

INTRODUCTION TO VOLUME FOUR

THE HISTORICAL JESUS IS THE HALAKIC JESUS

I. THE MULTIPLE DIFFICULTIES OF DEALING WITH JESUS AND THE LAW

Now begins the hard part. As often happens in negotiations for a Mid-east peace accord or a labor union contract, the most difficult issues have purposely been left till last. At the end of Volume Three of *A Marginal Jew*, I listed, with a bow to Sir Edward Elgar's *Enigma Variations*, the four final enigmas that remained to be pondered in our quest for the historical Jesus. These four questions, which seem to pose intractable problems for any quester, are the riddle of Jesus and the Law, the riddle-speech of Jesus' parables, the riddle-speech of Jesus' self-designations (or "titles"), and the ultimate riddle of Jesus' death. Having examined in the second half of Volume Three the legal positions that distinguished the Pharisees, Sadducees, and Essenes from one another and from Jesus, I think it logical to take up as the first enigma the question of Jesus and the Law. This will be the focus of Volume Four, while the other three enigmas will be treated in Volume Five.

Some scholars might immediately object that these four topics have been placed under the exegetical microscope so many times and have been analyzed to death in so many multivolume monographs that the last thing any one of them should be called is an enigma. Labels like "familiar old friends," "exegetical chestnuts," or the "not-this-again quartet" might describe them better than "enigmas." I beg to differ. Indeed, if anything, I must confess my naiveté in thinking that these four huge enigmas could be treated adequately in one volume. By itself, the question of Jesus and the Law has consumed six years of research. I remember well how, when I told a learned Jewish colleague that I was beginning to write a volume focused on the Jewish Law around the time of Jesus, the professor replied: "Don't go in there; you'll never come out." Six years later, I emerge from Moses' (not Plato's) cave,

perhaps wiser but certainly older. In any event, I come out convinced that, although I may not be right in my positions, every other book or article on the historical Jesus and the Law has been to a great degree wrong. This claim takes more than a little chutzpah to make, and many would object, à la Qoheleth, that there is nothing new under the sun of Jesus research. Surely I must simply be repackaging one of the systematic answers peddled in the past.

After all, as my critics would point out, in the past century almost every position imaginable has been defended in the attempt to understand Jesus' position vis-à-vis the Mosaic Law.¹ At one end of the spectrum, for instance, Jan Lambrecht declared categorically that "the historical Jesus was in reality both anti-Halachah and anti-Torah."² In Lambrecht's view, Jesus was consciously critical of a whole range of commandments contained in the Law. In a similar vein, Werner Georg Kümmel maintained that Jesus' declaration that nothing entering a person can defile that person (Mark 7:15) demonstrates Jesus' sovereign attitude toward the Law and his fundamental rejection of its purity commandments.³ Pushing this view beyond the credible, Morton Smith claimed that Jesus was secretly a libertine who taught freedom from the Law to those he initiated by a nocturnal rite of baptism, while continuing to teach "legalistic material" to outsiders.⁴

Not surprisingly, other groups of scholars have found the data in the Gospels more complex, not to say confusing. Hence they have eschewed the position that Jesus, in principle if not in practice, rejected the Law. Indeed, one need only survey the stories about Jesus and the Law in the Gospels as they stand, without even trying to sift the pericopes for historical data, to see the problem with any sweeping claim that Jesus opposed the Law.⁵ Most of the "dispute stories" (or *Streitgespräche*) in the Gospels present Jesus debating with other Jewish groups or individuals about the proper interpretation and practice of the Law, not about the basic obligation of faithful Israelites to obey the Law. The Law is God's gift to Israel.⁶ Consequently, its overall normative force is largely taken for granted in the Gospels, although a few texts, such as the abrogation of the food laws in Mark 7:15–19, run counter to this general tendency.⁷ To sweep away almost all the "legal material" in the Gospels as inauthentic or as not representing Jesus' truest intentions strikes one from the start as an unlikely, not to say a desperate, solution.

Mindful of the complexity of the Gospel data, many authors have struggled to explain Jesus' stance vis-à-vis the Law by claiming that there was some sort of dialectic or point-counterpoint inherent or implied in Jesus' teaching on the Law, whether this dialectic was consciously intended by

Jesus or not. In effect, if not in intention, Jesus, while affirming various elements of the Law or even the Law as a whole, ultimately subverted the Law as a system of “legalistic” salvation. He thus paradoxically recaptured the ultimate thrust or intent of the Law: the radical doing of God’s will by loving one’s neighbor.⁸ In subverting, he fulfilled; in transcending, he distilled the essence.

More recently, a number of Christian scholars have rejected the idea that Jesus consciously or unconsciously, directly or dialectically, rejected the Law itself (an idea that has long been criticized by various Jewish scholars).⁹ For example, in his study on *Jewish Law from Jesus to the Mishnah*, E. P. Sanders suggests that, as an experiment, we accept hypothetically that all the legal disputes in the Gospels come from the historical Jesus (a position Sanders does not really hold). Sanders maintains that, even when one accepts this hypothesis for the sake of argument, one finds nothing in Jesus’ positions—apart from the question of food laws in Mark 7:15–19—that goes beyond the acceptable range of opinions held by 1st-century Jews.¹⁰

If I were forced to choose *either* the old-time view that Jesus (intentionally or not) abolished the Law *or* Sanders’s view that practically nothing in Jesus’ teaching opposes or rescinds the Law itself, I would feel much more comfortable accepting Sanders’s position. Yet I do not think that even Sanders’s approach does full justice to the complexity of the data. Some individual items in Jesus’ teaching on the Law (e.g., the prohibition of divorce or of all oaths) and some particular commands he addresses to individual followers (e.g., “let the dead bury their dead” in Matt 8:22 par.) do not fit so neatly into Sanders’s picture of a historical Jesus who never opposes the Law or issues commands contrary to it.¹¹

Here we touch on the real enigma in Jesus’ teaching on the Law: as will be argued at length in this volume, his approach seems to be neither total rejection of the Law, nor a dialectic that embraces yet in effect rejects the Law, nor a total affirmation of the Law that simply involves legitimate though debatable interpretations of individual practices. The real enigma is how Jesus can at one and the same time affirm the Law as the given, as the normative expression of God’s will for Israel, and yet in a few individual cases or legal areas (e.g., divorce and oaths) teach and enjoin what is contrary to the Law, simply on his own authority. As so often with the historical Jesus, the different pieces of data seem, at first glance, to defy any systematization. As one struggles with this enigma—and, indeed, with the other enigmas as well—one must remain open to the possibility that not all the pieces of the puzzle fit together. At the very least, the pieces must not be forced to fit simply for the sake of satisfying the rational preferences of the modern interpreter. One

begins to see, then, why Jesus and the Law is an enigma that invites further investigation but no easy solution.

Unfortunately, grappling with this enigma involves further complications. Even in “the old days,” when “Jesus and the Law” often meant just confronting Gospel stories with OT precepts on the one hand and rabbinic interpretations on the other, the amount of comparative material to be canvassed was vast. Today, the Dead Sea Scrolls, notably the mass of fragmentary legal texts from Cave 4 at Qumran, have made the problem ever more complex. A treatment of Jesus and the Law that does not seriously engage the Dead Sea material is in essence flawed. Of necessity, and through no fault of the authors, this critique applies to all those treatments of the topic that were written before the Dead Sea discoveries. Moreover, if one adds to the Dead Sea legal material the revitalized study of Philo, Josephus, and what is called with distressing vagueness the OT Pseudepigrapha,¹² the problem of locating Jesus’ teaching on the Law in its proper historical context looms as almost insurmountable. Any number of past studies have in effect flattened out the multidimensional context of Jesus and the Law by not taking all these different contending backgrounds or matrices into consideration.

