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versteht sich vielmehr von selbst. Ez. 40–48 hat dann nur die zadokistische Tendenz, die unter Hilkia ihren größten Triumph feiern konnte, konsequent weitergeführt, alle außerjerusalemischen Kulte für illegal erklärt und die Vorrangstellung der Zadokiden unterstrichen – eine polemische Betonung, die ihre Bedeutung auch erst auf dem geschilderten Hintergrund erhält, denn in den Jahren nach dem Tod des Josia war der zadokidische Erfolg wieder in Frage gestellt und blieb es daher auch für die Zeit der erhofften Heimkehr aus dem Exil. Als aber das Kyros-Edikt lediglich den Aufbau des Jerusalemer Tempels gestattete, war die zadokitische Position ein für allemal gerettet, mochte man auch, wie das «deuteronomistische» Geschichtswerk und insbesondere die Aufnahme des Deuteronomiums in den Pentateuch zeigt, der Opposition in einigen Punkten entgegengekommen sein. Die Leviten jedenfalls hatten ihre alte Stellung für immer verloren, ein Grund für die meisten, auf die Heimkehr nach Juda zu verzichten.

## JESUS AND THE LAW

By JAKOB JOCZ, Toronto

The distinction between Law and Gospel goes beyond the 16th century controversy and some would insist that it is already presupposed in Pauline theology and the Johannine literature. Personally, I take the view that a radical division between Law and Gospel (or Grace) rests upon a misunderstanding and has proved detrimental to the life of the Church<sup>1</sup>. In the last resort the issue cannot be decided without reference to Jesus Himself.

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schon oft betont worden ist, nur unter der Voraussetzung Sinn, daß der «Ort, den sich Jahwe erwählt hat», jeweils gut erreichbar liegt. Dies gilt zum Beispiel für die Schlachtbestimmungen Dtn. 12.

<sup>1</sup> Cf. J. Jocz, "Law and Grace", *Judaica*, Sept. 1965, 166ff.

Before we enter upon the subject it is necessary to clarify the use of the term Law as applied to *torah*. There is here an ambiguity which lends itself to grave misunderstanding. Jewish scholars have rightly objected to the traditional Christian identification of *torah* with *nomos*<sup>2</sup>. Modern Christian writers readily concede the Jewish contention that *torah* is more than a legal code. It is rather a moral and religious guide expressing itself in a peculiar style of life<sup>3</sup>. The concept of *torah* is inseparable from the deposition of the Covenant as understood in the Old Testament and is therefore not a legal document but closely related to the concept of *hesed* on the part of God who chooses Israel to be His peculiar people.

There is yet another caveat which must be taken into account. C. H. Dodd has pointed out that Paul does not use the term *nomos* in a univocal sense. Sometimes *nomos* means *torah* in the technical sense, but at other times *nomos* means the created order preceding *torah*. For Paul apparently *νόμος τοῦ Θεοῦ* is a more inclusive phrase than *torah* in the traditional sense<sup>4</sup>. This fact further complicates our understanding of the Pauline attitude to Law. It is therefore of vital importance for us to turn to the heart of the problem and ask the more basic question: what was Jesus's attitude to the *torah*? Was his clash with Pharisaic Judaism the result of his rejection of *torah*, or was it only opposition to the rabbinic interpretation of *torah*, or was it both?

The traditional way of settling the question is to proceed exegetically. It is thought that careful scrutiny of texts will yield an answer to the problem. It was on this assumption that B. H. Branscomb undertook a detailed examination of the documents in the hope of arriving at a conclusive result. But the attempt proved disappointing.

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<sup>2</sup> Cf. H. M. J. Loewe, "The Place of Law in Modern Jewish Teaching", in the Symposium *in Spirit and in Truth*, 1934, 231; also S. Schechter, *Some Aspects of Rabbinic Theology*, 1909, 117, 127; also C. G. Montefiore, *The Synoptic Gospels*, 1909, II, 499.

<sup>3</sup> Cf. H. Wheeler Robinson, "Law and Religion", in the symposium *Judaism and Christianity*, 1938, III, 59f.

<sup>4</sup> Cf. C. H. Dodd, *More New Testament Studies*, 1968, 135f., 137, 140. Against this view see Günther Bornkamm, *Studien zu Antike und Urchristentum*, II, 1963, 117.

After careful and critical study of the sources Branscomb had to acknowledge defeat. He found that by the literary method he could arrive at no conclusive answer. The divergence of the documents was too great<sup>5</sup>. More recent scholars are less diffident and think they are able to arrive at a definitive solution. This they do by taking the view that the Gospel material represents *Gemeindetheologie* and that our Lord's own position regarding the *torah* is therefore unanswerable. But this leaves us with a major problem: how could Matthew on the one hand and Paul on the other take up such revolutionary positions if the only authority was *Gemeindetheologie*? W. D. Davies sees the issue very clearly when he asks the question regarding Matthew 5: 17-18: have we here *Gemeindetheologie* or history<sup>6</sup>?

German scholars are mainly for *Gemeindetheologie* on the general principle of *Formgeschichte*. Gerhard Barth speaks for them all when he explains that Matthew «does not seek to reproduce the attitude of the historic Jesus to the law, but he sees already in the earthly Jesus the risen Christ and hence shows rather the relationship in which the risen Lord stands to the law»<sup>7</sup>.

We submit that *Formgeschichte* oversimplifies the problem. On psychological and theological grounds we have to assume that without reference to Jesus himself the supremely important matter of the law could not be resolved either way but that such an appeal to Jesus would have to rest on historic fact.

