergy's independence—rooted in adherence to God's word and a believing conscience—in their preaching and pastoral care, and that of church officials in the discharge of their duties, and puts them in danger of subordinating their personal responsibility to pressure from subjective and temporal, political or ecclesiastical-political stances of supervisory personnel, church groups, or other extra-ecclesiastical authorities. *The danger is all the greater in that the law as formulated is subject to no restrictions, and in its application due process is expressly excluded* (§8, Art. 1). For Evangelical clergy and church officials it goes without saying that, as Christians, they support the church and the government of their nation; this obligation is included in their obedience to God's Word. But this obligation is subject to the proviso, grounded inalienably in that same obedience, that the church's mission is not political and that in certain circumstances that proviso can require critical stands, appropriately expressed, regarding events in the life of state and church. Precisely to ward off the politicization of the spiritual, a law in the church of the Reformation can only protect the unsullied and unrestricted freedom to carry out its spiritual task. Instances of conflict that appear unbearable require resolution through procedures safeguarded against false accusations and arbitrary decisions. Well-known historical precedents expressly warn—also in the state's interest—against any kind of political restriction of the church's message and ministry.

The second of the basic regulations quoted above (§1, Art. 2; §3, Art. 2) make church members of non-Aryan origin into church members of inferior rights and inferior worth insofar as the possibility of holding office in the Christian church is in principle denied to them and to those church members of non-Aryan ancestry who are related to them through marriage.

That the proclamation of Jesus Christ as the saviour of the world is directed to all peoples and thus also to all races, and that, accordingly, all who believe it and are baptised into it belong to the church of Christ is undisputed.² *The members of the church are brothers [sic] among one another.* The concept of brotherhood [sic] precludes any inequality in rights as well as any sort of avoidable segregation whatsoever in earthly

situations. In principle it makes no difference whether segregation and inequality in rights are effected through establishing of special Jewish-Christian congregations or by barring Jewish Christians from holding office in the one Christian church. The Christian church knows no division except into inner-Christian confessions, on the one hand, and by lands and peoples, on the other, the latter only in the sense that persons of a particular linguistic background band together in a church for natural reasons, or persons of a particular nationality form a church for legal reasons, yet without excluding, in principle, persons of another language or another nationality from membership. The present state-church legislation, too, as well as laws governing international treaties stipulate a nationality requirement of clergy only as a rule to which exceptions are allowed. All of church history, as well as the laws of state and church of all peoples, have till now conceived of a Jew not in the sense of race but of religion, that is, as a person who does not perceive in Jesus the Christ [Messiah] of God. The Jew who perceives the Law and the Prophets of his people as prophesying Christ and is converted and baptized is, for the church, no longer a Jew, and the church has never supported legal restrictions on baptised Jews. If a state, out of political considerations, now finds that such restrictions present themselves when it assesses racial factors—an undertaking that earlier times would have considered far-fetched—such restrictions can claim no validity in the realm of the church as such, since the church is nothing other than the community of those who believe in Christ and have been baptized in his name. It would cease to be this in the fullest sense if it allowed any other bases of differentiation in its community. The church cannot surrender its unity, the unity of the body of Christ into which all believers have been baptized through the one Spirit.³ It recognizes no other basis of exclusion than unbelief and false teaching, if and so long as it is unable to overcome these through the demonstration of the Spirit and of power [cf. 1 Thess. 1.5].

One ought not to say that this unity applies only to the invisible church whereas in the visible church the differences that otherwise divide people have to be respected and preserved. The visible church must, insofar as earthly possibility allows, fashion itself after the model of the invisible church, if its faith in the latter is truth. "Spots and wrinkles" (Eph. 5.27)

it should be willing to bear in its body as ineradicable signs of its earthly frailty. To obliterate these deliberately is a sin against the Spirit that has been granted to it. In the church, to bear with imperfection for any reason other than frailty—and it is not being asserted that depriving Christians of Jewish origin of their rights in the German Evangelical Church is thus intended—is to make a virtue out of lack of faith and love and annuls the Gospel proclaiming God's reign and the justification of sinners by grace through faith."⁴

