

JESUS' ATTITUDE TO THE LAW OF MOSES

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THE editor of the Book of Acts has attempted to eliminate as far as possible from the story of the early church all traces of disagreement and conflict; but even if we did not have the letters of Paul, this picture would be corrected by the variety and divergence of sayings about the Mosaic law attributed to Jesus by our Synoptic Gospels. Not only does one find expressed both extreme positions, but a number of intermediate ones as well. One can construct a sort of chromatic scale made up of the alleged sayings of Jesus in which all the notes are struck from the complete rejection of the law to its complete affirmation. Thus it is presented that Jesus declared the law and the prophets to have ceased with John; that he gave a new law of his own which was the completion of the old; that he merely rejected certain specific commandments while affirming the rest; that he rejected all the oral law but strongly maintained the written code; and finally that he demanded obedience to the whole law including the decisions of the scribes who he declared "sit in Moses' seat."

In such a situation one turns hopefully to a source analysis of the material, but in vain. Though much is learned of the attitudes of the several editors and of the social experience of the Christian circles from which the collections came, such an analysis yields no final conclusion. Within the several strata the same divergent material is to be found.

Thus we are thrown back upon the content of Jesus'

teaching for the solution of the problem. In particular, there are three approaches which seem fruitful: first, we must study the use which Jesus makes of the written and oral law apart from all controversial occasions. In the second place, neglecting still in large degree the formal utterances about the law, we may study the issues which arose between Jesus and the representatives of orthodox Judaism, thus determining for ourselves the actual relationship. In the third place, it is perhaps possible to secure from the obscure history of the early church, and in particular from the behavior of Peter, results which throw some light upon our problem. I need not add that it is only because of the fresh light cast upon these approaches during recent years by outstanding scholars that I have the temerity to venture upon so long contested a field.

The basis from which the solution must start has long been recognized and is abundantly established by the first of the above approaches. Jesus was the child of the synagogue and he regarded the Scriptures as the revelation of God's will. He quotes from all three of its divisions as from verbally inspired scripture. He specifically declared that David spoke one of the psalms "in the Holy Spirit." To one who asks how to gain eternal life he is content to reply, "Thou knowest the commandments." To a scribe who cites passages from the law he says plainly, "Do this and thou shalt live." He attended the synagogue regularly, probably wore the *zicith* upon his garments, and paid the Temple tax. For the Temple, he had great reverence, declaring that God dwelt in it. One who had been reconciled with his brother should return and offer his gift. His outlook is limited to the people of Israel. The word "Gentiles" connotes those in religious ignorance, even if nothing more opprobrious. In a saying which must be genuine, he declared that he "was not sent but unto the lost sheep of the house of Israel," and there is no clear evidence that he ever enjoined upon his disciples a mission to the Gentiles. This material, most of it preserved indirectly and without reference to the controversy over the law, must always be our point of departure.

But Jesus did not appear primarily as a teacher. This was only incidental to a larger vocation. He was conscious of a prophetic call to awaken Israel to her need of repentance in preparation for the manifestation of God's sovereignty which Jesus saw sweeping upon them. He set himself to bring the irreligious, the publicans and sinners, the outcast, to a realization of the impending judgment and the joyous kind of life which acceptance of God's sovereignty involved. "I came not to call the righteous but sinners," "I was not sent but unto the lost sheep." His disciples are to become "fishers of men."

Such seeking of the sinner was not characteristic of Judaism, but this is Jesus' mission or vocation. It reveals to us what we may expect to find central in his thought. There will be a positive character to his view of righteousness, the accompaniment of his own prophetic mission.

What this coming sovereignty of God implied for men is made clear by his ethical teaching. Fundamentally, he conceived of goodness as a new will in the individual which strives to be like that of the Heavenly Father. The rule of God demands a spirit of obedience in the inner life which loves one's neighbor as oneself, forgives enemies, creates peace, hungers and thirsts after righteousness, sacrifices all for the sake of the Kingdom. In this positive side of his teaching we do not find Jesus urging the ritual or levitical commandments of the Torah. In his thought they do not appear as necessary elements in that obedience to God's will which he went about urging men to perform. And this obedience in love and service must be limitless, nothing must deter or prevent it.

Thus Jesus, though pointing his hearers to the commandments, had in his own thinking departed from the legal conception of duty. On the one hand he carried goodness constantly back to the motive or spirit. And on the other hand he shows no interest in a large number of precepts plainly commanded in the text. In a word, in practice he makes certain very general moral attitudes the standard of right action, which of course is quite different from the conception of a revealed law.