Considering the fundamental importance of *torah* for the Jewish religious consciousness neither Paul's nor Matthew's attitude to the Law makes sense. As far as Matthew is concerned there is an ambiguity embedded in the document which does not lend itself to straightforward exegesis. The theory that Jesus is the new Moses who promulgates the *nova lex* in the Sermon on the Mount widely held by English scholars<sup>8</sup>, violates historic continuity. But so does

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<sup>5</sup> Cf. B. H. Branscomb, *Jesus and the Law of Moses*, 1930, 281.

<sup>6</sup> W. D. Davies, *Christian Origins and Judaism*, 1962, 31.

<sup>7</sup> Gerhard Barth, "Matthew's Understanding of the Law", *Tradition and Interpretation*, 1963, 125.

<sup>8</sup> The more recent and chief exponent of the theory is W. D. Davies, cf.



the opposite view which presupposes a willful and absolute break with *torah* on the part of Jesus. German writers are the foremost exponents of the latter view<sup>9</sup>. One cannot help but feel that the Lutheran fear of *Gesetz* has led them to this radical division<sup>10</sup>. Such a division, inherited from the 16th century controversy with Rome goes very deep in the confessional thinking of Lutheranism and almost subconsciously decides against *torah*. An interesting example is Gerhard Friedrich whose *ipsissima verba* we quote:

«Man macht sich die Sache zu leicht und zu einfach, wenn man bei der Freiheit vom Gesetz nur an die Befreiung von kultischen, nicht aber auch von den moralischen Verpflichtungen denkt.»

Friedrich explains that Paul does not merely call for a partial revision of the Law but for its total abolition – “totale Außerkraftsetzung” is his phrase. He continues:

«Er propagiert nicht nur die Beseitigung der Zeremonialbestimmungen über Beschneidung, Opfer, rituelle Reinheit, sondern die Befreiung vom ganzen Gesetz, auch von den moralischen Anforderungen, weil das Gesetz für ihn eine unteilbare, unaufgebbare Einheit bildet. Freiheit vom Gesetz ist für ihn gerade in besonderer Weise auch eine Freiheit von den moralischen Verpflichtungen, weil deren erstrebte Verwirklichung dem Menschen nicht förderlich ist<sup>11</sup>.»

Considering the early date for Paul's epistles such radical negation of the Law as presented by Friedrich makes nonsense of the theory of *Formgeschichte*. It is utterly unthinkable that anyone so

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his *The Setting of the Sermon on the Mount*, 1963, 25ff., 51ff., etc., also *Torah in the Messianic Age and/or the Age to Come*, 1952, 92f.; also *Christian Origins and Judaism*, 33f.

<sup>9</sup> A good example is Ethelbert Stauffer. In *Jesus and His History* (E. T. 1960) he puts his position in a nutshell: “Now Jesus proclaimed a new tidings of God, a new religion that in principle was no longer bound to Torah . . .” (p. 75f.); cf. also *Die Botschaft Jesu*, 1959, 13ff.

<sup>10</sup> Both G. Bornkamm and G. Barth oppose the theory of the *nova lex* introduced by B. W. Bacon and elaborated by G. D. Kilpatrick. Although J. Schniewind appears to take a middle view, in reality he sides with his fellow Lutherans (cf. G. Barth, op. cit. 153).

<sup>11</sup> Gerhard Friedrich, “Der Christus und die Moral”, *Z. für Evang. Ethik*, 1967, 280.

close to the primitive Church as Paul was, could afford to abrogate the Law in this radical fashion without the authority of the Master himself.

Like the rest of us Jewish scholars too have their own preferences. Those of more conservative views like to present Jesus as a pious Pharisee whose scathing remarks were directed against the insincere and hypocritical members of that group. Others, of a more liberal bent regard him as a revolutionary whose intention was to liberalize the rabbinic interpretation of *torah*. Those who defend the Law see in Jesus a law-breaker<sup>12</sup>; others accuse the Pharisees of rigid legalism<sup>13</sup>.

This wide division of opinion is largely due to the curious fact that the New Testament material offers a large range of choice to satisfy our predilections. At times Jesus appears to side with the Rabbis; at other times he stands in direct opposition to them. Sometimes he points to the *torah* as a guide; at other times he makes pronouncements contrary to it. We must therefore ask: is this ambiguity due to contradictory sources resulting from different theological positions in the primitive Church or has it something to do with Jesus himself?

What follows will be an attempt at an answer.

### *1. The exegetical problem*

There appears to be a marked difference in emphasis regarding the law in the Synoptic gospels. In Mark the conflict is less pronounced; the tension between Jesus and the Pharisees is minimized. Jesus does not oppose rabbinic rules, on the contrary, he frequently agrees with the Rabbis<sup>14</sup>. The term *nomos* is altogether missing in the Marcan gospel. Here Jesus is no iconoclast but rather an upholder of the Jewish way of life<sup>15</sup>. The situation in Matthew is more

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<sup>12</sup> Cf. J. Klausner, *Jesus of Nazareth*, 1926, 291.

<sup>13</sup> Cf. C. G. Montefiore, *Some Elements of the Religious Teaching of Jesus*, 1910, 52ff.

<sup>14</sup> Cf. Branscomb, *op. cit.* 126, 128, 172.