One ought not to object, further, that race and ethnicity [Volkstum], as orders of creation, are not to be ignored but, rather, are to be respected. Certainly, the fact that in this regard the church, in its entire previous history, has missed the mark would be no reason not to act all the more decisively now that it understands the situation better. Meanwhile, invoking the order of creation is mistaken in this context. Granted that the church, in its preaching and pastoral care, may not always have done justice to the serious question and task posed by race and ethnicity, and that it often may have yielded to these natural, historical forces more than it should have, even as it sometimes viewed them as something less than "given"—however, that the church in the way it constituted itself conceded these forces no special rights accords precisely with how, through the eyes of faith, it perceives the order of creation as nothing other than God's sole reign over all whom he created and God's redemptive judgement on the sin that encompasses all. On the occasions when it devolves upon the church to focus its ministry on race and ethnicity, it fails in its obligation to convey the essential core of its message if it gives recognition to race and ethnicity as givens that establish or disallow membership and rights in the church. The cultivation of race and ethnicity as created goods is possible in the church only when it brings these together in itself and proclaims to everyone the vocation of their distinctiveness as well as the blame for their separateness. Otherwise, the worship of the created replaces the worship of the Creator.

The very isolated examples of *small non-European ecclesial groups* in Asia, Africa, and America, in which membership is restricted along racial lines (and in which, incidentally, the distinctions are not between Jews and Aryans), must all be assessed as backward or recidivist formations in which the

Christian message and its imperatives are fractured. Likewise irrelevant is any reference to *the Jewish-Christian congregations in the ancient church*. For one thing, these communities were constituted, not along racial lines, but, rather, of Christians who felt compelled to connect faith in Jesus as the Christ with the keeping of the Old Testament law. Above all, however, they came into being not because Christian congregations in the Graeco-Roman world excluded Christian Jews, but because segments of these congregations excluded themselves from them. If one sees the Apostle Paul as "the chosen instrument" of the Lord Jesus Christ (Acts 9.15), then to give recognition to such divisions or to introduce them rends the very heart of Paul's gospel, which is also Luther's gospel. It may also be remarked here that Christians of Jewish ancestry have been called to blessed service in the Christian church in every age and in every people, including our fatherland, down to the most recent times. We mention here only the theologian August Neander, the composer of hymn texts, Philipp Spitta, and the painter Wilhelm Steinhausen. In Neander's theology, in Spitta's spiritual hymn poetry, and Steinhausen's art no one will perceive any un-German characteristics. All three are, rather, representative of the distinctively German expression of evangelical piety and demonstrate that the particular genius that was granted to, and obligated, each of them was not imperiled by preserving Christian unity in faith and love.

Any persons who, unlike the Apostles and Reformers, do not perceive the full unity between Jewish and non-Jewish Christians in the church as that is unfolded in the New Testament, most explicitly in the letter to the Ephesians [2.11–22], and who in principle do not want to put it into practice in the way the church is constituted, deceive themselves when they confess that for them Holy Scripture is God's Word and Jesus is God's Son and the Lord of all people. It is indisputable that God proclaimed his Word in the world, not only in the Old Testament but also in the New, through Jews, and that he chose his Son from among the Jews. The attempts to see Jesus as an Aryan lack any historical basis whatever and, moreover, are futile since his message presupposes the law and prophets of the Jews as God's revelation and since his apostles were after all Jews. To deny the significance of his Davidic lineage in the history of salvation by reference to his divine sonship is to misunderstand completely the meaning of divine sonship for faith.

To make of Jesus' crucifixion by the Jewish people a reason to deprive Christians of Jewish origin their rights is a Pharisaical aberration. In all of this, humans—shaming themselves—pass judgement on the history of salvation that God let come to pass, and they set up alongside the worship of Christ the worship of the spirits of the world.

The First Article of the Constitution of the German Evangelical Church, of July 11, 1933, reads as follows: "The inviolable basis of the German Evangelical Church is the Gospel of Jesus Christ as it is attested in Holy Scripture and came to light again in the confessions of the Reformation. The authorities that the church needs for its mission are thus defined and circumscribed." If one is to give these sentences their full theological weight, then they are irreconcilable with a political or ecclesiastical-political fettering of the church's proclamation as well as with a restricting of the rights of non-Aryan Christians in the church.