Compounding the enigma still further is today’s more cautious approach to using later rabbinic texts to re-create the legal world of Palestinian Judaism in the early decades of the 1st century A.D. This is *not* to say that no rabbinic texts may be used. As a matter of fact, I employed a number of them in my reconstruction of the Pharisees in Volume Three.¹³ It *is* to say that such material must be used with the same historical-critical sensibility that is applied to other sources. After all, the whole rationale of the quest for the historical Jesus is that one may not without further ado cite a Christian Gospel written in A.D. 70 or 90 to establish what Jesus of Nazareth actually said or did in A.D. 28–30. Even though only forty years or so separate the ministry of the historical Jesus from Mark’s Gospel (and perhaps from Q), the criteria of historicity must be judiciously applied to the sayings and deeds contained in Mark before one can with fair probability decide what does or does not go back to Jesus.

A fortiori, the material in the Mishna (composed ca. A.D. 200–220) and the Tosepta (redacted in the 3d century A.D.) cannot automatically be cited to illustrate legal practice at the time of Jesus. If I cannot assume, without detailed examination of the individual passage, that an introductory “Jesus said . . .” in Mark’s Gospel proves that the historical Jesus actually spoke the logion so introduced, then likewise I cannot presume that an introductory “Hillel says . . .” in the Mishna guarantees that the historical Hillel made such a statement in the 1st century B.C. All claims about historicity,

whether they involve the Gospels or the Mishna, must be supported by a critical investigation of the data, studied according to agreed-upon criteria of historicity. If this be true of the Mishna, then how much more is it true of the Babylonian Talmud, whose redaction takes place almost half a millennium after the time of Jesus? To be clear: this is not to rule out rabbinic parallels a priori. It is simply to require critical sifting of data and substantiation of claims. As Jacob Neusner has never tired of saying, “What you cannot show you do not know.”

II. THREE VITAL DISTINCTIONS

Even after considering all these obstacles to an adequate treatment of our topic, we still have not touched on what is perhaps the greatest reason for the inadequacy of much of the past research on the historical Jesus and the Law, especially by Christian scholars. I would claim that at the root of much of the befuddlement about this topic, there is a fundamental confusion about proper categories and methods. It is vital, as we begin our trek through Jesus and the Law in Volume Four, that we make three careful distinctions about our subject matter. Actually, as we shall see, these three distinctions are simply three ways of approaching and articulating one grand underlying distinction.

(1) The first important distinction scholars often fail to make is the distinction between christology and the quest for the historical Jesus. Both are valid academic endeavors, as are the theology and history departments that major research universities support and encourage as distinct components of the overall pursuit of knowledge. As a matter of fact, at various times, I have taught courses both on christology and on the historical Jesus at a number of American universities.

Obviously, the two endeavors are related, but I always begin my courses by insisting on a clear distinction between the two subjects. Christology is a subdivision of the academic discipline called theology—in Anselm’s famous phrase, *fides quaerens intellectum*, “faith seeking understanding.” Christology is therefore faith seeking understanding of Jesus Christ as Lord and Savior, the object of Christian faith. Christology operates within this sphere of Christian faith, however much it may probe and challenge aspects of that faith or traditional understandings of it.

By contrast, the quest for the historical Jesus is by definition a strictly historical endeavor. Of its nature, it prescinds from or brackets Christian faith. This does not mean that it denies, rejects, or attacks such faith. The

quest simply prescind from Christian faith in the way that a world-class astronomer who happens to be a believing Christian would prescind from a theology of God the Creator when she is examining the outer reaches of a galaxy. All this is simply a matter of functional specialization, to use a phrase beloved of Bernard Lonergan.¹⁴ To be sure, there is always the possibility of a critical correlation among various disciplines after each has done its own work according to its own proper method. But to attempt such a correlation prematurely would be to short-circuit the whole process and to violate the integrity and autonomy of each discipline.

Granted this distinction, what then do I mean by “the historical Jesus”? The historical Jesus is that Jesus whom we can recover or reconstruct by using the scientific tools of modern historical research as applied to ancient sources. Of its nature, the historical Jesus is a modern abstraction and construct. He is not coterminous with the full reality of Jesus of Nazareth, including everything Jesus of Nazareth ever said or did during the thirty-something years of his life. In other words, the historical Jesus is no more to be equated with the real Jesus than the historical Caligula is to be equated with the real Caligula—if I may cite a younger contemporary of Jesus with a somewhat different temperament.

Perhaps the common mistake of so much of the quest for the historical Jesus in the last two centuries was that it was not a truly historical quest at all. More often than not, it was an attempt at a more modern form of christology masquerading as a historical quest. At times, it might try to use the historical Jesus to overturn the “mistake called Christianity”—to quote the stated aim of one member of the American Jesus Seminar.¹⁵ More frequently, it was used to re-articulate christology in more contemporary and scientific modes—think, for instance, of Joachim Jeremias or Ben Meyer.¹⁶ In my opinion, there is certainly a place for a Christology that is historically informed, that seeks to absorb and integrate the quest for the historical Jesus into its understanding of the faith.¹⁷ But such a christology, however laudable, must be carefully distinguished from the historical quest itself—something that is rarely done in a systematic fashion.

(2) This first distinction between the quest for the historical Jesus and christology naturally leads to, indeed, really embraces within itself, a second important distinction, namely, the distinction between our knowledge of a Palestinian Jew of the 1st century named Yeshua of Nazareth and our faith-knowledge of Jesus Christ, whom Christians proclaim to be their crucified and risen Lord. To be sure, believing Christians insist that these two figures are one and the same person at different stages of his existence or self-revelation. But academic historians, necessarily prescinding from faith

for the sake of their method, must insist that the precise object of their investigation, the historical Jesus, was always, solely, and entirely a 1st-century Jew, with no Christian pontifical vestments hiding underneath his Jewish cloak, with no resurrection glory reflecting backward onto the dark places of the public ministry and the cross. All a historian, precisely as a historian, can know is a particular circumcised Jewish male from Galilee who, in the early decades of the 1st century A.D., regularly went up to Jerusalem to observe the main—and even some minor—Jewish feasts in the temple as he pursued his prophetic ministry. What kind of Jew he was, where he fit on the variegated map of 1st-century Judaism, how much he may have diverged from what may be vaguely called “mainstream Judaism,” are all valid questions for debate. But if there is any enduring gain from the so-called third quest, it is the one hammered home by scholars like Geza Vermes and E. P. Sanders: Jesus first, last, and only a Jew.¹⁸

(3) This distinction leads in turn to a third, more specific distinction, which brings us to the subject of Volume Four. This third distinction is between Christian moral theology and ethics on the one hand and Jesus’ teaching about the Jewish Law on the other. Perhaps in no other area of the quest is the “Christianization” of the historical Jesus so subtle yet all-pervasive. Be it the question of divorce or the sabbath, purity rules or the taking of an oath, the unspoken thrust of most articles and books on “Jesus and the Law” is to present Jesus’ teaching on Law and ethics as ultimately addressing Christian concerns or at least as amenable to a Christian viewpoint. Just as most quests for the historical Jesus have been christology in historical disguise, so too most treatments of Jesus and the Law are simply works on Christian morality and ethics wearing a yarmulke. Indeed, it could be argued that the “Christianizing” of the historical Jesus reaches its high point in the question of Jesus and the Law, where the Jewish Jesus regularly morphs into the Christian Paul, Augustine, Luther, or Barth—not to mention those anonymous Christian theologians of the Law whom we call Matthew, Mark, Luke, and John.