<sup>15</sup> Cf. *ib.* 113f., 280.

complex. There is here a pronounced ambiguity which inevitably leads to contradictory conclusions. On the one hand we have the absolute affirmation of the eternal validity of *torah* (Mtt. 5: 17 ff.); but at the same time Jesus appears to treat the law with a freedom which amounts to negation. The ambivalence of this attitude allows two contradictory conclusions: Jesus is the upholder of rabbinic Judaism; Jesus is the antinomian revolutionary. It is this fact which constitutes the exegetical puzzle in all the gospels.

a) Matthew is the only gospel which records our Lord's willingness to pay the half shekel. Not only does he follow the injunction of Ex. 30: 13–15, but in paying for Peter as well he acts in accordance with the Mishnaic rule that one may pay on behalf of someone else<sup>16</sup>. A similar compliance with rabbinic regulation we meet in the Marcan addition in connection with the cleansing of the temple: "and he would not suffer anyone should carry a vessel through the temple" (Mk. 11: 16)<sup>17</sup>. Like every pious Jew Jesus says grace at meals (cf. Mk. 6: 4; 8: 6; 14: 22 and parallels)<sup>18</sup>; he attends the Synagogue on the Sabbath day (Mk. 6: 1 ff.; Lk. 4: 16 ff.)<sup>19</sup>; he wears the fringes (*zizit*) as required by law (Mk. 6: 56; Mtt. 9: 20; 14: 36; Lk. 8: 44). He celebrates passover and recites the *hallel* (Mk. 14: 26; Mtt. 26: 30)<sup>20</sup>. Jesus even allows that the Scribes and Pharisees legitimately sit in the seat of Moses and that their injunctions are to be heeded (Mtt. 23: 1–3). He frequently quotes *torah* and in many other ways gives the appearance of a pious and observing Jew. No wonder that Jewish scholars have stressed the utter Jewishness of Jesus's behaviour and have blamed Paul for the subsequent rupture with Judaism<sup>21</sup>. But the fact is that Jesus's conformity is only one side of the picture; the other side is different.

<sup>16</sup> Cf. *Shekalim* 1: 7. For some reason Neh. 10: 32 reduces the temple dues to one third of a shekel.

<sup>17</sup> Cf. *Berakot* 9: 5.

<sup>18</sup> Cf. *Berakot* 7: 1 ff.

<sup>19</sup> Luke adds an interesting detail: "and he went into the Synagogue as was his custom, on the sabbath day."

<sup>20</sup> A feature missing in Luke.

<sup>21</sup> Cf. *Journal of Bibl. Lit.* XLVIII, parts 1 and 2, 1926, 82 ff.; also I. Abrahams, *Studies in Pharisaism and the Gospels*, 1927, 23, also G. Friedlander, *The Jewish Sources of the Sermon on the Mount*, 1911, 230 f.

b) First, there is the vexed question regarding the Sabbath. This became a major issue in our Lord's attitude towards Pharisaic Judaism. He heals on the Sabbath day; he allows his disciples to pluck corn on the Sabbath day, an act explicitly forbidden by rabbinic law<sup>22</sup>. On Johannine evidence Jesus not only heals on the Sabbath day but goes so far as to tell the man to carry his pallet (Jh. 5: 8), an act not only contravening the traditional interpretation of the fourth commandment, but running contrary to Hebrew tradition in general (cf. Jer. 17: 21; Neh. 13: 19). According to rabbinic ruling only danger to life could be a reason for breaking the Sabbath law<sup>23</sup>. The gospel incidents reveal no such emergency. We touch here upon a major difference between Jesus and Pharisaic opinion. Montefiore explains that while the Pharisees looked upon healing as a labour, Jesus, on the other hand, regarded it "as a service, a benefit, a deed of mercy". He therefore refused to be hampered by technicalities and had no patience with Pharisaic scruples<sup>24</sup>. It rather looks as if Montefiore is superimposing his own liberalistic views upon the Master of Nazareth.

While it is possible to regard the question of the Sabbath as a difference of interpretation between two schools of thought, the question of divorce presents us with a more radical problem. Here Jesus is not just at variance with the Pharisees but with *torah* itself. By his appeal to a more primal condition he bypasses the provision of the *torah* altogether. The question is posed by the Pharisees: "Is it lawful to divorce one's wife for any cause?" (Mtt. 19: 3). The Matthean text is here more in line with rabbinic sentiment than is Mark. The issue is not whether divorce is allowed for the *torah* provides for it, but whether it is allowed *κατὰ πᾶσαν αἰτίαν*. According to the school of Hillel a husband could divorce his wife for any cause "even if she spoiled his food". Shammai limited divorce to unchastity but the Mishnah puts it down as a rule: "a woman is put away with her consent or without it"<sup>25</sup>. The only Rabbi to dis-

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<sup>22</sup> Cf. *Shabbat* 9: 2.

<sup>23</sup> Cf. Strack-Billerbeck, I, 623.

<sup>24</sup> Cf. C. G. Montefiore, *Synoptic Gospels*, II, 619.

<sup>25</sup> *Yebamot* 14: 1; cf. also I. Abrahams, *Studies in Pharisaism and the Gospels*. First Series, 1917, 70f.

approve of divorce altogether was apparently Simeon ben Yoḥai and he belongs to the middle of the second century A.D.<sup>26</sup>. Jesus does not just answer the question in the negative but annuls divorce altogether by going beyond Mosaic legislation: "in the beginning it was not so"<sup>27</sup> (v. 8). Moses, Jesus explains, allowed divorce by way of a compromise because of *σκληροκαρδία*. Here Jesus appears to correct the *torah*. Daube tries to keep the balance between a radical rejection of the Law and rigid submission to it: "the old values are changing . . . Yet nothing has occurred that would cancel the duty to go on observing the Law . . ."<sup>28</sup>, but his argument is not convincing. W. D. Davis tries to overcome the difficulty first, by an appeal to natural law which takes precedence over Mosaic law; and second by pointing to the fact that Gen. 1: 27 (also Gen. 2: 24) is also part of the *torah*<sup>29</sup>. In other words, Jesus pitches *torah* against *torah* and makes his choice. But even he has to admit that by implication Jesus publically annuls the written law. Other scholars are even more definite. W. L. Knox thinks that Matthew intends to present Jesus's teaching as a "complete innovation". The *torah* of which Matthew speaks in 5: 17 is the "new torah" and represents the Jewish Christian outlook in the early Church<sup>30</sup>.