The Theological Faculty of the University of Marburg

The Dean:

Dr. von Soden

Notes

- ¹ ¶3, Art. 3: ¶2 can be disregarded when special contributions to the formation of the church in a German manner are in evidence. ¶3, Art. 4: The stipulations of Article 2 do not apply to clergy and officials who have been clergy or officials of the church, the Reich, a province or another body of the public law since August 1, 1914, or who fought on the front for the German Reich or its allies in the World War, or whose fathers or sons died in the World War.
- ² Acts 10.34-35: "Then Peter began to speak to them: 'I truly understand that God shows no partiality, but in every nation anyone who fears him and does what is right is acceptable to him.'" Gal. 3.28: "There is no longer Jew or Greek, there is no longer slave or free, there is no longer male and female; for all of you are one in Christ Jesus."
- ³ 1 Cor. 12.13: "For in the one Spirit we were all baptized into one body—Jews or Greeks, slaves or free—and we were all made to drink of one Spirit."
- ⁴ [That is, when we say the church should be ready to bear with "spots and wrinkles" as imperfections, we do not mean that one may regard the Jewish ancestry of Jewish Christians as an imperfection and thus include them in the church; rather, according to Christian teaching, Jewishness is not an imperfection, and Jewish Christians are as fully members of the church as are Christians of other ethnic origins.]

Theological Report on the Admitting of Christians of Jewish Origin to the Offices of the German Evangelical Church

The Theological Faculty of the University of Erlangen received the following request:

[The text of the request is printed in *Theologische Blätter* 12/10 (1933): 289. (Printed in Marburg Report, above.)]

The Theological Faculty, after thorough discussion, which resulted in complete agreement on the questions at issue, authorized its Systematic Theologians to respond to the request.

Their Report reads as follows:

The request refers to the following basic regulations quoted from the laws passed by the Prussian General Synod regarding the legal status of clergy and church officials:

[These regulations are printed in *Theologische Blätter* 12/10 (1933): 289-290. (Printed in Marburg Report, above.)]

In these regulations the Prussian General Synod is, procedurally, following the custom of Christian churches in every age of making admission to its offices dependent on the applicants' fulfilment of certain personal qualifications (1 Tim. 3.1-13). To these qualifications for the pastoral ministry—already in the German provincial churches, heretofore—belong, for example, in addition to citizenship in the German Reich also biological characteristics: age, gender, and physical fitness. In the regulations cited above the requirement of Aryan ancestry has now been added. For the theological evaluation of this requirement the relation of the Christian churches to ethnic differences, especially the effect of this relation on admission to church offices, must be examined.

1. According to the witness of the New Testament through Jesus Christ our Lord, in his death and resurrection, the will of God has been fulfilled that *all* people should benefit therefrom. From the universality of this gospel no person, let alone a whole people, is to be excluded. All who have come to faith are, according to the testimony of the Apostle, one in Christ. In their union with Christ there is, before God, no difference between Jews and non-Jews [1 Cor. 12.13; Gal. 3.28]. *However, the common bond that all Christians have as children of God does not do away with biological and social differences; rather, it binds everyone to the situation in which each was*

called (1 Cor. 7.20). Our biological tie to a particular people, which we are fated not to escape, must also be given recognition by Christians in their thinking and acting.

2. According to Reformation teaching, in contrast to that of Catholicism, the external ordering of the Christian church should accord, not only with the universality of the Gospel, but also with the historical and ethnic divisions of Christians. According to Article 7 of the *Augsburg Confession*, the requirement for unity is to be restricted to purity in doctrine and in the administration of the sacraments. The *Apology of the Augsburg Confession* (7.42–45) [The Report's citation, "4.42ff.," is erroneous.] treats the diversity that is possible in other matters of church order by noting that in the ancient church Jewish Christians observed a different church order than did Gentile Christians. For the Lutheran Confessions, oneness in Christ is a matter, not of external organisation, but of faith.

In accord with these principles, the churches that derived from the Wittenberg Reformation accommodated themselves to the boundaries of the various peoples, and in the language they employed in their churches, in their worship, and in the way they constituted their churches not only did they respect ethnic particularities, they also contributed significantly to their cultivation and preservation. The foreign mission efforts of the Lutheran church have also been increasingly concerned to allow the proclamation of the Gospel among foreign peoples to come to fruition in new ethnic churches [*Volkskirchen*] constituted to accord with their own ethnic character.

3. If ethnic diversity in the external ordering of the church is a necessary consequence of divisions along ethnic lines that are not only pre-determined but, on ethical grounds, are to be affirmed, the same is true of *admittance to church offices* beginning at the time when a mission church becomes an ethnic church [*Volkskirche*]. The person serving in the pastoral office should be so bonded with his congregation in its earthly existence that the bonds that develop therefrom are his as well. That includes being bonded to the same ethnicity. The churches of the Reformation have, as a rule, adhered to this principle in practice, already prior to any theoretical formulation of it.

