

SURPRISED BY LAW AND LOVE (VOL. 4 OF A MARGINAL JEW)

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“Surprised by Law and Love”—a curious title. But then, the history of A Marginal Jew is still more curious. Actually, considering the origins of A Marginal Jew, the major surprise for me is that there is a volume 4, and in the future a volume 5. But then, if a Pentateuch was good enough for Moses, it’s good enough for me.

In fact, that there is any volume in a series entitled A Marginal Jew is something of a surprise and a happy accident. The origins of A Marginal Jew are lost in the mist not of history but of the Cove at La Jolla, California. You see, back in 1987, I was attending an ecumenical conference on the trial of Jesus at the University of California, San Diego. Curiously, my very presence at the conference was a surprise to me. At the last minute, Fr. Raymond Brown had twisted my arm to fly out to replace another biblical scholar who had to cancel suddenly. On the first evening, while I was waiting for dinner at the conference hotel, I was sipping chardonnay and looking out at the Cove when the late, great David Noel Freedman, the founding Editor of the Anchor Bible, came up to me and proposed that I write a new two-volume commentary on the Gospel of Matthew.

I said I would like to do it, but at the moment a number of university presses were pestering me to write a book on the historical Jesus. Freedman grabbed my wrist and shouted, “You’ll never get wide distribution that way. Do the historical Jesus book for our new Anchor Bible Reference Library series.” We shook hands over chardonnay, and soon I was presented with two contracts: one very precise contract specifying a two-volume commentary on Matthew and a second contract that vaguely referred to an “Untitled Work on Jesus.” We all thought that the untitled work on Jesus would be a short one-volume piece introducing the Matthew commentary; so, the contract never specified that point. If I had known then what was to come, I probably would have tossed the chardonnay into the Cove, ordered a tart sauvignon blanc, and told Dr. Freedman “no.”

Instead, with the blessed ignorance praised by St. Augustine, I said “yes”; and the surprises started coming. In 1991, surprise one was that volume one of A Marginal Jew, at 484 pages, was merely a methodological introduction. Then, in 1994, surprise two, Mentor, Message, and Miracles, weighed in at 1,118 pages (it makes a great door-stop). In 2001 there appeared surprise three, Companions and Competitors, at 703 pages. Finally, May 2009 ushered in surprise four, Law and Love, at 735 pages. With 3,040 pages and one volume to go, A Marginal Jew has given me enough surprises to last a lifetime—which it almost has.

And yet I’m in no position to complain. Just by itself, volume 4, Law and Love, has intrigued and entertained me with so many intellectual puzzles and exegetical surprises that it alone, more than any other volume, has made the whole project worthwhile. What I would like to do this evening is share with you some of the major surprises and puzzles that ambushed me as I groped my way through volume 4, with a brief look ahead at vol. 5. In a sense, being surprised

by this Marginal Jew has become a common experience. From volume 1 onwards, I have approached each major question with certain vague working hypotheses, only to have them frequently turned upside down and inside out. But never have I found myself surprised so many times by a single volume as I was by volume 4. Perhaps the easiest way to point out major examples of these surprises is to walk you through each chapter of the book, indicating where each chapter harbored unexpected results and caused second thoughts.

The first chapter [chap. 31], which introduces the whole topic with the title “Jesus and the Law,” soon had me floundering. I knew from the beginning of the whole series that describing the slippery reality called the historical Jesus was going to be a major challenge. What I had not appreciated was that describing the Mosaic Law at the time of Jesus would be even more difficult. The words tôrâ and nomos, even in the sense of the written Law of Moses, designate a fluid, protean reality in the first centuries B.C.E. and C.E. As the Dead Sea Scrolls have taught us, the Hebrew text of the Torah existed in various forms at the turn of the era, with creative authors blithely rewriting the Law. It still is not entirely clear to scholars whether certain fragments from Qumran are variant versions of a given book of the Pentateuch or some sort of targum or midrash on the Pentateuch.