Here the peril of Christianizing the historical Jesus mutates into the peril of being relevant to Christians, with no hermeneutical reflection required. Many modern Christians eagerly desire either a Thomas Jefferson/Enlightenment Jesus inculcating eternal truths or a psychobabble-counselor Jesus suggesting warm, fuzzy maybes. Still others seek moral direction from Jesus the social critic, the political activist, or the academic iconoclast. Such Jesuses are perennial crowd-pleasers. In contrast, as I can well attest from lectures I have given, Christian eyes glaze over as soon as a scholar insists on envisioning Jesus as a Jew immersed in the halakic debates of his fellow 1st-

century Jews. In my opinion, the best way to treat this glazed-eye syndrome and to block any Christianizing of the historical Jesus in matters moral is *not* to sugarcoat the message. Rather, giving no quarter, one must insist on understanding this 1st-century Jew as addressing his fellow Palestinian Jews strictly within the confines of Jewish legal debates, without the slightest concern about whether any of these legal topics is of interest to Christians. In other words, to comprehend the historical Jesus precisely as a *historical* figure, we must place him firmly within the context of the Jewish Law as discussed and practiced in 1st-century Palestine. As the reader of this volume will notice, a basic insight will slowly but insistently emerge from this critical sifting of the legal material contained in the Gospels: the historical Jesus is the halakic Jesus, that is, the Jesus concerned with and arguing about the Mosaic Law and the questions of practice arising from it.

A critical investigation of the historical Jesus and the Law: a fine program, to be sure—but within this program lurks a further problem. What exactly *was* the Jewish Law in 1st-century Palestine? Early on in the so-called third quest, there was perhaps the naive assumption that all we had to do was to locate Jesus in his Jewish context, and we would have the historical Jesus. Our job would be done. What was lacking was a sufficient appreciation of how varied and fluid 1st-century Judaism was—and how that holds true especially for the Jewish Law. The more we probe, the more we awake with dismay to the realization that this problem of the relation of the *historical* Jesus to the *historical* Jewish Law may be more intractable on the Law side than on the Jesus side.

III. A ROAD MAP THROUGH VOLUME FOUR

All these distinctions and complications underline the importance of tackling this enormous problem with a methodical, step-by-step approach. The first order of business (Chapter 31) will be to grapple with the flexible and evolving concept of Law (Torah) around the time of Jesus. Once a working notion of Law is established, we will take up next those instances of Jesus' Torah-teaching that (i) treat major legal questions that had practical impact on the lives of ordinary Jews, (ii) enjoy multiple attestation of independent sources in the NT, and (iii) appear at first glance to revoke some command, permission, or social institution sanctioned by the written Mosaic Law. The two salient examples are Jesus' sweeping prohibition of divorce (Chapter 32) and his total prohibition of any and all oaths (Chapter 33).

We will then move on to a more central legal observance, one that (i) af-

fects the lives of all Jews every week, (ii) enjoys multiple attestation in Gospel sources, but (iii) does not involve revocation of a major institution enshrined in and enjoined by the Torah. This grand topic is sabbath observance (Chapter 34), one of the most prominent identity badges of Jews in the ancient Greco-Roman world.

It is only after dealing with these *relatively* clear-cut legal domains that we dare to take up one of the most difficult, sprawling, and contentious areas of legal debate and development in ancient Judaism, namely, the purity rules (Chapter 35). Here the conflicting tendencies seen in the Gospels' treatments of Jesus and the Law appear to clash in bewildering fashion. On the one hand, Mark 7:15–19 presents us with a Jesus who, in one fell swoop and by his own authority, brushes aside all the food laws that helped maintain the boundaries that gave Jews a clear social-religious identity in a sea of Gentiles. On the other hand, various passages throughout the Gospels present a Jesus who takes for granted in his actions and sayings the purity system as well as the temple cult of Palestinian Judaism. Did the historical Jesus in effect abrogate the whole purity system by explicitly rejecting one of its key components, the food laws? Or did Jesus, in true prophetic style, simply emphasize the greater importance of inner moral purity, while not in principle rejecting ritual purity as an integral part of the Mosaic Law? Or was Jesus just indifferent to the whole system of purity, a system hotly debated and variously practiced among the diverse groups that made up Palestinian Judaism? We will struggle with these questions at length in Chapter 35.

Finally, having dealt with major individual institutions and practices commanded or regulated by the Torah, we will try to widen the scope of our inquiry by asking a broader question of meaning. Did the historical Jesus ever address the question of the Law as a whole, giving some indication of how he thought its various parts related to the totality of Torah? In other words, beyond his teachings about individual legal institutions and practices, did Jesus ever indicate his views on what are the supreme values in the Torah, or what are its guiding and governing principles, or what is the meaning of the Law as a whole? Did he in fact have any vision of the whole? To answer this question, we will sift and evaluate the various love commands attributed to Jesus in the Gospels (Chapter 36). Which—if any—of these love commands come from the historical Jesus, and what precisely are the range and meaning of each one? Do they provide a coherent system or an organizing principle for Jesus' varied pronouncements on individual parts of the Law?

As an aside, I should offer a clarification here: what I have just said about my approach to the love commands of Jesus should obviate a possible misconception—namely, that Volume Four's title, *Law and Love*, presup-

poses some sort of opposition or antithesis between the Mosaic Torah and the command to love. Rather, the title of Volume Four simply employs a venerable rhetorical device known as *merismus* (or, in English, *merism*).¹⁹ Using *merismus*, a writer designates the totality of some reality or experience by naming two of its complementary parts, for example, its beginning and its end. A prime example is offered by Ps 121:8: “Yahweh will protect your going out and your coming in both now and forever.” One’s “going out” and “coming in” symbolize and encompass one’s entire life and activity, summed up in these two actions functioning as bookends. So it is with *Law and Love*. The title is simply a convenient way of designating the whole of Volume Four by naming the first and last chapters, the alpha and omega of our investigation. As Chapter 36 will show, far from being opposed to the Law, love is for Jesus the Law’s supreme value and command.²⁰

Having dealt with all these questions step by step, I will conclude Volume Four with some reflections that are intended to be more than a mere laundry list of the results of various chapters. Instead of simply recapitulating the summaries at the end of each chapter, I will use the conclusion to step back, grasp a sense of the whole, and raise some larger questions about Jesus, Law, and morality.

Before we begin our long trek through the Law, I should alert the reader to some problems of terminology that will be treated at greater length in Chapter 31. There we shall see that the Hebrew word Torah (*tôrâ*) is a capacious term with a whole range of meanings. Among those meanings we may count “instruction,” “teaching,” “direction,” “directive,” or “law.” When used of the Torah given by God to Moses, the term can almost be translated at times as “divine revelation.” When the Jews who translated the Pentateuch into Greek chose the word *nomos* (“law”) as the equivalent of *tôrâ*, they were not squeezing a Hebrew word with many meanings into a legalistic Greek straightjacket. The Greek word *nomos* likewise carried within itself a whole range of meanings. As in Hebrew, so in Greek, the precise denotation depends on the individual context. It is when we come to the standard English translation of *tôrâ* or *nomos*, namely, “law,” that we encounter difficulty. In popular usage, “law” has a much more narrow semantic range than either *tôrâ* or *nomos*. Yet “law” is such an entrenched translation of the Hebrew and Greek nouns that I do not delude myself with the hope that I could decree a sudden change either in English usage or in traditional translation practice.

My short-term solution (admittedly, a practical compromise) is to alternate “Torah” and “Law” on a regular basis throughout this volume as one way of reminding the reader of the wider sense of “Law.” While not perfect,

this solution may be justified on the grounds that in this volume we are focusing on the legal component of the Pentateuch rather than on its narrative or poetry. To help provide some further nuance in usage, I will use “Law” with an uppercase “L” to signify the Mosaic Law as a whole, while “law” with a lowercase “l” will denote any individual command, statute, or precept, be it inside or outside the Mosaic Law.

A second point on usage flows from the first. Jesus never uses words like “morality” or “ethics” in any of his sayings. He speaks instead of doing God’s will and/or keeping his commandments. In discussing these commandments, the historical Jesus never *explicitly* distinguishes between what moderns would call “moral/ethical” laws on the one hand and “ritual/ceremonial/levitical” laws on the other. Indeed, he could hardly have done so when, with the temple sacrificial system still operating, fulfilling certain moral obligations (e.g., compensating for damage done to a person or property) could involve ritual obligations (e.g., a temple sacrifice). To indicate this interweaving and overlapping of areas that we would distinguish, I will at times purposely alternate words like “moral,” “ethical,” and “legal.” I will do this to emphasize that, far from being opposed to each other, morality and observance of the Law meshed in the mind of Jesus.