It has been suggested that what Jesus did was to reject the oral law while maintaining the validity of the text of the Scriptures, and this view is presented in one passage in Mark (Mk. 7 8-13). It is true that most of the controversies recorded in the Gospels involve rulings of the oral law, an inevitable fact since the oral law was in great part the authoritative definition of what the written code meant in practice. The attention of Jesus would, therefore, be directed first of all to this scribal interpretation. In the issues which arose between himself and the official teachers, Jesus felt intuitively that he was obeying God's will; but they in their turn could cite the unanimous tradition of the elders as to the meaning of Torah. In such cases, there was nothing left for him to do except to declare by implication at least that the tradition was wrong. It is clear, therefore, that by refusing to accept the rulings of the scribes as to the correct *halacha*, he denied in principle the basic assumption of the oral law, that an unbroken tradition was of divine authority. But another fact is also of importance. Jesus was untrained in the schools. He did not have the weapons with which to meet his critics on their own ground and answer with authority. But the law and prophets he did know. In the controversies which arose, therefore, he would turn naturally to this authority to answer tradition with citations of Scripture.

General considerations make it probable, then, that some such utterance as Mark 7 8 came to expression, namely, that the scribes and Pharisees, leaving the commandment of God, were keeping oftentimes a human tradition. But a reading of the documents leaves a very considerable doubt that he made so sweeping a generalization as to throw the whole oral law into the discard. One receives the impression that it is more probable that he declared the particular scribal rulings which he felt to be counter to the will of God to be resting upon a human and unauthoritative tradition. The reasons for this are the following:

(1) Jesus shows the same independence and freedom in dealing with commandments of the written law. Our formula

of explanation, therefore, cannot be the simple proposition that he rejected the oral law but accepted the written. Whatever his attitude to the law was, it involved discrimination and selection within the text of scripture as well as within the tradition.

(2) It is only in the *Korban* saying that Jesus makes choice of the right action on the basis of a distinction between what is oral tradition and what is written law. Though the distinction seems to us to lie ready to hand and to be a complete answer to his critics on several occasions, he does not employ it but takes higher ground. On other occasions it is to well-known rulings of the oral law itself that he turns, arguing that these embody the principles of right action.

(3) It is obvious that with much of the oral law Jesus was in the most profound agreement. The mitigation of the severity of the criminal codes, the laws permitting the saving of life upon the Sabbath, the substitution of fines for the literal lex talionis, the deepening of the moral commands into the realm of motive, the Shammaite insistence on a limited divorce,—these are only illustrations from many which might be cited. Indeed, one could plausibly argue from the "Anti-theses" of the fifth chapter of Matthew that Jesus rejected the written law but affirmed the oral commandments.

(4) In spite of the appeal that the view under consideration would make to a church which kept the Jewish Scriptures but broke with the Pharisees, there is no indication outside Mark that Jesus took this position. Not even in the so-called "Woes to the Pharisees" is the oral law declared to be abrogated, the nearest approach to this being the statement that the scribes lay heavy burdens upon the shoulders of men.

(5) Finally, one recalls the presence in the tradition of those sayings which affirm the binding authority of all the oral law. Jesus may not have said, "The scribes sit in Moses' seat, whatsoever they tell you do and keep," but that such sayings could be ascribed to him surely indicates that he took no open and unequivocal stand in favor of the position of the Sadducees.

It would appear then that Jesus treated the oral law, as he did also the written law, with the fearless freedom of a prophet. He felt that he knew what God wanted of men, that he was teaching the true Torah, and that the scribes in many cases had not interpreted it aright. In many cases he answers tradition with Scripture, in some cases his appeal is to the oral law. In principle he rejected the oral law, but this denial was probably the implication of his own inner freedom rather than a theological premise with which he began.¹

Within the text of Scripture, he also discriminated. The law of Sabbath work is subject to the demands of human need. The divorce decree of Moses is not God's will. In these cases there is a conflict between elements which lay side by side in the Torah.

How far did Jesus carry this rejection of portions of the Torah? Did he utter Mark 7 15, and if so in what sense? Against its authenticity there is the weighty argument that if Jesus had said it, the struggle in the early church over the law, and in particular over eating with the Gentiles, could never have occurred. One feels also the force of the argument that it carries one too far from that reverence for the Scriptures which we have seen was characteristic of Jesus. It may be that the saying is a product of the struggle in the church; certainly one would hesitate to be dogmatic. But I would point out the following facts:

(1) That Jesus' habit of eating with publicans and sinners shows an indifference to the question of whether or not food was clean. He probably was not served forbidden foods, but

It is significant that Albertz in his investigation, *Die Synoptischen Streitgespräche* (Trowitzsch & Sohn, 1921) is able to write: "Surprising is it that proof from Scripture is only rarely, in part only secondarily drawn upon. Of the seventeen (conflict) discourses, eight omit all reference to Scripture, another connects itself only in form to the Scriptures . . . only eight offer anything like a Scripture proof. Furthermore of these eight a number are not real proofs from Scripture, as for example the citations in answer to the Temptation . . . Thus Jesus shows no habit of going to Scripture for his answers to questions" (p. 72 f.).

Pharisaism insisted that one could never know that the food served on such a table was properly killed and properly prepared. If one went into the house of a sinner or a Gentile one faced presumptive defilement. Jesus regarded such a risk apparently as of no importance.