Worse still, commands and prohibitions that simply are not in any text of the Pentateuch are nevertheless declared to be there by learned Jewish authors around the time of Jesus. For instance, in the 2d century B.C.E., it was simply out of dire necessity during the revolt against the tyrant Antiochus IV Epiphanes, that the followers of the rebel priest Mattathias decided that it was lawful to fight a defensive battle on the sabbath, although it was unlawful to initiate an attack. That ad hoc decision, reached with no appeal to Scripture or legal reasoning, was

denounced soon afterwards by the author of the Book of Jubilees, who concludes his entire work with a thundering condemnation of any fighting on the sabbath. Yet, by the 1st century C.E., Josephus flatly states in his Jewish Antiquities that “the Law [ho nomos]” permits Jews on the sabbath to defend themselves from attacks, but not to launch an attack—this despite the fact that Josephus knows and reports the pragmatic origin of this ḥalākā during the Maccabean revolt.

And this is hardly a unique case of obligatory practice that is not in the Torah becoming part of the Torah. For example, both Philo and Josephus affirm that Moses commanded in the written Law that Jews should study Torah and/or attend synagogue on the sabbath. This is all the more startling because Josephus shows that he knows full well how to distinguish between the content of the written Torah and the traditions of the fathers maintained by the Pharisees. As a matter of fact, this idea that synagogue attendance on the sabbath is commanded by the Pentateuch is not limited to Josephus or Philo. In the Biblical Antiquities, attending synagogue on the sabbath is actually included in the Ten Commandments. This astounding piece of ḥalākā goes beyond any claim of either Philo or Josephus.

By the way, my very use of the Hebrew word ḥalākā contains within itself another surprise for the biblical exegete. The Hebrew noun ḥalākā can mean Law in general, a particular corpus of laws, or an individual judgment or opinion about a specific item of legal observance. Biblical scholars readily speak of the ḥalākā of the Pharisees or the Essenes, and I regularly refer to the ḥalākā, the legal teaching, of Jesus. Everyone seems to take for granted that the word ḥalākā actually existed at the time of Jesus. However, a careful examination of the sources makes it likely that the noun is an invention of the rabbis in the post-70 period. The reality is certainly there at the time of Jesus, but the technical term for that reality may well be later. This

is a small point, to be sure. But it is incumbent on scholars to realize when they are using technical terms anachronistically.

The general point, then, is clear: by the end of my first chapter, I was already faced with one big disconcerting surprise. In puzzling out the relation of the historical Jesus to the Law in the first century, the historical Law might prove to be more problematic than the historical Jesus.

The surprise in the next chapter [chap. 32], which treats Jesus' prohibition of divorce, is another example of exegetes taking for granted historical backgrounds that may not be there. Almost any Christian treatment of Jesus' prohibition of divorce will place it within the context of the supposed difference of opinion between Shammai and Hillel. Shammai is said to have prohibited divorce except in the case of adultery, while the lenient Hillel allowed practically any reason to justify divorce. This Jewish debate over the proper grounds for divorce even leads some scholars to claim that Matthew's form of the prohibition, which alone contains an exception to the total prohibition of divorce, is more original, since it reflects the Jewish debate.

Not unlike the case of the word ḥalākā, the problem here is that exegetes are presuming a certain situation in Palestinian Judaism at the time of Jesus which cannot be proven from the sources. Almost without exception (the Essenes being a special case), the Jewish Scriptures and Jewish writings of the late Second Temple period accord the husband the right to divorce his wife for any reason. Indeed, in the 1st century C.E., both Philo and Josephus, writing independently of each other, affirm that a man can divorce his wife for any reason whatever. Neither writer gives the slightest impression that there is any other opinion among Jews with which he is disagreeing or arguing. It is only in the Mishna of Judah ha-Nasi, composed ca. 200—220 C.E., that we hear for the first time of a debate about adequate grounds for

divorce—and, interestingly, this first mention of such a debate ascribes it not to Shammai and Hillel themselves but rather to the Houses (the Schools) of Shammai and Hillel. A legal debate first attested close to 200 years after Jesus can hardly serve as the historical background to his prohibition of divorce, unless some academic equivalent of a back-to-the-future time machine dispenses us from the annoying obligation of paying attention to chronology. Actually, all too many reconstructions of the historical Jesus do precisely that. The truth is, whatever the historical background of Jesus' prohibition of divorce, it is not the debate between the Houses of Shammai and Hillel, witnessed only at a much later date.