As we shall see, at times some of Jesus’ sayings may *imply* a distinction between the two realms of the ethical and the ritual, but this distinction is never made explicit or thematized.²¹ If anything, the friendly scribe in Mark’s version of Jesus’ teaching on the double command of love (Mark 12:28–34) is more explicit about such a distinction than Jesus is himself. While there is a risk that my regular alteration of the terms “Law,” “Torah,” “legal,” and “moral” might cause confusion, I trust that my explanation in Chapter 31 will make things sufficiently clear.

IV. ONCE AGAIN, A REMINDER ABOUT THE RULES OF THE ROAD

The methodology governing *A Marginal Jew* was laid out in Part One of Volume One (pp. 1–201) and summarized at the beginning of Volume Two (pp. 4–6) and Volume Three (pp. 9–12). But even patient readers who have persevered to this fourth volume might welcome a brief refresher course on the goal of this work and the method by which we move to that goal. If, however, readers feel that they remember quite well the basic method of these volumes, they should feel free to skip ahead to Chapter 31.

To repeat what I have said above: the historical Jesus is an abstract con-

struct created by modern scholars applying historical-critical methods to ancient sources. If scholars apply these methods to the appropriate sources with professional expertise, careful logic, and personal integrity, we have good reason to expect that their abstract construct will approach and partially coincide with the 1st-century Jew called Jesus of Nazareth. Granted the severe limitations of our sources, the match between 21st-century historical construct and 1st-century historical reality will never be perfect. At best, it will be a more or less accurate approximation.

If this historical Jesus is not the “real Jesus” (the total reality of everything Jesus said and did during his life), neither is he the “theological Jesus,” the object of systematic reflection based on Christian faith.²² To stress the need to prescind from (not deny) what a person claims to know by faith, I concocted in Volume One the fantasy of an “unpapal conclave.” A Catholic, a Protestant, a Jew, a Muslim, and an agnostic—all honest historians well-versed in ancient history and ancient religious movements—are locked up in the bowels of the Harvard Divinity School library, put on a spartan diet, and not allowed to emerge until they have hammered out a consensus document on the historical Jesus of Nazareth.²³

An essential requirement of this document would be that it is based on purely historical sources and arguments. Its conclusions would have to be open to verification by any and all sincere persons using the means of modern historical research. No doubt, such a consensus document would suffer from a narrow focus, a fragmentary vision, perhaps even some distortions. It certainly would not claim to present a complete, let alone ultimate and definitive, interpretation of Jesus, his work, and his intentions.²⁴ Nevertheless, at least it would provide an academically respectable common ground and starting point for dialogue among people of various faiths or no faith.

To give one concrete example of what this would involve: the unpapal conclave—or just about any quester for the historical Jesus—could agree that Jesus “was crucified under Pontius Pilate and suffered death.” Although these words happen to be those of the so-called Nicene-Constantinopolitan Creed, drawn up around the time of the second ecumenical council (Constantinople I, in A.D. 381),²⁵ they are nevertheless, when taken in isolation, a sober statement of historical fact. They are affirmed or intimated by Josephus and Tacitus as well as by many various streams of NT traditions that are independent of one another. Thus, one does not have to be a believer to affirm this short narrative of events.

What the unpapal conclave—or any historian operating *simply as a historian*—could not affirm is a slightly longer form of the quotation from the same creed: namely, that Jesus “*for us human beings and for our*

*salvation . . . was crucified under Pontius Pilate for our sake, [and] suffered [death].”*²⁶ The “for us human beings,” “for our salvation,” and “for our sake” are all expressions of Christian faith and christology, affirming the saving effect of Jesus’ life and death. Unlike the plain affirmation of Jesus’ crucifixion and death under Pontius Pilate, this longer statement is not open in principle to empirical investigation and verification by any and every honest observer, believer and nonbeliever alike. (Nor, for that matter, is the affirmation of the saving effect of Jesus’ death open to falsification by empirical means.) Hence this affirmation is not a statement that falls under the purview of questers for the historical Jesus *in their capacity as historians*—though some questers, if they are Christians, will believe on other grounds that the statement is true.²⁷

To move from definitions to sources: as Volume One showed, there are very few sources for knowledge of the historical Jesus beyond the four canonical Gospels. Paul and Josephus offer little more than tidbits. Claims that later apocryphal Gospels and the Nag Hammadi material supply independent and reliable historical information about Jesus are largely fantasy.²⁸ One is hardly surprised, though, that in the United States the Nag Hammadi material has generated not only sensationalistic novels but also sensationalistic monographs claiming to be scholarship. Wild claims notwithstanding, in the end serious historians are left with the difficult task of sifting through the four Gospels for historical tradition. The task is difficult indeed, primarily because these documents are all products of Christian churches in the second half of the 1st century A.D. Written some forty to seventy years after Jesus’ death, they are shot through with Christian faith in Jesus as the risen Lord of the church. Hence, only a careful examination of the Gospel material in the light of the criteria of historicity (i.e., rules for judging what is historical) can hope to yield reliable results.²⁹

In the quest for the historical Jesus, five criteria have proved especially useful:

(1) The criterion of *embarrassment* pinpoints Gospel material that would hardly have been invented by the early church, since such material created embarrassment or theological difficulties for the church even during the NT period—a prime example being the baptism of Jesus by John the Baptist at the beginning of the public ministry.³⁰ Or to take an example from the end of the public ministry: the criterion of embarrassment argues forcefully for the historicity of the public crucifixion of Jesus as a criminal by a Roman official. Crucifixion was the most shameful and degrading form of execution in the Roman world; it was largely reserved for slaves, bandits, rebels, or other persons lacking Roman citizenship and convicted of being a threat to

public order.³¹ Worse still, not only was Jesus crucified, he was crucified by the supreme legal authority in Judea. There was nothing illegal or improper about his trial and execution, if one judges them simply by the rules and procedures (or lack thereof) in force at the time.³² Hence one senses from the earliest traditions enshrined in the NT a constant struggle on the part of Christians to explain or explain away the scandalous, off-putting fact of Jesus' death by crucifixion. Besides being shocking and shameful, Jesus' crucifixion was a political event that could not help but make Christians suspect in the eyes of Roman citizens and their rulers.

Intriguingly, within the NT, the Christian response to the problem of the cross exhibits no one normative way of interpreting Jesus' death; many different strategies are employed to cope with the embarrassment. The early pre-Pauline formulas of faith, reaching back probably to the 30s of the 1st century, already interpret the crucifixion as some sort of atoning sacrifice for sins (e.g., 1 Cor 15:3–5; Rom 3:24–26; Rom 4:25; later on, this approach is developed at great length in the Epistle to the Hebrews). Paul himself stresses the paradox of God putting to shame a proud and powerful world of sinners by the shameful death of a weak Jesus on the cross (1 Cor 1:18–31). The Q document evokes the theme of the rejected and martyred prophets of the OT: Jesus, the eschatological prophet, is the last in the line of the martyred prophets as salvation history draws to its consummation. Early traditions preserved in Peter's sermons in the Acts of the Apostles (e.g., Acts 2:23–24; 3:13–15; 4:10; 5:30–31; cf. Paul's sermon at Pisidian Antioch in 13:27–30) sharply distinguish between the crucifixion (an evil act of evil men that was foreseen and permitted by God) and the resurrection (the true saving act of God, reversing the evil act of the crucifixion). Beneath the present Passion Narratives in the four Gospels, some scholars detect a primitive theology of the crucified Jesus as the suffering righteous man, a figure frequently depicted in the OT psalms of lamentation. In some passages, the mysterious figure of the suffering servant of Yahweh in Isa 52:13–53:12 seems to be evoked. The Gospel of John faces the shame of the cross head-on with a strategy of irony, paradox, and total reversal of meaning: to the eyes of faith, the cross is actually Jesus' exaltation and glorification, his condemnation of and triumph over the world that foolishly thinks it is condemning and defeating him.

