

Scriptural Principles on Church and State with Application to the Question of School Choice Participation by Christian Schools

James Werner

On November 15, 1998 an article appeared in the Milwaukee Journal Sentinel entitled, “Many Choice Students in Catholic Schools.” Immediately my curiosity was aroused because, as a member of Garden Homes Evangelical Lutheran Church I had gained a passing familiarity with the matter of religious school participation in the school choice program. In August our church decided that it would not participate in the school choice program. After August, I put aside the question of school choice; to my way of thinking the matter had been resolved. As I read the Journal Sentinel article on November 15th, I found out that not all WELS congregations share the same view on school choice. The article pointed out that of the 18 WELS city schools, all had decided not to participate except for one. I began to wonder why one could participate, but the others would not. We in the WELS are accustomed to unity in doctrine and practice. I began to wonder why, in this matter, there was not uniformity in practice.

These questions have led to my undertaking of this study on the scriptural principles concerning a proper distinction of church and state. As the principles are presented in this paper, the reader will note that greater attention is given to the *mission* of both the church and the state and also to the *means* each has been given for carrying out that mission in this world. This emphasis is intentional. Once we understand the different missions and means that God has assigned to each of his kingdoms, then and only then will we be able to avoid a confusion in the realm of church and state relationships and responsibilities. The first section of the paper will set forth the scriptural principles concerning church and state. The second portion will seek to apply, evaluate, and raise questions in the area of school choice.

1. Any civil government is divinely instituted.¹

By the term “civil government,” or its synonym “state,” I mean to denote human government.

- God has established it (Ge 9:6; Ro 13:1-7).
- Christians view any governing authorities as representatives of God.

The word used in the Greek text of Romans 13:4 calls the government the *q̅eou-diakonoj* . The basic meaning of *diakonoj* is “servant, helper, minister.” Based on this word which the Holy Spirit inspired the Apostle Paul to use, a picture of the relationship between God and the government is shown. That picture is this: the government does not exist in or for itself. It is God’s servant, God’s helper, carrying out its “ministry” by his authority. In addition, *any* person or body who exercises governmental authority, whether they have gained their position and power by legitimate means or not, has authority from God (Ro 13:1). Jesus himself made this principle concerning the divine institution of all governments evident when he told Pilate, “You would have no power over me if it were not given to you from above” (Jn 19:11a).

2. God has given the church and the state different and distinctive missions to carry out in this world.

- The mission of the state is to maintain order in a world where disorder became the norm following the fall into sin.

The Apostle Paul in Romans 13 describes the mission of the state. In verse three Paul tells the Romans to “do what is right and he (the civil government) will commend you.” Thus the first aspect of the state’s mission is to commend those who do what is right. But Paul also warns the Romans that if they do wrong, “be afraid, for he (the civil government) does not bear the sword for nothing. He is God’s servant, an agent of wrath to bring punishment on the wrongdoer.” The second aspect of the state’s mission according to Paul is to punish those who do wrong. Notice that the state is assigned a mission that deals only with outward behavior. The point is brought up just in passing at this point. It will be treated in fuller detail later in this paper. In summary:

Based on what the inspired Word teaches in Romans 13, the civil government's mission is to maintain order for the good of its subjects (Ro 13:4a).

As we have just examined the mission of the state in this world, it is proper to consider at this point the mission of the church. Doing so at this point in the paper will impress on us just how vast the difference is between the mission of the state and the mission of the church.

➤ The mission of the church is to preach the gospel to all creation (Mk 16:15).

According to the command of Christ, the church is to “Go and make disciples of all nations, baptizing them in the name of the Father and of the Son and of the Holy Spirit, and teaching them to obey everything I have commanded you” (Mt 28:19-20). Likewise also in Mark 16:15, Jesus told his disciples, “Go into all the world and preach the good news to all creation.” The primary mission of the church is to preach the gospel, the good news of what Jesus Christ has done, to all people.

Through the proclamation of the gospel in both Word and sacrament, that mission for which the church exists is carried out. Disciples are made. However, before the gospel is proclaimed, the church needs to carry out a task that has an auxiliary purpose to that of the gospel. That task is calling sinners to repentance (Ac 2:38, Jn 20:21-23). Through the preaching of law and gospel, the church carries out its divinely assigned purpose – to proclaim the Word for the salvation of souls (I Co 9:22).

The church carries out its mission of making disciples of all nations by “teaching them to obey everything I have commanded you” (Mt 28:20). Thus the church is to teach its members “everything,” i.e., the whole counsel of God. Once people have been made disciples of Christ, the church continues its mission by nurturing and strengthening them until they leave the earth to join Christ in his kingdom of glory. Paul expresses this aspect of the church's mission when he

writes that the church is “to prepare God’s people for works of service, so that the body of Christ may be built up until we all reach unity in the faith and in the knowledge of the Son of God and become mature, attaining to the whole measure of the fullness of Christ” (Ep 4:11-13).