(2) Acts and Galatians show us that this is exactly the position of Peter until the time when "those from James" remonstrated with him—perhaps as the leading apostle to the Jews. Peter stayed at the house of Simon, the tanner, an outcast by occupation; he ate with Cornelius; he ate freely with the Gentiles at Antioch, and Paul's public rebuke to him there reads: "If thou being a Jew livest as a Gentile, and not as the Jews, how compellest thou the Gentiles to live as do the Jews?"² In connection with this I would also remark that Paul's discussion of this subject in Galatians is to the effect that the early church was by no means meticulous in their observance of the Law until there came in later "false brethren to spy out the liberty which we have in Christ Jesus." Was it not just this looseness as to the law which aroused Paul the Pharisee to his task of persecution?

(3) We have closely related evidence as to Jesus' attitude toward foods from other passages in the Gospels. On the one hand we are told in two sources that Jesus and his disciples refused to adopt a custom of handwashing before meals. The exact nature of the rite is in some doubt, but the fact of the episode can hardly be doubted and throws light upon Jesus' lack of interest in the cleanness or uncleanness of foods. Furthermore, there are preserved two forms of an earlier Aramaic tradition that Jesus declared that vessels could not make food unclean provided the one who ate was clean of heart.

(4) The struggle in the early church over the law centered primarily on the issue of circumcision. This is the testimony both of Paul's letters—see especially Gal. 2 3-7; 5 2; 1 Cor. 7 18, 19—and of the Book of Acts (15 1). We would expect, there-

² Galatians 2 14: *Ἐὶ σὶ Ἰουδαῖος ὑπάρχων ἐθνικῶς ζῆν καὶ οὐκ Ἰουδαῖος, πῶς τὰ ἔθνη ἀναγκάζεις Ἰουδαῖσιν;*

fore, a logion, the origin of which is to be traced to Gentile Christianity's consciousness of freedom from the law, to deal rather with this central issue of circumcision.

In the light of these facts it is not so clear that Mark 7 15 is a later addition to the story, though it may not have been couched in quite so sweeping a form as we now have it. It probably was uttered in connection with some controversy such as that over vessels, or over presumptive defilement in the houses of sinners or over food eaten with unwashed hands, to which controversy it is now related in our text. In the last case, we may see a reason why the saying plays no part in the controversy over the law until at a later date, for rabbinic scholars are agreed that the cleansing of hands before eating was at this time not a requirement of the law for laymen. But in any case we may feel sure from the analogy of other cases that Jesus' thought on this topic was along lines that have been outlined—that foods and the rules about them were not vitally involved in that obedience of the heart which God desired. A generation later a great rabbi, Johanan ben Zakkai, uttered the same thought: "A corpse does not defile nor water make clean," though his training, his logic and his philosophy made him add: "but it is a command of the King of Kings."³ It is just this addition which represents the difference between Jesus and the rabbis in their attitude toward the law.

Judaism had inherited from the more primitive stage of its history a collection of laws dealing with all aspects of the nation's life, and these laws had become invested with the sanctity of the divine revelation. Professor Moore has recently shown how the scribes were gradually transforming these laws along lines of the teachings of the prophets, using the principle of interpretation by the oral law as their instrument. But Judaism was retarded in this development by two factors which were both its strength and its weakness. On the one hand, religion was socially interpreted, and the individual conscience thus was subject to correction by the rulings of

³ *Tanḥuma* ed. Buber, *Hukkat* § 26, and elsewhere.

the majority of scribes. In the second place, the scribes were scholars, men of the classroom, men who insisted on the test of logic. But in the light of the premises as to the law which Judaism had inherited, logic was not perhaps the most valuable tool for religion. The scribes were eminently logical in their criticisms of Jesus. They pointed out that he accepted the Torah but disregarded or eliminated certain sections of it. Jesus was a man of the people. He was untrained in the schools. He was not a theologian nor a doctor of the law. He was engaged in a mission of great urgency and moral intensity. His message came from his own conscience; he submitted it to no earthly authority, but the elements out of which it was built were in the Torah. Thus he did not appear teaching a new law, as the early Church liked to picture him, but as teaching Torah in its real nature. He did not begin with certain premises and make logical consistency the test of truth. He began rather, I think, with the commandment, "Thou shalt love the Lord, Thy God, with all thy heart and thy neighbor as thyself;" and he made ethical consistency with that principle his test. Judaism was struggling toward the expression of this ideal in its manifold law, but it needed the prophet of the people to break through its shackles to the past.⁴

[Editor's note: A vital point in the discussion of this subject, particularly in the use of Mark, our earliest witness, is the fact that in Jesus' debate with the scribes in Mk. 7 1-23 the distinction between the *torah* of God and "ordinances of men" is made basic (so again Mk. 10 2-9) *with explicit appeal to "Isaiah"* (quoting Is. 29 13). It may be worthy of note that Paul (Col. 2 22) and the Nazarenes of Aleppo in the time of Apollinarius of Laodicea and Jerome (*Comm. ad loc.*) made the same application of the same passage.]

⁴ The views presented in this article will be presented in fuller detail in a forthcoming volume on the topic.