In all these varied, not to say at times contradictory, strategies of apologetics, one can sense the early Christians scrambling to come up with explanations for the unexpected and shocking climax of the story of Jesus. Whatever one's expectations of a Jewish messiah or a savior of the world, a Galilean Jew crucified by a Roman prefect in Jerusalem did not fit the job

description.³³ The struggle by Christian missionaries to construct an apologetic to convince or sustain converts, a struggle that permeates a good part of the NT, argues eloquently that the crucifixion of Jesus was the last thing the first Christians would have invented if left to themselves.

(2) The criterion of *discontinuity* focuses on words or deeds of Jesus that cannot be derived either from the Judaism(s) of Jesus' time or from the early church (e.g., Jesus' rejection of voluntary fasting).³⁴ To take a curious example from Chapter 36 of Volume Four: when asked what is the greatest commandment, Jesus replies by citing the two commandments enjoining love of God with all one's heart and love of neighbor as oneself (Mark 12:28–34). At first glance, the reader will perhaps be surprised to see that I invoke the criterion of discontinuity to establish the historicity of this anecdote. After all, the two commandments, taken by themselves, are simply citations of two precepts contained in the Pentateuch (Deut 6:4–5 and Lev 19:18b). True, but what is “discontinuous” is what Jesus does with these texts. He (i) cites each commandment word for word, (ii) joins the two of them back to back, (iii) ranks them explicitly as “first” and “second,” and (iv) concludes by declaring that no other commandment is greater than these two. This fourfold configuration of a double commandment of love is found nowhere else in the OT, the literature of Second Temple Judaism, the rest of the NT, or the early patristic writings. All this constitutes a glaring discontinuity of teaching that often goes unremarked.

(3) The criterion of *multiple attestation* focuses on sayings or deeds of Jesus witnessed (i) in more than one independent literary source (e.g., Mark, Q, Paul, or John)³⁵ and/or (ii) in more than one literary form or genre (e.g., sayings of Jesus about the cost of discipleship plus narratives about his peremptory call of various disciples). To take a clear example from Volume Four: that Jesus forbade divorce is supported by the independent witness of Mark, Q, and Paul. The agreement of the two earliest Synoptic sources with Paul's First Letter to the Corinthians (earlier than Mark and Q from a literary point of view) is an especially strong argument. Not only do we have three independent sources, we also have three different literary genres: a dispute story within the narrative of a whole Gospel (Mark), a stray saying within a collection of logia (Q), and a letter written to a specific church about specific problems (1 Corinthians).

(4) The criterion of *coherence* is brought into play only after a certain amount of historical material has been isolated by other criteria. The criterion of coherence holds that sayings and deeds of Jesus that fit in well with the preliminary “database” established by the other criteria have a good chance of being historical. To take an example from Volume Four:

the argument for the historicity of Jesus' command, "love your enemies," is based primarily on the criterion of discontinuity. Yet this laconic command also receives a certain amount of support from the criterion of coherence. Other statements and commands of Jesus that have already been judged historical in *A Marginal Jew* display the same rhetorical strategy evinced in "love your enemies": disturbing content is articulated in brief, blunt, and shocking formulations in order to hammer home the point in memorable fashion.

(5) Instead of simply judging individual sayings or deeds of Jesus, the criterion of *Jesus' rejection and execution* looks primarily at the larger pattern of Jesus' ministry and asks what words and deeds fit in with and explain his trial and crucifixion. A Jesus whose words and deeds did not threaten or alienate people, especially powerful people, is not the historical Jesus. In a sense, then, the whole portrait of Jesus that emerges from these four volumes of *A Marginal Jew* must be evaluated in the light of this criterion. More specifically, though, certain individual sayings and deeds loom especially large in the light of Jesus' arrest and crucifixion in Jerusalem. Notable among them are the symbolic-prophetic action of Jesus' "triumphal entry" into Jerusalem, his prediction of the destruction of the Jerusalem temple, and his acting out of that prophecy in his "cleansing" of the temple.

Contrary to what some scholars have claimed, I do not think that Jesus' teachings on the Law directly led to his execution. At most, Jesus' more disturbing pronouncements and actions (e.g., his total rejection of divorce and oaths, his rejection of voluntary fasting, his apparent indifference to purity rules) would have offended not just Pharisees but also almost any devout Jew. His stance on these issues may have alienated many who might otherwise have supported or defended him when the final clash came. But, by themselves, his provocative teachings on the Law did not cause the final clash. They were, at most, an aggravating factor.

In addition to these five primary criteria of historicity, various secondary criteria may also be invoked, but usually only as "backup" or confirmation for the primary criteria. These secondary (some would say dubious) criteria include traces of the Aramaic language in the sayings of Jesus and echoes of the early 1st-century Palestinian environment in which Jesus lived. Still weaker as criteria (some would say useless) are the vivid and concrete nature of a narrative and the supposed general tendencies of the Synoptic tradition as it develops.

Given the difficulty involved in articulating and applying these criteria, it is not surprising that some scholars brush aside the whole question of method and criteria. They prefer to "muddle through." Yet every scholar

engaged in the quest for the historical Jesus is de facto operating with some method and criteria, however inchoate and unexamined. The danger in “muddling through” is that one easily begins to draw from the data the conclusions one wants rather than the conclusions the data warrant. Criteria are important because, when applied methodically to the data, they can force the quester to draw conclusions he or she has not foreseen and perhaps does not desire. For instance, it was the weight of evidence rather than personal desire that constrained me to judge authentic both Jesus’ double command of love and his command to love enemies. Originally, I thought a judgment of *non liquet* (not clear either way) more likely. Or, to take an opposite example: for many years, under the influence of scholars like Ernst Käsemann and Norman Perrin, I had considered Jesus’ revocation of food laws (Mark 7:15) authentic on the grounds of discontinuity. It was only extended analysis of the whole text of Mark 7:1–23 and careful weighing of the complicated arguments pro and con (notice the length of Chapter 35!) that finally led me to conclude, almost against my will, that the saying was a product of the early church. In sum, my own experience throughout the writing of these four volumes has convinced me that, while methodology and criteria may be tiresome topics, they are vital in keeping the critic from seeing in the data whatever he or she has already decided to see. The rules of the road are never exciting, but they keep us moving in the right direction.

More important still, these rules of the road, as well as the whole introduction to Volume Four, are meant to reinforce a basic truth that I have stressed since the start of Volume One. In any rigorous and honest quest for the historical Jesus, we are always dealing with varying degrees of probability. Of its very nature, the quest cannot and should not try to sell the product of its hypothetical reconstruction as the new and improved version of Christian faith in Jesus Christ. That would be absurd, though it is all too often done or at least implied. Rather, as is the case with any scholarly attempt to reconstruct a lesser-known figure of ancient history, the historical-critical method, when applied to Jesus of Nazareth, exemplifies “both its importance and its limitations,” as a very astute theologian has put it.³⁶ Indeed, paradoxically, it is only when the limitations of our historical reconstruction are fully appreciated that the proper importance of the historical Jesus can be evaluated and appropriated by further academic research, interfaith dialogue, and Christian theology.

With this sober reminder, let us turn to our first task in the attempt to grasp Jesus’ relation to the Law, namely, to explore the fluid and complex meaning of the Law (Torah) around the time of Jesus.