In the previous point we looked at Romans 13:3, where Paul exhorts the Romans to “do what is right” so that the government will commend them. What is “right” in the eyes of the government? Paul does not say; he leaves that up to the government. This leads to the third principle we must consider when considering the biblical view on the relationship between church and state:

3. The church and the state (civil government) each has its own distinct means for carrying out its mission.

- The means the state has been given for carrying out its mission is the sword (Ge 9:6; Ro 13:4).

In order to demonstrate what is “right” in the eyes of the state, I illustrate with the following equation. The equation is: right = lawful. “Then do what is *lawful* and he will commend you.” How does the state decide what is lawful?

The state bases its laws on four things: “a natural knowledge of God, the law written on man’s heart at creation, the conscience, which testifies to that law, and reason, which may discern what is harmful or beneficial.”² The term most commonly employed to denote the basis on which the government makes laws is “human reason.” Within this one term is encompassed all four things which Professor Lange mentioned in his description. So that there may be no misunderstanding of this term, I am including a definition that reflects the confessional Lutheran usage of the term.

‘Human reason’ is an expression used...to sum up the ability which man even after the Fall into sin has to distinguish between what is beneficial and harmful for his life in this world. It includes also the limited ability which natural,

unregenerate man has to live an outwardly moral and respectable life. Included in the term 'human reason' are also the natural knowledge of God, the moral law inscribed on man's heart, and conscience.³

As the government goes about making laws based on human reason, it asks itself: "What outward behavior is good and what is bad? Reason and natural law as used by the government declare: Good behavior best serves to keep order and preserve society. Bad behavior undermines order and threatens society."⁴ All this being said, there are two more points to call attention to in regard to human reason. The first point is that human reason is subject to the effects of sin, thus rendering it imperfect. Secondly, human reason that manifests itself in civic righteousness still has no spiritual value before God. These are the fatal flaws of the state's means, the sword, when viewed through Christian eyes. In summary: The state carries out its mission by means of the sword, which is put into effect by law, which is based on human reason.

The government as a whole will not reflect a knowledge of the revealed will of God in its law. It would be a confusion for the state to rule society (which includes both believers and unbelievers) using the revealed will of God as found in Scripture. This is the case because "the man without the Spirit does not accept the things that come from the Spirit of God, for they are foolishness to him, and he cannot understand them, because they are spiritually discerned" (1 Co 1:14). Thus the government cannot rule society based on the revealed Word of God. "Worship is a matter of heart and conscience and therefore not a proper concern of government."⁵

"The purpose of the law [is] not salvation; its intent was not to establish righteousness before God. Its purpose and intent were to maintain outward order and control over the outward behavior of people when love to God [does] not motivate them."⁶ The importance of this sub-point dare not be minimized. The state exists solely to maintain *outward obedience* for the peace and prosperity of the people on earth. "Man looks at the outward appearance, but the LORD

looks at the heart” (1 Sa 16:7). The state is content with outward compliance, but not God; he examines hearts and motives. Attitudes are not changed by civil law. Souls are not saved by the civil law, or as Professor Deutschlander so aptly put it, “The sword on its best day never converted anyone.”⁷ Yet we also must remember that the benefit of outward obedience to society is also of benefit to the church and its mission.

Once again, it is worth noting at that this point how very different the means are that God has given to the church for carrying out its mission.

➤ The church has been equipped with God’s Word as its only means for carrying out its mission.

This Word consists of both law and gospel, “the whole will of God,” as Paul put it when he addressed the elders at Ephesus (Ac 20:27). “The gospel in Word and Sacrament is to function as a means of grace, conveying to sinners God’s gracious gifts of forgiveness, life, and salvation.”⁸

4. Christians are members of both of God’s kingdoms, the church and the state.

When we first consider this statement, it might appear to be contradictory or at least difficult to be members of both kingdoms. However, that is not the case. The two kingdoms exist for entirely different purposes; as a result they exhibit themselves in entirely different ways.

Speaking about the difference between the two kingdoms of which Christians are members, Wilburt Gawrisch writes, “The one is spiritual, the other physical; the one heavenly, the other earthly; the one eternal, the other temporal. We can distinguish one from the other just as clearly and sharply as Bill Brown distinguishes between St. John’s church council and St. John’s baseball team, though he is a member of both.”⁹ In order to bring the matter home for the

purpose of this paper, it must be said: All WELS members are members of both kingdoms, the church and the state.