Montefiore has argued that Mark is more original because here the *torah* is not contradicted but only re-interpreted<sup>31</sup>. W. L. Knox makes the same point on behalf of Luke<sup>32</sup>. But does it not seem rather odd that the first gospel with all its Jewish traits should treat *torah* so cavalierly? Montefiore admits that Moses's permission of

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<sup>26</sup> Cf. D. Daube, *The New Testament and Rabbinic Judaism*, 1956, 82, 298f.

<sup>27</sup> If Mtt. 5: 32b *παρεκτός λόγου πορνείας* is discarded as a gloss (cf. T. W. Manson, *The Sayings of Jesus*, 1950, 157) then Jesus's rejection of the *torah* is even more accentuated. A. Plummer is even more explicit: "There is grave reason for doubting whether Christ, either in the Sermon or elsewhere, ever taught that divorce is allowable when the wife has committed adultery." (*Exeg. Commentary on the Gospel acc. to Mtt.* 1928, 81.)

<sup>28</sup> D. Daube, op. cit. 300.

<sup>29</sup> W. D. Davies, *Christian Origins and Judaism*, 41f., 46.

<sup>30</sup> Wilfred L. Knox in *The Sources of the Synop. Gospels*, ed. by H. Chadwick, 1957, 19, 25.

<sup>31</sup> *Synop. Gospels*, II, 508.

<sup>32</sup> Op. cit. 11.

divorce is a lapse from the rule of love with the implication that the *torah* permits what God deprecates. This is not entirely without precedent in Hebrew tradition. Malachi plainly says that God hates “divorce”<sup>33</sup>. One could argue therefore that Jesus is not contradicting the law but reinterpreting it in a spirit of greater strictness. W. D. Davies following – D. Daube therefore thinks Jesus’s intention is to intensify the demands of the Law and to re-interpret it in a higher key<sup>34</sup>. There is some evidence for this in that Jesus discriminated between the less important and the weightier matters of the Law. He gave precedence to justice, mercy and faith over the tithing of mint, dill and cumin (Mtt. 23: 23)<sup>35</sup>. For the Rabbis all the laws were of equal importance and they refused to make distinctions<sup>36</sup>. Matthew does not abolish the tithing of mint, dill and cumin but only regards it of lesser importance. The same applies to reconciliation with a brother over the importance of sacrifice (Mtt. 5: 23f). Such differentiation could be explained as a matter of priorities: “these you ought to have done without neglecting the others.” But is this all?

In the case of clean and unclean food and on the question of *lex talionis* we again strike once more an extreme situation. At first sight it may appear that Jesus is merely opposed to the stringency of rabbinic law concerning ritual purity. Matthew 15: 1ff. begins with a complaint on the part of the Pharisees that his disciples transgress the “tradition of the elders” (παράδοσις τῶν πρεσβυτέρων: מִסְפָּרֶת הַזִּקְנִים). Jesus reverses the blame and tells the Pharisees that they dishonour the Commandments of God by adhering to the traditions of men. To give *pointe* to the accusation he quotes Is. 29: 13 where the expression “precept of men” occurs. But what follows completely alters the apparently scholastic controversy. Jesus proceeds from the question of ritual washing of hands to the more radical question

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<sup>33</sup> Mal. 2: 16. Though the term *shallah* (“sending away”) is unusual it is not without precedent; cf. Dt. 24: 4 where *shillehah* occurs. Cf. also Adolphe Lods, *The Prophets and the Rise of Judaism*, 1950, 276.

<sup>34</sup> W. D. Davies, *The Setting of the Sermon on the Mount*, 102.

<sup>35</sup> The Lucan version seems to be more original: “You tithe mint and rue and every herb and neglect justice and the love of God.” (Lk. 11: 42.)

<sup>36</sup> Cf. I. Abrahams, *op. cit.* 24.



of clean and unclean foods by telling the people that nothing defiles a man except evil thoughts. Mark adds: "thus he declared all foods clean" (Mk. 7: 19). The latter remark is obviously in parenthesis and reflects the view of the Marcan church (perhaps in Rome?)<sup>37</sup>. But in view of the early date of Mark and its consistency with Pauline teaching<sup>38</sup>, there can be little doubt that in the last resort it reflects the attitude of the Master himself. It is obvious that behind Peter's vision in Acts 10: 9ff. there is the experience of the Palestinian Church which drew the last consequences from the Master's declaration: "whatever goes into a man from the outside cannot defile . . . what comes out of a man is what defiles a man" (Mk. 7: 18ff.; Mtt. 15: 11ff.). This is a radical statement and runs contrary to Mosaic legislation. If we ultimately decide for history against *Gemeindetheologie* then an appeal to Jewish tradition that in the Messianic Age all animals will become clean is of little help<sup>39</sup>. On this issue Montefiore admits that "it may, indeed, be argued that in this very section Jesus virtually abrogates a most definite and elaborate Pentateuchal law". But he is not too sure whether Jesus was fully aware of the consequences his teaching entailed<sup>40</sup>. As a liberal Jew, Montefiore deeply appreciates the "keen moral and religious intuitions" of the Master<sup>41</sup>. For us Jesus's attitude to the law is not due to his religious genius but to his extraordinary authority as Israel's Messiah.

The question regarding the *ius talionis* is equally complex. Jewish writers do not see this ordinance in a negative light. It is for them not a law of revenge but the law of equity: eye for eye. The *ius talionis* is meant to protect the weak against the strong. Rabbi Hertz describes the law of retaliation as "one of the far-reaching

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<sup>37</sup> For Mk. 7: 19 cf. W. D. Davies, *Christian Origins and Judaism*, 58f. H. J. Schoeps refuses to believe that Jesus meant the annulment of the dietary laws; he only points to a "grundlegenden Rangunterschied zwischen ethischen Gesetzen der Thora und denen über das Speiseritual statuiert". Cf. *Aus frühchristlicher Zeit*, 1950, 218.