NOTES TO THE INTRODUCTION

¹ This all-too-brief introduction to the Law question is meant both to offer a few samples of the wide range of scholarly opinions and to indicate a few of the problems connected with each major direction in research (i.e., conscious rejection of the Law, dialectical or mediating approaches to the Law, total acceptance of the Law along with “liberal,” “deviant,” or “controversial” teachings on individual practices). One point becomes clear very quickly. There is a single overriding challenge to be faced by each and every scholarly position on the subject, namely, how to provide a coherent explanation of Jesus’ attitude toward the Law that covers all the sayings attributed to him with fair probability.

² Jan Lambrecht, “Jesus and the Law. An Investigation of Mk 7, 1–23,” *ETL* 53 (1977) 24–79. See esp. pp. 76–79; the quotation that I cite in the main text is on p. 77. Lambrecht rejects the attempts by some exegetes to soften Jesus’ opposition to the Law. At the same time, Lambrecht admits that Jesus apparently observed the Law, just like many of his fellow Jews, as a matter of course, without questioning it. Lambrecht also holds open the possibility that Jesus may not have fully realized all the consequences of his conscious attitude toward the Law.

³ Werner Georg Kümmel, “Äussere und innere Reinheit des Menschen bei Jesus,” *Das Wort und die Wörter* (Gerhard Friedrich Festschrift; ed. Horst Balz and Siegfried Schulz; Stuttgart: Kohlhammer, 1973) 35–46.

⁴ See Morton Smith, *The Secret Gospel* (New York: Harper & Row, 1973) 111–14. For arguments that Smith’s “Secret Gospel of Mark” is actually a forgery, see Peter Jeffery, *The Secret Gospel of Mark Unveiled* (New Haven: Yale University, 2007); Stephen C. Carlson, *The Gospel Hoax. Morton Smith’s Invention of Secret Mark* (Waco, TX: Baylor University, 2005). Arguing against the idea of a forgery is Scott G. Brown, *Mark’s Other Gospel* (Waterloo, Ontario: Wilfrid Laurier University, 2005).

Views about Jesus liberating people from traditional religion and law continue to be current in popular American religion, though nowadays political correctness usually keeps one from saying openly that Jesus broke with the Mosaic Law or with Judaism. Consider, for instance, what ramifications for the question of the Jewish Jesus and the Jewish Law the statement of Robert Funk (*Honest to Jesus. Jesus for a New Millennium* [San Francisco: Harper, 1996] 302) might have: “Jesus . . . may be said to have been *irreligious*, *irreverent*, and *impious* [emphasis in the original]. . . . because he was indifferent to the formal practice of religion, he is said to have profaned the temple, the sabbath, and breached the purity regulations of his own legacy.” Not surprisingly, Funk goes on to insist that Jesus’ significance should be detached from any exclusive religious context—including, I would presume, 1st-century Judaism. Ironically, various radical scholars in the past have taken almost the opposite tack from Funk to attain Funk’s goal of separating the historical Jesus from traditional Christianity. In the 18th and 19th centuries,

questers for the historical Jesus who wanted to create as broad a gulf as possible between Jesus and Christianity (as Funk does) sometimes emphasized that Jesus did not wish to break with or alter the Mosaic Law, even in its ceremonial regulations; so, e.g., the supposed founder of the first quest, Hermann Samuel Reimarus in his *Fragments* (Lives of Jesus Series; ed. Charles H. Talbert; Philadelphia: Fortress, 1970; originally published in German in 1774–78) 71–72, 98–102.

⁵ For a survey of Jesus' stance vis-à-vis the Law on the level of the various redactional theologies found in the NT, see the careful study of William R. G. Loader, *Jesus' Attitude towards the Law* (WUNT 2/97; Tübingen: Mohr [Siebeck], 1997); cf. his more popular presentation (which includes a brief consideration of the historical Jesus), *Jesus and the Fundamentalism of His Day* (Grand Rapids, MI/Cambridge, UK: Eerdmans, 2001). For studies of the controversy stories, especially in their Marcan form, see Arland J. Hultgren, *Jesus and His Adversaries. The Form and Function of the Conflict Stories in the Synoptic Tradition* (Minneapolis: Augsburg, 1979); Joanna Dewey, *Markan Public Debate* (SBLDS 48; Chico, CA: Scholars, 1980); Jean-Gaspard Mudiso Mbâ Mundla, *Jesus und die Führer Israels. Studien zu den sog. Jerusalemer Streitgesprächen* (NTAbh n.s. 17; Münster: Aschendorff, 1984).

⁶ Even in the highly polemical Gospel of John, the Prologue (1:17) declares that “the Law was given [*edothē*, namely by God (the divine passive voice)] through Moses.” In Mark 7:8–13, commandments delivered by Moses in Exodus are declared to be “the commandment of God” and “the word of God.” When the rich man asks Jesus what he must do to inherit eternal life, Jesus simply points him to a sampling of the commandments of the Decalogue (Mark 10:17–19).

⁷ Indeed, Mark 7:15–19, in which (at least in Mark's redactional understanding) Jesus effectively revokes the food laws of the Pentateuch by declaring all foods clean, is a kind of acid test for the various authors writing on Jesus and the Law. The more authors hold that Jesus opposed or revoked the Law itself, the more Mark 7:15–19 (or at least its substance) is declared authentic and allowed to define Jesus' stance. The more authors hold that Jesus' teaching was compatible with the Law and simply expressed “liberal,” “deviant,” or “radical” views on debatable points of practice, the more Mark 7:15–19 is declared to be a creation of the early church as it sought to justify its so-called Law-free mission to the Gentiles.

⁸ Many German authors, and many others in dependence on them, seem at times to use “dialectic” almost as a conjuring word, as though the mere presence of the word solved the problem of Jesus and the Law. Once we begin to probe beneath the surface of this widespread appeal to “dialectic,” we find that different authors understand the supposed dialectic of Jesus and the Law in notably different ways. One example of the dialectical approach can be found in Walter Gutbrod, “*nomos*, etc.,” *TDNT* 4 (1967) 1059–65. Gutbrod's dialectical analysis of “Jesus' Negation of the Law” and “Jesus' Affirmation of the Law” owes not a little to Pauline theology. But

at least Gutbrod tries to lay out his position in an orderly fashion. In all too many presentations of Jesus' position on the Law, "dialectic" seems to become a slogan that hides the fact that the author never really grapples with the specifics of the problem; see, e.g., Hans Conzelmann, *Jesus* (Philadelphia: Fortress, 1973) 52–54, 59–67. While Ernst Käsemann ("The Problem of the Historical Jesus," *Essays on New Testament Themes* [SBT 41; London: SCM, 1964, from an article originally published in German in 1954] 15–47) likewise speaks of Jesus' dialectical relationship to the Law, his position tends (like Lambrecht's) to the more extreme claim that Jesus in effect annulled the Law (pp. 38–39): "We can hardly say . . . that Jesus has left the law as such untouched and merely made its demands more radical. . . . Matthew obviously thought that Jesus was only attacking the rabbinic and Pharisaism with their heightening of the demands of the Torah. But the man who denies that impurity from external sources can penetrate into man's essential being is striking at the presuppositions and the plain verbal sense of the Torah and at the authority of Moses himself." Although Günther Bornkamm (*Jesus of Nazareth* [New York: Harper & Row, 1960; German original, 1956] 96–100) cites Käsemann on this point, it is noteworthy that he does not go as far as Käsemann in his own formulation of the dialectic. While insisting on Jesus' freedom and authority vis-à-vis the Law, Bornkamm also emphasizes that "Jesus does not intend to abolish the scriptures and the law, and to replace them by his own message. They are and remain the proclamation of God's will. For Jesus, however, the will of God is present in such immediate fashion that the letter of the law may be gauged by it." At the basis of the various approaches of many of these "post-Bultmannians" is the stance of Rudolf Bultmann himself; see, e.g., his summary exposition of the theme in his *Theology of the New Testament* (2 vols.; London: SCM, 1952, 1955) 1. 11–22. In heavily existentialistic fashion, he emphasizes Jesus' demand for radical obedience to the God who "claims man whole—and wholly." This proclamation of the will of God demanding the radical obedience of the whole person is seen by Bultmann as a protest against Jewish legalism and ritualism. However, Bultmann holds that Jesus did not contest the authority of the OT Law itself; rather, he opposed the interpretation of the Law common to the Jewish scribes of the time. What Jesus does with sovereign freedom is to make distinctions among the various demands of the Law. I might note at this point that, given all that has been achieved in the third quest for a truly Jewish Jesus, one can only look back in amazement at Bultmann's sweeping generalizations and denigrations of the Judaism of Jesus' day. In a sense, the fundamental problem with so many of these attempts to articulate Jesus' stance vis-à-vis the Law is a hopelessly inadequate understanding and appreciation of 1st-century Palestinian Judaism.