5. A mixture of church and state is forbidden in Scripture.

- Jesus forbade it (Mt 22:21). Jesus avoided a mixture of church and state by refusing to become a civil judge (Lk 12:14).
- Each has specific spheres of activity and a Christian has specific duties to each kingdom (Ro 13:6,7; Mt 28:18-20).

Neither kingdom is to attempt to do the work of the other. God has given to the church a specific mission, namely to convert sinners and bring them to salvation for time and eternity. God has given the state a specific mission, namely to maintain outward peace and order in the world. God nowhere in Scripture tells the church to change this mission and focus on things that only regard the temporal. Likewise, God nowhere in Scripture has ordered the state to change its mission from the one he has assigned to it. When either the church or the state neglects its mission and moves into the area of mission clearly assigned to the other, a confusion (or ‘mixture’) of church and state occurs.

The following two points describe situations in which a mixture of church and state occurs.

- ◆ When the state or church presumes to perform the duties assigned to other kingdom, a confusion of church and state occurs.
- ◆ When the church or state seeks to carry out its mission through the means assigned to the other, a confusion occurs (e.g., when the church attempts to convert using the sword).

6. Although the church and the state are different and distinct kingdoms, there are areas of mutual interest and responsibility (WELS CPS, 1).

“There is not necessarily a mixture of state and church when both participate in one or the same endeavor but each participates in this endeavor only in the sphere of its own function and restricts itself to its own means.”¹⁰ One example of this principle is the performance of

marriages by the pastor; this action serves both the church and the state without a confusion of their divinely instituted missions. The statement from the *Proceedings* does draw out two very important litmus tests in this area. They are:

- Is the church (or the state) endeavoring only in the sphere of its own function (i.e., mission)?
- Is the church (or the state) restricting itself to its own means?

These two questions serve as a way of introducing any questions that arise in the area of properly distinguishing the roles of church and state to the only source we have for determining what is God-pleasing and what is not, the Holy Scriptures.

I have spent the first portion of this paper drawing out the scriptural principles that concern church and state. In the last point it was noted that there are areas where both the church and the state have a legitimate interest. One such area is education. In the second portion of my paper, I will be applying the principles from the first section to the timely topic of school choice.

In 1995 the Legislature of the State of Wisconsin passed a bill that was subsequently signed into law by Governor Tommy Thompson which expanded a school choice program to include religious schools. After attempts to block the bill were denied by the Wisconsin Supreme Court, the bill became law in on June 10, 1998. The program is called the Milwaukee Parental Choice Program. It offers parents of low-income families vouchers that may be used at any participating school, including religious schools, to cover the cost of tuition that the parents would not otherwise be able to afford.

On the surface this sounds like a wonderful idea. The government, which has a legitimate interest in education, has decided to offer parents the right, in essence, to decide how their tax money is used in the area of educating their children. The money is not being given directly to the religious schools. The vouchers are intended

to give the parents a choice; the vouchers are not viewed as a means by which the government is promoting a certain religious belief. Here it seems evident that the government has not stepped outside of its divinely assigned sphere of activity. Education is viewed by the government as one way to promote order in society. This falls into the area of the state's mission.

The issue becomes a bit stickier after this. Wisconsin Statute 119.23, the MPCP, details the law concerning school choice. Point 7c of Statute 119.23 reads as follows.

A private school may not require a pupil attending the private school under this section to participate in any religious activity if the pupil's parent or guardian submits to the pupil's teacher or the private school's principal a written request that the pupil be exempted from such activities.¹¹

Here we notice a shift. The government is no longer only giving parents, who are citizens of the state, tuition vouchers. The state, by means of Statute 119.23.7c, is putting requirements on the school. These requirements tell the school how it must carry out its mission if it wishes to participate. The state has overstepped its bounds. It is not the mission of the state to tell the church how to carry out its mission. As stated earlier, the church's mission is to preach the Word for the purpose of converting sinners and, once converted, to nurture them with the Word until they pass into the kingdom of glory. How can the church carry out its mission where its one divinely ordained means for accomplishing its purpose, the gospel, is not denied to it by the state? Yet if a school participates, the government requires exactly that if ever a student's parents decide that they do not want their child to be involved in "any religious activity."

The issue gets stickier as one delves even further into the requirements the state places on religious schools that participate. Any religious school that wishes to participate must fill out form MPS-PCP-2.¹² This form indicates a school's intention to participate in the program. The problem here concerns "Section I: Specific Requirements, point nine." Point nine reads: "(The school shall) comply with statute 119.23 and Administrative Rules Chapter PI 35."¹³ Statute

119.23 is the aforementioned law that contains the religious “opt-out” clause. At the end of the form is section that reads, “I have read the section and guarantee that the school will comply with all the provisions of this section.”¹⁴ After this is a box where the administrator of the school must sign. The signature of the administrator is his word, as well as that of the church he represents, to the state that he will comply with all the regulations of the state.