<sup>38</sup> Cf. C. G. Montefiore, *Synoptic Gospels*, I, 174; also W. D. Davies, *Christian Origins*, 49f., 50, 53f.

<sup>39</sup> Cf. W. D. Davies, *Torah in the Messianic Age*, 58.

<sup>40</sup> *Ib.* I, 163.

<sup>41</sup> *Ib.* 176, cf. also his *The Old Testament and After*, 1923, 232.



steps in human progress”<sup>42</sup>. He points to the fact that by the time of Jesus the practice of talion as vendetta was long discontinued. The Rabbis enjoined monetary compensation to take the place of the Mosaic rule (cf. Ex. 21: 23f.; cf. Lev. 24: 19f.; Dt. 19: 21), except in the case of murder<sup>43</sup>. I. Abrahams denies that the law of revenge was ever acted on in Israel: “*no single instance of its application is on record*”<sup>44</sup>. He is puzzled by the fact that Matthew 5: 38 appears to imply that at the time of Jesus it was legal practice. Prof. Daube explains that there was a distinction made between “life for life” which was a matter of criminal law and “eye for eye” which operated in the area of private law and was adjudicated by means of monetary compensation. He sees significance in the fact that the Gospel omits the phrase “life for life”. Daube therefore takes the view that the issue is a moral one and that Jesus is concerned with man’s natural urge to resent the wrong done to him while forgetting that the wrongdoer is a brother before God<sup>45</sup>. As a result of reducing the whole matter to human pride Prof. Daube is able to conclude that Matthew 5: 38f. in no way indicates a departure from rabbinic law, on the contrary, it is in complete agreement with it<sup>46</sup>. But in an earlier work he has already admitted that the Sadducees understood the law of retaliation in a literal sense and has allowed for the possibility that the general attitude was “in favour of a literal interpretation of Scripture” over against the more humane Pharisaic schools<sup>47</sup>. This rather weakens his argument that the controversy regarding the *lex talionis* moves in the domain of private law.

G. Barth rightly observes throughout the Matthean gospels “runs an opposition to Pharisaism and the Rabbinate”<sup>48</sup>. Matthew, he holds, finds himself fighting on two fronts: on the one hand he

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<sup>42</sup> J. H. Hertz, *The Pentateuch and the Haftoras*, 1938, 405.

<sup>43</sup> Cf. *Baba Kamma*, 8: 1 ff.; on homicide see *Sanh* 9: 1 ff.

<sup>44</sup> I. Abrahams, op. cit. 154; his italics.

<sup>45</sup> D. Daube, op. cit. 258f.

<sup>46</sup> *Ib.* 265.

<sup>47</sup> Cf. D. Daube, *Studies in Biblical Law*, 1947, 107. There is also the possibility that the Mishnaic modifications are of a later date.

<sup>48</sup> Op. cit. 76.

guards against antinomianism and on the other against rabbinism. What then is his position? Barth answers: radicalisation of *torah* in terms of discipleship<sup>49</sup>. But such an answer does not obviate the fact that Jesus goes beyond the express provisions of the Law. The difficulty arises from the fact that Matthew is both for the Law and against the Law at the same time. It is an easy solution to say that the opposition is centred upon rabbinic interpretation and that the aim is intensification of *torah*: “unless your righteousness exceeds that of the Scribes and Pharisees, you will never enter the Kingdom of heaven” (Mtt. 5: 20). Jesus certainly makes demands which go beyond the letter of the Law. But this is only one factor. The other question is the validity of the Law in itself. G. Barth’s ultimate answer is that Matthew “no longer belongs to the Jewish-Christian wing” which demanded obedience to the Law from Gentiles<sup>50</sup>. But how did he arrive at such a position?

## *2. The historical problem*

Form critics have argued that the Gospels do not convey our Lord’s attitude to the Law but that of the Church. Bornkamm attributes to form-critical research the end of the fiction which dominated New Testament studies, namely, that it was possible to arrive at the historic Jesus behind the “over-painting” which we find in the Gospels<sup>51</sup>. This writer takes the view that in the case of the Law the form-critical approach has to be modified. Here there seems to be a direct connection between Church tradition and the historic Jesus. Admittedly, the evangelists are not disinterested story-tellers but represent definite theological positions. There is a considerable amount of *Gemeindetheologie* in each of the Gospels. But we commit a grave mistake in losing sight of the central figure by interposing theological predilections between the historic Jesus and the primitive Church. The case in point is the question of the Law.

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<sup>49</sup> Cf. *ib.* 95ff.

<sup>50</sup> *Ib.* 163.

<sup>51</sup> *Tradition and Interpretation in Matthew*, 52.

To distinguish between Jesus and the Church has always been a characteristic feature of Jewish scholarship. Already Rabbi Isaak of Troki has argued that Christians have falsified the Master's original intention by abrogating the Law<sup>52</sup>. The question we have to face is of utmost importance: how did the primitive Church manage to free herself both from the obligations of the written and the oral law? It will not do to say that Paul is the culprit who first broke with the Law. This was too serious a matter to place at the door of one single person. In at least one case we know that a typical representative of the Palestinian Church waived the dietary laws when he consented to eat with Gentiles (cf. Gal. 2: 11 ff.). Was Simon Peter merely compromising his conscience or were there graver reasons for his behaviour at Antioch? How did he arrive at a position which implied contravening not only the rules of the Rabbis but that of the *torah* itself?