Similar approaches, though without the heavy existentialistic baggage, can be seen in exegetes outside the Bultmannian tradition. For example, Eduard Schweizer (*Jesus* [NT Library; London: SCM, 1971; German original, 1968] 30–34) entitles his treatment of Jesus and the Law "Jesus' Ambivalence towards the Law." He holds that Jesus, like all the Jewish parties of his day, accepted the Law "as God's great gift to Israel, transcending everything else" (p. 30). Yet Jesus inculcated radical obedience to God's will, "far transcending mere observance of the letter of the law"

(p. 31). Indeed, Jesus “goes still further: there are even places where Jesus annuls not only the Jewish interpretation but the Old Testament law itself” (p. 32). According to Schweizer, “there can be no doubt that Jesus, through his entire conduct, again and again ostentatiously transgressed the Old Testament commandment to observe the Sabbath.” (p. 32). As we shall see in Chapter 34, this last claim in particular is highly questionable. More to the point, how these latter statements of Schweizer cohere with his initial claim that Jesus accepted the Law as “transcending everything else” remains unclear. A similar tack is taken by Joachim Jeremias in his *New Testament Theology. Part One. The Proclamation of Jesus* (NT Library; London: SCM, 1971) 204–8. According to Jeremias, “Jesus lived in the Old Testament,” frequently citing or alluding to it, especially Isaiah, Daniel, and the Psalms (p. 205). Indeed, Jesus found in the Pentateuch the basic norms of the will of God. Yet Jesus not only radicalizes the Law; he dares to criticize and supersede the words of the written Torah. Jesus repeals or abolishes regulations in the Torah, such as divorce and the law of retaliation. At the same time, Jesus rejected “in a radical way” the “rabbinic” (*sic*) *hālākā* of his day, especially concerning the sabbath (p. 208).

⁹ See, e.g., the summary judgment of Joseph Klausner in his groundbreaking *Jesus of Nazareth. His Life, Times, and Teaching* (New York: Macmillan, 1925; published in Hebrew in 1922) 367: “never did Jesus think of annulling the Law (or even the ceremonial laws which it contained) and setting up a new law of his own.” A similar rejection of the idea that Jesus rejected, opposed, or annulled the Law as such permeates the various works on Jesus written by Geza Vermes: *Jesus the Jew* (Philadelphia: Fortress, 1973); *Jesus and the World of Judaism* (Philadelphia: Fortress, 1983); *The Religion of Jesus the Jew* (Minneapolis: Fortress, 1993); and *The Changing Faces of Jesus* (New York: Viking, 2000). A terse summary of Vermes’s view can be found in *The Religion of Jesus the Jew*, 21: “Nowhere in the Gospels is Jesus depicted as deliberately setting out to deny or substantially alter any commandment of the Torah *in itself*” [emphasis in the original]. According to Vermes, the controversies in which Jesus engages concern either conflicts between laws or the precise understanding of the extent of a precept.

¹⁰ E. P. Sanders, “The Synoptic Jesus and the Law,” *Jewish Law from Jesus to the Mishnah* (London: SCM; Philadelphia: Trinity, 1990) 1–96, esp. 1–6, 90–96.

¹¹ One must keep in mind the precise point at issue here: whether anything in Jesus’ teaching opposes or rescinds any part of the written Law of Moses, i.e., any of its commands, prohibitions, permissions, or institutions. The query proposed in this volume is therefore broader than simply the narrow question of whether Jesus annulled an express command of the Torah. In addition, the question posed here is not whether at times other Jews might expressly and in principle rescind important elements of the Law (hence not simply by casuistry or a legal sleight of hand, as is the case, for instance, in Hillel’s *Perozbol* or *Prosbul*, a legal document that circumvents the sabbatical-year cancellation of loans [see *m. Šeb.* 10:3–4]). In fact,

we know of some Jews who did such things: e.g., some Diaspora Jews who were interested in only the symbolic (or allegorical) and not the literal meaning of the Law (see, e.g., Philo, *De migratione Abrahami* [*On the Migration of Abraham*], 89–93). On these “extreme allegorists,” see David M. Hay, “Philo’s References to Other Allegorists,” *Studia Philonica* 6 (1979–1980) 41–75, esp. 47–52; Peder Borgen, “Philo of Alexandria. A Critical and Synthetical Survey of Research since World War II,” *ANRW* II/21.1, 98–154, esp. 126–28. At a much later date (17th century), one finds a very different type of antinomianism in Shabbatai ʒevi (on whom see the classic work by Gershom Scholem, *Sabbatai ʒevi: The Mystical Messiah, 1626–1676* [Bollingen Series 93; Princeton: Princeton University, 1973]). On pp. 802–14, Scholem discusses the development of Nathan of Gaza’s antinomian theory about a messiah who saves the world by himself transgressing the Law. On Shabbatai ʒevi, see also R. Hrair Dekmejian, “Charismatic Leadership in Messianic and Revolutionary Movements,” *Religious Resurgence* (ed. Richard T. Antoun and Mary Elaine Hegland; Syracuse, NY: Syracuse University, 1987) 78–107; Marcus van Loopik, “The Messianism of Shabbetai Zevi and Jewish Mysticism,” *Messianism through History* (ed. Wim Beuken, Seán Freyne, and Anton Weiler; London: SCM; Maryknoll, NY: Orbis, 1993) 69–81; Moshe Idel, “Saturn and Sabbatai Tzevi: A New Approach to Sabbateanism,” *Toward the Millennium* (Studies in the History of Religion 77; ed. Peter Schäfer and Mark Cohen; Leiden: Brill, 1998) 173–202; Elliot R. Wolfson, “The Engenderment of Messianic Politics: Symbolic Significance of Sabbatai ʒevi’s Coronation,” *ibid.*, 203–58. In even a superficial overview of Jesus, Philo, and Shabbatai ʒevi, one notices immediately the very different theological, social, and cultural contexts in which their respective teachings about the Law arose and operated.

¹² Throughout this volume, I will use phrases like “OT Pseudepigrapha,” “inter-testamental literature,” and “the literature of Second Temple Judaism” to refer to nonbiblical Jewish literature around the time of Jesus, while admitting the problems connected with each of these designations. One has to face the fact that all three terms circulate in current usage and that there is no one satisfactory substitute for them, despite their “fuzzy edges.”

¹³ *A Marginal Jew*, 3. 305–10, 313–32.

¹⁴ Among his many works, see in particular *Method in Theology* (New York: Herder and Herder, 1972), esp. pp. 125–45.

¹⁵ See Paul Hollenbach, “The Historical Jesus Question in North America Today,” *BTB* 19 (1989) 11–22.

¹⁶ Jeremias, *New Testament Theology*; Ben F. Meyer, *The Aims of Jesus* (London: SCM, 1979).

¹⁷ I see the important work of N. T. Wright (e.g., *Jesus and the Victory of God* [Christian Origins and the Question of God 2; Minneapolis: Fortress, 1996]) in

this light. In other words, I consider this book not an example of the quest for the historical Jesus as such, but rather a prime example of how one goes about appropriating results of the quest for a larger theological/christological project. The matter is more complicated when it comes to the fine work of James D. G. Dunn, *Jesus Remembered* [Christology in the Making 1; Grand Rapids, MI/Cambridge, UK: Eerdmans, 2003]). Much in this individual volume can stand on its own as a treatment of the historical Jesus. As the title of the series indicates, though, this volume is viewed as part of a larger christological project.