If a church and its school decide to participate it must wrestle with the following issues.

- If a congregation decides that it has no intention of allowing parents to exercise the “opt-out” clause, then a congregation cannot in good conscience authorize its school administrator to sign the MPS-PCP-2 form. To sign the form with no intention of actually granting a parent that privilege would be, in essence, a lie to the Department of Public Instruction of the State of Wisconsin. By signing the form, the congregation (through its school administrator) gives its word to the state that, “I have read the section and guarantee that the school will comply with all the provisions of this section” (MPS-PCP-2, p 2).
- If a congregation is willing to allow a parent to exercise the “opt-out” clause, then participation would become a matter of adiaphora. If a congregation is willing to make this sacrifice for the benefit of the greater number of students who are there through the voucher program for the benefit of a Christ-centered education, we dare not forbid them from doing what God himself does not forbid. That being said, a congregation will want to wrestle with the question that asks whether the parish school has compromised its divinely ordained gospel mission. The outward mark by which the presence of the church is recognized is the use of the gospel in Word and sacrament. The mission of the church is to use these means.

Final Points for consideration

1. A proper distinction of the roles of church and state does not mean that there can be no cooperation in areas where each has a legitimate concern. Education is one such area. Two questions that must be asked are:
 - Is the church (or the state) endeavoring only in the sphere of its own mission?
 - Is the church (or the state) restricting itself to its own means?
2. Government assistance to education, even in religious schools, is not forbidden in Scripture. As a result, such aid falls into the area of adiaphora.
3. Although it is not forbidden, it may not be wise or beneficial to accept such aid (1 Co 6:12).

4. Any church which desires to have its school participate in school choice is urged to prayerfully consider the cautionary warnings of the 1967 synodical convention. The synod resolved as follows:

That we urge all our church supported schools to heed the warnings to 1) avoid any aid that would hinder our Christian schools from carrying out their objectives, 2) avoid any aid that would lead to dependency upon the government and would undermine our Christian stewardship, 3) avoid any aid that would bring with it improper governmental control, and 4) avoid any aid that would jeopardize our unified Christian education.¹⁵

As our congregations struggle with issues concerning the proper distinction of the roles of church and state, I pray that all will thoroughly search the Scriptures as they seek to handle difficult questions regarding church and state roles in the area of education. The principles are clear and immutable; the application, as demonstrated in this paper, can become sticky and confusing. Wherever government regulations affect the church, the task of the theologian becomes increasingly difficult because he must understand not only the scriptural principles, but also the governmental regulations. Pray that the Lord grant us all the spirit of wisdom as we seek to apply his Word. Pray also that he grant us a spirit of love as we consider the actions of our brothers when they make decisions in the area of adiaphora. Soli Deo Gloria!

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¹ The church is also divinely instituted (Mt 28:19,20). This point is made here without further comment.

² Lyle Lange, *Church and State*. (Milwaukee: NPH, 1986), p. 8.

³ Wilburt Gawrisch, "The Separation of Church and State as it Relates to Our Christian Schools." (Located in the WLS Library's Essay Files, 1975), p. 6.

⁴ Daniel Deutschlander, *Civil Government*. (Milwaukee: NPH, 1998), p. 29.

⁵ Daniel Deutschlander, *Civil Government*. (Milwaukee: NPH, 1998), p. 32.

⁶ *Ibid.*, p. 22.

⁷ *Ibid.*, 199.

⁸ Wilburt Gawrisch, "The Separation of Church and State as it Relates to Our Christian Schools." (Located in the WLS Library's Essay Files, 1975), p. 5.

⁹ *Ibid.*, p. 4.

¹⁰ *Proceedings of the Thirty-Ninth Convention of the Wisconsin Evangelical Lutheran Synod*, 1967, p. 172.

¹¹ Wisconsin Statute 119.23. "Milwaukee Parental Choice Program." (Downloaded from www.dpi.state.wi.us/dpi/dfm/sms/119-23.html).

¹² Wisconsin Department of Public Instruction, Form MPS-PCP-2 (Milwaukee Parental Choice Program Notice of School's Intent To Participate).

¹³ *Ibid.*, p. 1.

¹⁴ *Ibid.*, p. 2.

¹⁵ *Proceedings of the Thirty-Ninth Convention of the Wisconsin Evangelical Lutheran Synod*, 1967, p. 186-187.