In our view Peter's readiness to eat non-kosher food at Antioch is an indication that there had already taken place a loosening of the Mosaic ties in Jerusalem prior to Paul's conversion. It would be impossible to account for Paul's relationship with the Palestinian Church except on this assumption. Admittedly, the doctrinal position was ill-defined and there was still a strong group of loyal adherents to the Law but judging from Paul's subsequent behaviour and Acts 15 it would appear that even that group was prepared to make some concessions for Gentiles entering the Church<sup>53</sup>. If this view is acceptable we will have to assess Paul's attitude to the Law in the light of developments in the Jewish Church upon Jewish soil. We suggest that Paul already inherited a situation in his earliest contacts with the Church in Damascus, Jerusalem and Antioch which predetermined his attitude regarding the Law. His own contribution was a more coherent theological deposition in the light of the utterances and acts of Jesus as delivered to him by tradition. Klausner was quick to recognize the connection between Paul and Jesus: 'had not Jesus' teaching suggested such a line of action, the

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<sup>52</sup> Cf. *Hizzuk 'Emanah*, ed. by D. Deutsch, 1873, 278.

<sup>53</sup> Cf. J. Jocz, *The Jewish People and Jesus Christ*, 1949, 67f., 173f.; cf. also J. Gresham Machen, *The Origin of Paul's Religion*, 1921, 105.

idea would never have occurred to 'Saul the Pharisee', nor would he have succeeded in making it a rule of Christianity<sup>54</sup>."

That the *torah* became a problem to the nascent Church we know from New Testament documents. The question we have to ask is this: did it become a problem because of the influx of Gentiles or was it a problem already for the indigenous Jewish believer?

To answer this question we have to remind ourselves that Mosaic Law is not just concerned with moral teaching. The Ten Commandments and the other moral precepts are only a small part of the Mosaic code. For the Jews, of whatever party, *torah* meant the whole Law both as cult and morality. Until 70 A.D. the temple was at the heart of Jewish piety<sup>55</sup>. The problem for Jewish Christians arose at the point of temple worship. This was inevitable in view of the fact that the Messiah's death was understood as a sacrifice for sin carrying the connotation of ultimacy. Such an interpretation of the Crucifixion belongs to the earliest stratum of Christian theology and goes back to the Master's own interpretation of His suffering. If the tradition regarding the Last Supper is authentic and there is nothing to prove the opposite, Jesus himself has already initiated the atonement theology connected with His Death (cf. 1 Cor. 10; 14ff.; 11: 23ff.; Mk. 14: 22ff.). It is precisely this fact which robbed the temple cultus of its importance for Jewish Christians. The letter to the Hebrews draws the logical consequences of what was already inchoate at an earlier stage.

There is one more point which ought to be made. H. J. Schoeps has rightly noticed an implicit hostility towards the cultus in the early Church. He speaks of the *kultfeindliche Tendenz des Judenchristentums*<sup>56</sup>. No one reading the speech of Stephen in Acts 7 or the

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<sup>54</sup> Joseph Klausner, *Jesus of Nazareth*, 1946, 275f.

<sup>55</sup> If Solomon Zeitlin and his supporters are right then the Synagogue before 70 A.D. was nothing else but a place for the reading of Holy Writ to coincide with the times of Temple-worship. (Cf. S. B. Honig, "The Supposititious Temple-Synagogue", *J. Q. R.*, Oct. 1963, 115ff.; cf. also S. Zeitlin on Synagogue, *J. Q. R.*, Jan. 1964, 228ff., and Oct. 1964, 162f.

<sup>56</sup> *Aus frühchristlicher Zeit*, 150 n; cf. also *Theologie und Geschichte des Judenchristentums*, 1949, 219ff.

letter to the Hebrews can avoid the impression that aversion to the temple cult is already in clear evidence in the New Testament literature. We have argued elsewhere that a similar attitude prevails in the prophetic writings of the Old Testament<sup>57</sup>. The decisive factor in this connection is our Lord's own attitude to the cult. It is of supreme importance to note that at the trial of Jesus the accusation that he intended to destroy the Temple is the main issue before the Jewish authorities. Ernst Lohmeyer notes that in Matthew and Mark Jesus is represented "as fiercely opposed to Temple and cult and doing battle with them", though this does not seem to be the case in Luke<sup>58</sup>. In Matthew there are several references to the cult which would give the appearance of approval on the part of Jesus. Matthew 5: 23 refers to the importance of reconciliation which takes precedence over sacrifice; Matthew 17: 23–27 refers to the temple tax to which Jesus consents. But Lohmeyer has shown that none of these instances are conclusive<sup>59</sup>. But the apocalyptic images in respect to the temple lead him to the conclusion "that for Jesus, or else for the early community, the Temple and all its works represented the last enemy of God and of Him whom He sent"<sup>60</sup>. If our contention holds good that the Last Supper was a Paschal meal without the paschal lamb<sup>61</sup> then there is here further evidence of a rejection of the cult<sup>62</sup>.

Lohmeyer sees in Jesus's attitude an attempt "to replace the cult by the prophets"<sup>63</sup>. There is certainly enough evidence to show that he tries to bypass the Levitical system and is only interested in the temple as an opportunity to reach the multitude with his message of the Kingdom of God.

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<sup>57</sup> Cf. J. Jocz, *The Spiritual History of Israel*, 1961, 81 ff.

<sup>58</sup> Ernst Lohmeyer, *Lord of the Temple (Kultus und Evangelium)*. E. T. 1961, 59 f.

<sup>59</sup> Cf. ib. 55, 59 ff.

<sup>60</sup> Ib. 48.

<sup>61</sup> Cf. J. Jocz, *The Covenant*, 1968, 192.

<sup>62</sup> Cf. Lohmeyer, op. cit. 50 f.

<sup>63</sup> Op. cit. 72.

### 3. *The Christological solution*

Most scholars are agreed that Jesus was no iconoclast. For him the *torah* was no human invention but God's gift to His people. Only on this basis can we preserve the continuity between Old and New Testament, an assumption which all New Testament writers make. But this only increases the ambiguity which arises from the fact that Jesus is both for and against the Law. Scholars have suggested different approaches to solve the puzzle but none seems to be satisfactory. There is a measure of truth in each suggestion and which enjoys support of textual evidence. But this very fact only adds to the confusion.