¹⁸ I have already cited the key works of Vermes on this subject. As for E. P. Sanders, see his *Jesus and Judaism* (Philadelphia: Fortress, 1985); *Jewish Law from Jesus to the Mishnah; Judaism. Practice & Belief 63 BCE–66 CE* (London: SCM; Philadelphia: Trinity, 1992); *The Historical Figure of Jesus* (London: Penguin, 1993).

¹⁹ The 1934 edition of *Webster's New International Dictionary of the English Language* defines the rhetorical term *merism* as “a form of synecdoche in which a totality is expressed by two contrasting parts.”

²⁰ To be honest, there is also a less weighty reason for choosing *Law and Love* as the title of Volume Four: the author's abiding attraction to alliteration, as attested in *The Roots of the Problem and the Person, Mentor, Message, and Miracles, and Companions and Competitors*.

²¹ One Gospel pericope that comes close to such a distinction is Mark 7:1–23. But, as I will show in Chapter 35, almost nothing in this pericope (except possibly for the subunit about Qorban) comes from the historical Jesus.

²² For an understanding of the “real Jesus” that moves in the theological and christological rather than the historical realm, see Luke Timothy Johnson, *The Real Jesus* (San Francisco: Harper, 1996); cf. his *Living Jesus* (San Francisco: Harper, 1999). For example, on p. 142 of *The Real Jesus*, Johnson states that “the ‘real Jesus’ for Christian faith is the resurrected Jesus.” I have no problem with such a definition when one is operating in the realm of faith and theology; see, e.g., *A Marginal Jew*, 1. 197. But, as I point out in that passage, there is another sense of “real,” proper to modern historical investigation (cf. *A Marginal Jew*, 1. 21–24), which Johnson seems unwilling to affirm in the special case of Jesus of Nazareth.

²³ A blind spot in the constitution of my mythical “unpapal conclave” at the beginning of Volume One (p. 1) was the omission of a Muslim scholar within the group of learned historians locked up in a basement until they could hammer out a consensus document on the historical Jesus. Like the other scholars, the Muslim would be obliged, for the sake of academic dialogue, to adhere strictly to the historical-critical method and prescind from what he or she affirmed by faith.

²⁴ Not unlike the configuration of hard disks in computers, which allows of various levels of formatting, the writing of history and biography, while always interpre-

tive to some degree, allows of various levels of interpretation. The very gathering of data and the passing of judgment as to their historicity involve a certain “low level” of interpretation. Beyond that unavoidable low level, *A Marginal Jew* attempts as much as possible to let any overarching interpretation of Jesus and his work emerge gradually and naturally out of the convergence of the data judged historical. In particular, *A Marginal Jew* does not intend to impose on the data any predetermined interpretive grid, be it political, economic, or sociological. Such grids can be useful at a later stage of interpretation, but in the quest for the historical Jesus they neither generate data concerning Jesus nor solve the problem of the data’s historicity. To be sure, *A Marginal Jew* works with presuppositions, but they are the presuppositions that are commonplace in historiography.

²⁵The “Nicene-Constantinopolitan Creed” does not appear to have been officially adopted by Constantinople I, but the creed’s general acceptance at a later date led to its being attributed *post factum* to this council. In popular usage, it is often referred to simply as the “Nicene Creed,” though the actual creed adopted by Nicea I (A.D. 325) is notably shorter.

²⁶The key phrases (including the words affirming the soteriological effect of Jesus’ death) are in Greek *ton di’hēmas tous anthrōpous kai dia tēn hēmeteran sōtērian katelthonta ek tōn ouranōn . . . staurōthenta te hyper hēmōn epi Pontiou Pilatou kai pathonta* (“who for us human beings and for our salvation came down from heaven . . . and was crucified for us under Pontius Pilate and suffered”). A slightly expanded version of this creed is regularly used at Sunday Mass in Roman Catholic churches.

²⁷For debates on the relation of the historical Jesus to Christian faith and christology, see the overview by William P. Loewe, “From the Humanity of Christ to the Historical Jesus,” *TS* 61 (2000) 314–31.

²⁸The arguments supporting this position are given in *A Marginal Jew*, 1. 112–66. On the dangers of retrojecting the theological views of later apocryphal Gospels back into the 1st century A.D., see John P. Meier, “On Retrojecting Later Questions from Later Texts: A Reply to Richard Bauckham,” *CBQ* 59 (1997) 511–27.

²⁹As is customary in discussions of the historical Jesus, words like “authentic” and “historical” are used in a technical sense to express the judgment that some saying or deed preserved in the Gospels does in fact go back to the historical Jesus. Gospel material that is judged not historical or not authentic in this technical sense may nevertheless be an important witness to the history of the early church or an important source of authentic Christian teaching.

³⁰See *A Marginal Jew*, 2. 100–105.

³¹On this point, see Martin Hengel, *Crucifixion* (Philadelphia: Fortress, 1977).

³² These claims will have to be examined and justified at some length when I take up the question of the trial(s) of Jesus.

³³ The off-again/on-again attempts to find a slain (or even a crucified) messiah at Qumran are documented and refuted by Joseph A. Fitzmyer, *The One Who Is to Come* (Grand Rapids, MI/Cambridge, UK: Eerdmans, 2007) 103–4, 109–15.

³⁴ On the prohibition of fasting, see *A Marginal Jew*, 2. 439–50. Some commentators hold that only discontinuity from early Christianity need be required; discontinuity from contemporary Judaism is asking too much of a truly Jewish Jesus. See, e.g., Tom Holmén, “Doubts about Double Dissimilarity. Restructuring the Main Criterion of Jesus-of-History Research,” *Authenticating the Words of Jesus* (NTTS 28,1; ed. Bruce Chilton and Craig A. Evans; Leiden: Brill, 1999) 47–80; idem, *Jesus and Jewish Covenant Thinking* (Biblical Interpretation Series 55; Leiden: Brill, 2001) 28–32. While I agree that we should be suspicious of a historical Jesus who is strikingly discontinuous from the Judaism of his time and place, there are cases when the question of discontinuity from Jewish views of the time does arise as one sifts the Jesus tradition for a historical core. For example, when it comes to Jesus’ prohibition of divorce, it is the early Christian church that preserves the tradition of Jesus’ prohibition and tries to implement it, though with obvious difficulties that lead to adaptation and expansion of the core tradition. It is rather vis-à-vis most if not all of the Judaism of his time (depending on how one interprets the Qumran material) that Jesus seems discontinuous in his prohibition of divorce.

³⁵ As indicated throughout the first three volumes of *A Marginal Jew*, I hold that John’s Gospel represents a tradition independent of the Synoptics. The treatments of the Passion tradition by C. H. Dodd (*Historical Tradition in the Fourth Gospel* [Cambridge: Cambridge University, 1963] 21–151) and at much greater length by Raymond E. Brown (*The Death of the Messiah* [ABRL; 2 vols.; New York: Doubleday, 1994; reprint New Haven: Yale University Press]) offer, in my view, convincing arguments in favor of this position, especially in regard to the Passion tradition. The view that John is basically independent of the Synoptics has been reexamined historically and defended exegetically by D. Moody Smith in the revised and updated version of his *John among the Gospels* (2d ed.; Columbia: University of South Carolina, 2001); see esp. pp. 195–241.

³⁶ Joseph Ratzinger (Benedict XVI), *Jesus von Nazareth. Erster Teil. Von der Taufe im Jordan bis zur Verklärung* (Freiburg/Basel/Vienna: Herder, 2007) 409. I take the German edition to be the *editio typica*. One should note that the English translation (*Jesus of Nazareth* [New York: Doubleday, 2007]) slightly alters the German text.