



JOHN WITTE, JR.

The Legacy of the Protestant Reformation

CTI recently marked the
500th anniversary of
the Protestant Reformation
with a public lecture by John Witte, Jr.,
Robert W. Woodruff Professor of Law
and McDonald Distinguished Professor
at Emory University.

BY LINDA ARNTZENIUS



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Witte is an imposing presence—he stands well over six feet tall and has a deeply resonant voice. He commanded the room as much as he did his subject: “From Gospel to Law: Martin Luther’s Enduring Reformation of Church, State, and Society.” A specialist in legal history, marriage law, and religious liberty, Witte has published over 250 articles and 30 books. He has a way with book titles: *Sex, Marriage and Family Life in John Calvin’s Geneva*; *God’s Joust, God’s Justice*; and *The Sins of the Fathers: The Law and Theology of Illegitimacy Reconsidered*. As well as directing Emory’s Center for the Study of Law and Religion, he has led 14 major international projects on democracy, human rights, and religious liberty; on marriage, family, and children; and on law and Christianity.

CTI Director William Storrar introduced him as an exemplar of interdisciplinary scholarship and described the Emory Center as “the gold standard” for interreligious and international dialogue. Witte is recognized among the world’s foremost experts in his fields. He is also, says Storrar, “a great friend of CTI, who has visited many times, and is a great personal friend and mentor.”

Those attending the public event included students of Princeton Theological Seminary and Princeton University. Their excitement was tangible. Witte did not disappoint. He captured his audience right off the bat when he acknowledged, with wry humor, his status as a “mere law professor” somewhat intimidated to be talking to theologians about Luther, who was known to have made numerous derogatory remarks about jurists. Witte shared a selection of Luther’s choicest: “Jurists are bad Christians,” “Every jurist is an

enemy of Christ,” “Lawyers are agents of the Devil,” and “Of the gospels lawyers know nothing.” He then launched into a history of the Reformation at breakneck speed that cannot possibly be done justice in this brief space. Suffice it to say that audience members were screwed to their seats in anticipation. It’s no surprise that Witte has been named “Most Outstanding Professor” by Emory law students at least a dozen times and has repeatedly won prizes for his teaching and research.

In 1520, three years after posting his *Ninety-Five Theses* (or *Disputation on the Power of Indulgences*) on the church door in Wittenberg, Luther burned books on Catholic theology and canon law at the city gates. He also burned the Papal Bull calling on him to recant or face excommunication. Excommunication duly followed.

Witte catalogued what happened next: the break with Rome, the challenge to authority, the denunciations of the Pope and the Church. “Freedom of the Christian was the rallying cry that led Reformers to denounce canon law and clerical authority and to urge radical legal and political reforms. Church courts were forcibly closed. Clerical privileges and immunities were stripped. Mendicant begging was banned. Mandatory celibacy was suspended. Indulgence trafficking was condemned. The church’s vast properties and institutions were seized, often with violence and bloodshed. Priceless church art, literature, statuary, and icons were looted, sometimes destroyed. And church sanctuaries, parsonages, and seminaries were confiscated and converted to Protestant control.”

The Protestant Reformation broke the international rule of the Catholic Church and splintered Western Christendom into com-

peting nations and regions, each with its own religious and political rulers. It triggered a massive shift of power and property from church to state. State rulers now assumed jurisdiction over numerous subjects and persons previously governed by the church. What ultimately emerged from the Protestant Reformation were impressive new legal syntheses that skillfully blended classical and biblical, Catholic and Protestant, civil and canonical teachings.

But all this didn't start with Luther, Witte said: "The Reformation had already been two centuries in the making when Luther ignited this new way of thinking." Luther and other Protestant Reformers built on the late medieval reforms that strong secular rulers had begun in the 14th and 15th centuries as they rebelled against the power, prerogatives, and privileges of the medieval church.

Luther's pugnacious rhetoric, however, drove too deep a wedge between the canon law of the church and the civil law of the state and swift radical change led to social upheaval, slackness, confusion, lawlessness and poverty. Charitable offerings declined. "It was like Woodstock," said Witte. "It is one thing to deconstruct an institutional framework and quite another to try to reconstruct a new institutional framework." Luther came to realize that law, rather than a necessary evil, was an "essential blessing for life in the earthly kingdom."


Mention of the earthly kingdom led Witte into brief discourse on Luther's theory of the two kingdoms, the earthly and the heavenly, with humanity in both. Luther's theory rejected hierarchical ontologies and led to a political theory that separated church and state.

When crises followed, Witte continued, Protestant theologians were forced to recognize that law and indeed jurists were not an evil but a necessity. By 1575 a mass of theological and legal reforms had been set in place, many written by Luther himself. They covered much that had previously come under the purview of the Church: family life, marriage and divorce, protection for widows, wives and children; education, public schools for boys and girls, literacy, charity, social welfare, and criminal laws that replaced tor-

ture with rehabilitation. Witte shared a dizzying list. "For a complete picture," he said playfully, "see my wife's husband's book *Law and Protestantism*. To be enjoyed with a fine Cabernet."

Endlessly energetic people they must have been, these Lutherans. They produced a "leaner, cleaner, more participatory and vernacularized Church."

Describing the Protestant Reformation as a "great legacy to the world," Witte noted that a good deal of modern Western law and politics still bears its marks. "The Reformation still has an influence on both sides of the Atlantic and many of today's laws were part of Luther's original vision: the state still monitors public schools, cares for the needy and the poor. Indeed the rise of the welfare state conforms to Luther's idea of the magistrate as the father of the community." But it wasn't all good, Witte acknowledged. There were negative effects on women and any legacy of the Reformation has to tackle links in the long chain of history between Luther and Hitler, 400 hundred years later. Before we indict Luther, however, says Witte, we should examine his late-life "rantings" against his earlier writings. To blame Luther for the Holocaust strains both fact and law. This was a statement that Witte did not make lightly. Members of his own family had suffered during the Nazi occupation of the Netherlands.

At the end of his informative lecture, as the audience expressed their appreciation with prolonged applause, Witte stood modestly with head bowed. In the Q&A session that followed, he was asked whether Luther's legacy would be secure into the future. He responded with optimism: "In the last 30 years Luther's legacy has become better known, especially in the Western legal tradition. His 95 Theses were directed against a spiritual tyrant. In a time of civil society in flux, there is an opportunity to engage with deep questions and with other religions, and I think this is beginning to happen. It's an important academic project that is being recognized and pursued." The young seminary students in the audience at the Center of Theological Inquiry clearly agreed. 



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