Much attention has been focused on the meaning of *πληρώσαι* in Matthew 5: 17f. This is a key text and we have already argued elsewhere that the term goes back to the Hebrew *kayyem* as against *batel*: the Messiah came not to abolish but to establish the *torah*<sup>64</sup>. This is the view of most commentators. W. D. Davies understands *πληρώω* to mean "to bring to its destined end"<sup>65</sup>. The contradiction would therefore be only an apparent one between letter and spirit: Jesus holds on to the "intention of the Law"<sup>66</sup> though this may give the impression of contradicting it. Davies, after surveying the Matthean material, concludes from the evidence "that Jesus refused to regard Himself, or to allow others to regard Him, as having legislative function". *πληρώσαι* would therefore stand for the Master's obedience to the demands of God<sup>67</sup>. But he admits Jesus decides not on the basis of the written code but rather by "an intuitive awareness of the will of God in its sheer nakedness"<sup>68</sup>. Davies is faced with the fact that Jesus takes it upon himself to deepen some parts of the *torah* and to annul other parts<sup>69</sup>. He therefore vacillates between the theory of a new *torah* which Jesus announces and a new

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<sup>64</sup> J. Jocz, *The Jewish People and Jesus Christ*, 26.

<sup>65</sup> *Christian Origins*, 45.

<sup>66</sup> *Ib.* 44.

<sup>67</sup> Cf. *ib.* 32f. and n.

<sup>68</sup> *Ib.* 46 also n. 36.

<sup>69</sup> *Ib.* 46; cf. p. 34.



interpretation of the old *torah*<sup>70</sup>. The result of it all is the honest confession by a careful scholar: "Our treatment ends in ambiguity<sup>71</sup>." This proves our contention that there can be no ultimate exegetical answer to the problem. Any careful exegetical approach leads to an impasse: Jesus is "no iconoclastic revolutionary"; Jesus treats the law "with sovereign freedom"; Jesus "took the Law seriously"<sup>72</sup>. It is obvious that these statements carry an inner contradiction.

Gerhard Barth understands *πληρώσαι* in a somewhat wider sense: "to 'establish' the law and the prophets" he takes to mean "the complete establishing of the will of God" in the totality of the plan of salvation which goes beyond the teaching of Jesus and includes his acts and his death<sup>73</sup>. G. Barth therefore contradicts the idea of a *nova lex* at least as far as Matthew is concerned, though he allows that this concept was later developed in the ancient Church<sup>74</sup>. This brings us to Bornkamm's purely theological approach:

«Gesetzlichkeit und Gesetzlosigkeit, Nomismus und Anomie sind beide nur feindliche Brüder vom selben Stamm. Hier wie da geht es um die Selbstbehauptung des Menschen, der sich durchsetzt in der Weise der Selbstrechtfertigung aus dem Gesetz oder der eigenmächtigen Verachtung des Gesetzes.»

The answer therefore both for G. Barth and Günther Bornkamm lies in the law of love which overcomes the dichotomy between law and lawlessness. In this sense fulfilment of the law is neither mechanical compliance with the letter nor is it correct exegesis. It is rather

«Erfüllung durch die Tat. *πεπλήρωται* meint also mehr als die sinngemäße Zusammenfassung des Gesetzes im Liebesgebot, nämlich seine vollbrachte Erfüllung der Liebe<sup>75</sup>.»

Such an hermeneutic approach to the question of *torah* can only be valid against a clearly defined Christological position. G. Barth

<sup>70</sup> Cf. *Torah in the Messianic Age*, 92f.; *The Setting of the Sermon on the Mount*, 107.

<sup>71</sup> Ib. 108.

<sup>72</sup> Ib. p. 428, 425.

<sup>73</sup> G. Barth, op. cit. 69ff.

<sup>74</sup> Ib. 153, 159.

<sup>75</sup> G. Bornkamm, *Das Ende des Gesetzes*, I, 134f.; cf. also G. Friedrich, op. cit. 290f.



has seen this with great clarity<sup>76</sup>. In the last resort Jesus's treatment of the law makes sense only in the light of His authority as the Son of Man and the Son of God. W. D. Davies rightly stresses that behind the utterances of the Sermon on the Mount is "the mystery of his person"<sup>77</sup>. We meet in the case of Jesus an unique identification of Person and Torah which has no precedent in the history of Israel.

In fact the Gospels want to indicate that the Messiah does not only personify the *torah* but replaces it<sup>78</sup>. This goes beyond Dodd's suggestion that for Jesus the "law of God" is law *simpliciter*, in the sense that it expresses the order of creation<sup>79</sup>. The phrase ἐγὼ δὲ λέγω ὑμῖν is more than prophetic, it is final and expresses "supreme authority"<sup>80</sup>. This goes far beyond conformity and can only be described in Davies's words as "massive and majestic"<sup>81</sup>. The Gospels give the impression that Law is now what Jesus wills: "whereas for Judaism the Law expressed the will of God, for Jesus his immediate awareness of the will of God became 'Law'<sup>82</sup>."

This brings us back to the main issue namely the authority of the Messiah. We have already argued elsewhere that the question of ἔξουσία was the main cause of the rift between Jesus and the Jewish leaders<sup>83</sup>. Such a claim to authority is unparalleled in Jewish history. Bultmann appears to pay no attention to the *amen*-sayings, probably because he does not regard the I—sayings as authentic<sup>84</sup>.

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<sup>76</sup> Cf. his section "Law and Christology", *Tradition and Interpretation in Matthew* 125ff.

<sup>77</sup> *The Setting of the Sermon of the Mount*, 433.

<sup>78</sup> Cf. W. D. Davies, *Torah in the Messianic Age*, 93.