4. Whether, and to what extent, this principle is to be applied also to the *Christians of Jewish ancestry living among us*

requires special attention. The first question is whether the Jews residing in Germany belong to the German people [*Volk*] in the full sense or have their own ethnicity [*Volkstum*] and thus are a sojourning people [*Gastvolk*]. *The church as such cannot decide this.* For the church, the Jewish people is, of course, even today a people unlike any other: it remains, in election and curse, the people of the history of salvation, the people, according to the flesh, of Jesus and the apostles, the people kept for a final history of Jesus Christ with it (Matt. 23.39; Rom. 11). In its landless dispersion among the peoples it is a reminder of the limits of all ethnic exclusivity, of the temporal nature of ethnic divisions, and of the reign of God that comes through the Christ [Messiah] promised through Israel. But this knowledge on the part of the church concerning the unique place of the Jewish people in the history of salvation and the mystery of the Jewish people does not yield the possibility of deciding the question whether the Judaism living among us belongs, in the full sense, to the German people or is an alien, sojourning people. Also for Jewish Christians the church cannot decide this question in a generalizing way, for example, by reference to the sacrament of baptism. The church's standpoint on the significance of baptism for salvation does not as such include, for example, any judgement on whether marriage between Germans and baptized Jewish believers in Christ is, on the whole, desirable or to be advised against. *The question of the ethnic relation between Germanness and Judaism is biological and historical in nature.* It can only be answered by our people, as by any other people, with reference to its particular biological and historical situation.

5. The German people today senses the presence of the Jews in its midst more than ever as an alien ethnicity. It has perceived the threat posed to its distinctiveness by emancipated Judaism and is protecting itself against this danger with legal regulations governing special cases. In its struggle to renew our people the new government is excluding persons of Jewish or half-Jewish ancestry from positions of leadership. The church must recognize the fundamental right of the state to enact such legal measures. For itself, it recognizes that in the present situation it is called to new reflection on its responsibility to be the ethnic church [*Volkskirche*] of Germans. Intrinsic to that task today is (1) a conscious reaffirmation of

its fundamental principle that those holding ecclesiastical office be bonded to their church by their ethnic background and (2) the application of this principle to Christians of Jewish ancestry. For the position of the church in the life of the people and for the carrying out of its task, to place persons of Jewish ancestry in ecclesiastical offices would in the present situation generally constitute a heavy burden and hindrance. *Therefore the church must require that its Jewish Christians be kept from holding church office. Their full membership in the German evangelical church is not thereby disputed or restricted, any more than is that of other members of our church who in some way lack the qualifications for holding office in the church.*

6. This statement of principles does not constitute a law set in stone; rather, it allows for *exceptions* to the rule. Through the exceptions to its regulations the state's "Law for the Restructuring of Professional Offices" recognizes that those Jews who, for example, were ready to offer their lives for Germany can be incorporated into the German people. That is an admission that, when it comes to specifics, the boundaries between Jews and the German people are not rigid but flexible. The church itself knows that it is indeed precisely a Jew's genuine conversion to Jesus Christ that, by thus implanting him [sic] in the church, can lead him from his alien situation to membership in the German people.

In accord with all this, *the church, in its statutes, expressly allows room for the exception* that permits Christians of Jewish or half-Jewish ancestry to be admitted to its offices. The holding of church offices by those of Jewish ancestry has always been infrequent in our churches and in future should continue to constitute exceptions to the rule, although, as such, for special positions of leadership it must remain a possibility.

7. This exception concerns in the first place persons of Jewish or half-Jewish ancestry who are *already pastors and office holders*. It strikes at the essence of the pastoral office, in particular ordination and the call to that office, if the church as a general practice removes from service, solely because of their ethnic origins, pastors of Jewish or half-Jewish ancestry who have proved themselves in service. It is *not*—as is stated in ¶3 of the Prussian church law—*their being allowed to continue in office that requires special substantiation from case to case; rather, it is their dismissal that requires such*. Those cases in

which the Jewish ancestry of a pastor gives rise to insuperable difficulties between pastor and people are to be dealt with according to the church regulations that apply in other instances where the relation of trust between pastor and people has been shattered. Here the church can in general not simply adopt the regulations of the state's legislation; rather, it must operate according to rules that ensue from its nature as church.

8. Finally, as regards *future cases of admission* of men of Jewish origin to church offices, here too the church must ascertain its own principles, ecclesiastical in nature, that provide the rationale for, as well place a limit upon, such exceptions. It is best that it entrust the decisions in specific cases to its bishops.

Erlangen, September 25, 1933

Dr. Paul Althaus Dr. Werner Elert
Professors of Theology

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