<sup>79</sup> C. H. Dodd, *More New Testament Studies*, 137, 140.

<sup>80</sup> Cf. D. Daube, *New Testament and Rabbinic Judaism*, 58; cf. Davies *The Setting of the Sermon on the Mount*, 102 and note.

<sup>81</sup> *Ib.* 107.

<sup>82</sup> *Ib.* 452.

<sup>83</sup> Cf. *The Jewish People and Jesus Christ*, 35ff. Cf. also Hans Windish, *The Meaning of the Sermon on the Mount (Der Sinn der Bergpredigt)*, E. T., 148f.

<sup>84</sup> Bultmann allows only a few authentic I-sayings. But he is most inconsistent and greatly vacillates in his pronouncements; cf. his remarks on Matthew 11:25f. and Luke 10:21, *The History of the Synoptic Tradition*, E. T. 1963, 160, 163.

But Davies regards these as an unusual expression of authority<sup>85</sup>. The authority which Jesus assumed went beyond not only the authority of the Rabbis but of Moses and the Prophets. The Prophets' authority was "thus saith the Lord", but Jesus's appeal was to no one: "but I say unto you." It would therefore seem that in the last resort there can be no extraneous answer to the question of the Law in relation to Jesus except in the Messianic *πληρώσαι*. It is not a matter of radicalization, or eschatology, or *Gemeinde-theology*, it is *sui generis* and inseparable from the Person of the Messiah. The prophets and the law prophesied until John (Mtt. 11: 13; cf. Jn. 1: 17) but now the messianic Presence overshadows both. Paul reasons correctly when he describes the Christ as the *telos* of the Law. In Him the Law is both fulfilled as a hope and accomplished as an act.

This brings us to a very personal question: in what relation does a Christian stand with regard to Law and Gospel? Does the Law have no function at all and are we only under Grace? Here we must not forget the importance of the Law for Paul both as *παιδαγωγός* (Gal. 3: 24) and as a means of revealing man's true state before God (Rom. 7). Joseph Fletcher in his *Situation Ethics* emphatically takes the view: there is no law for the Christian, except the law of love, but this is no law any more<sup>86</sup>. Such a radical position oversimplifies the human situation and leads directly to the Marcion heresy. The Pauline position is more complex. Paul's life was lived between Law and Gospel. Only as a man under the Law did he discover the meaning of sin and judgement. Bonhoeffer has rightly warned against a too hasty escape from the Old to the New Testament<sup>87</sup>. Luther is our best example: terrified of God's judgement he turned to God's grace in Jesus Christ. Like Paul, Luther lived between Law and Gospel, judgement and grace all his life. This he expressed in the formula: *simul iustus, simul peccator*. As sinners we are under the Law, as justified by Grace we are under the Gospel.

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<sup>85</sup> W. D. Davies, *Christian Origins*, 39. On the expressions "I AM" and "Amen" see Daube, *New Testament and Rabbinic Judaism*, 325ff., 388ff.

<sup>86</sup> Cf. Joseph Fletcher, *Situation Ethics*, 1966, 46, 69, 146, etc.

<sup>87</sup> Cf. D. Bonhoeffer, *Letters from Prison*, 1953, 50, 93, 127.

Any imbalance in either direction falsifies the Christian position: we are never free of the Law but we are never beyond God's grace in Christ. For this reason our Lord is both the upholder of the Law and the End of the Law, in Joachim Jeremias' phrase: He is *der Weltvollender*<sup>88</sup>.

## REZENSIONEN

RUDOLF NISSEN: *Helle Blätter – Dunkle Blätter*. Erinnerungen eines Chirurgen. Deutsche Verlagsanstalt, Stuttgart 1969.

Nissens Buch ist alles andere als ein «Ärzteroman»: wer Mitteilungen über sensationelle Operationen und Heilungen erwartet, braucht das Buch nicht zu lesen. Es ist aber auch nicht eine eigentliche Autobiographie, sondern weit eher eine Zeitgeschichte.

Das Aufkommen und die Wirkung des Antisemitismus in Deutschland wird in Nissens Buch auch beschrieben: er ist ja jüdischer Herkunft und mußte Deutschland deswegen verlassen. Auch da wird alles fast unpersönlich, sehr sachlich und ohne Haß und Anklage geschildert.

Wertvoll sind vor allem die grundsätzlichen Bemerkungen zu den alles Ärztliche betreffenden Problemen, zum Beispiel über «Glaube und Heilung». Da heißt es unter anderem: «Kann das Unbegreifliche der Schöpfung des Menschen je einmal in den Bereich des Begreiflichen und Reproduzierbaren gerückt werden? Ich bin nicht ein so überzeugter Anhänger der unbegrenzten Allmacht naturwissenschaftlicher Forschung, um anzunehmen, daß dieses fundamentale Rätsel von Menschenhirn und Menschenhand gelöst werden wird.» Und die Eigenschaften, die nach Nissens Überzeugung jeder wirklich gute Arzt haben muß, sind: «Klugheit des Herzens, Takt, Mitgefühl und Aufopferungsfähigkeit.» Schon allein seiner menschlichen Haltung wegen sollte Nissens Buch viele Leser finden. LS

E. AUERBACH, *Pionier der Verwirklichung*. Ein Arzt aus Deutschland erzählt vom Beginn der zionistischen Bewegung und seiner Niederlassung in Palästina kurz nach der Jahrhundertwende. Deutsche Verlagsanstalt, Stuttgart 1969. 411 S.

Das ist einmal eine Autobiographie, die man mit Spannung und Aufmerksamkeit vom Anfang zum Ende liest! Gewiß, es ist ein Rückblick auf das

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<sup>88</sup> Joachim Jeremias, *Jesus als Weltvollender*, 1930; also K. Heim, *Jesus der Weltvollender*, 1952. (The English title: *Jesus the World's Perfecter*.)