That Jesus prohibited divorce is well known among exegetes and even among knowledgeable Christian lay people, whatever its practical impact or lack thereof. Quite different is the only other clear case of the historical Jesus revoking a key institution sanctioned and regulated by the Mosaic Law, namely, the taking of an oath (or swearing, in the technical legal sense of the word, not in the popular, Charlie Sheen sense of the word). In fact, the case of the prohibition of oaths is even more striking than divorce, because it involves the revocation not simply of an important social institution permitted by the Torah. Revoking all swearing necessarily involves as well revoking those laws in the Jewish Scriptures that positively command the taking of an oath in specific cases, namely, the law of deposits and the case of the wife suspected of adultery. That the prohibition of oaths is absolute is quite clear from the Matthean form of Jesus' words (Matt 5:34,37): "Do not swear at all....anything more than a firm 'yes' or 'no' comes from the devil." The same absolute prohibition is found in the moral teaching of Jas 5:12, which is probably an alternate form of the saying of Jesus. James reads: "Do not swear either by heaven or by earth or by any oath." The rationale given by the Matthean form of the prohibition clearly excludes any kind of oath, even one given in court. The

problem with an oath, says Jesus, is that it is, in its very essence, an insulting, blasphemous, arrogant infringement on the absolute majesty of God. The most surprising thing here is that, while Christian churches have agonized and quarreled over Jesus' prohibition of divorce, however much they may ignore it in practice, almost all Christian denominations, with the exception of certain radical left-wing Protestant groups, have quietly agreed to explain away Jesus' prohibition of oaths as referring to excessive, frivolous, or false swearing. Need I point out that the text of Matthew and James plainly states the opposite? "Do not swear at all....not...any oath."

Curiously, then, we have here a divide that does not place the historical Jesus on one side of the chasm and the Christ of faith, along with the Christian church, on the other side of the chasm. In the total prohibition of all oaths, the historical Jesus, the Christ of faith presented in the Gospels, and the early patristic church all stand on the one side of the chasm, and the Christian church from about the fourth century onwards (along with St. Paul, who swears like a Christian sailor) stands on the other side of the chasm. As so often happens, the distinction between the Jesus of history and the Christ of faith turns out to be not only facile but also factually false. This raises all sorts of interesting questions about what is the authoritative norm of Christian morality, but such musings would take us far beyond our concern with the historical Jesus. What I find truly surprising here is that most exegetes simply ignore the fact that Jesus' total prohibition of oaths involves a double shock: (1) the historical Jesus clearly revokes certain laws in the Pentateuch; and (2) this prohibition of Jesus—both the Jesus reconstructed by historians and the Jesus proclaimed in the Gospels—stands at odds with the almost universal teaching and practice of the Christian church from the fourth century onwards. And really, nobody cares.

The problem of Jesus and the sabbath, which I take up in the next chapter, presents us with

a case that is almost the opposite of divorce or swearing. Many treatments of Jesus and the sabbath speak of Jesus breaking the sabbath, ignoring the sabbath, explicitly or implicitly undermining the institution of the sabbath, or at the very least of taking a very liberal, not to say libertine, view of the sabbath. The multiple attestation of sources for sabbath dispute stories augurs solid support for such views.

And yet...once we start probing below the surface, all that glitters in the text is not historical gold. Serious study of the history of the sabbath collides with all the sabbath dispute stories in the Gospels in which Jesus himself is directly accused of breaking the sabbath. In every one of these stories, the only thing that Jesus does is heal a sick or disabled person on the sabbath. The problem here is that no Jewish source that can be dated prior to 70 C.E. flatly states that treating or healing the sick contravenes the sabbath rest. As in the case of divorce, we must go to the Mishna for the first example of healing being banned on the sabbath, and even there the prohibition lies on the margins of the rabbinic discussion and is not without countervailing opinions. If no Jews of the pre-70 period thought that acts of healing violated the sabbath, the historicity of the sabbath disputes, in which the sole accusation against Jesus himself is that he heals on the sabbath is open to serious questioning. Note, by the way, this does not necessarily mean that the tradition that Jesus healed on the sabbath is unhistorical, only the charge made against him on those grounds.

The surprising upshot of this quick survey is that every dispute story in which Jesus heals on the sabbath drops out of consideration for historicity. We are reminded that the criterion of multiple attestation, like all the other criteria of historicity, cannot be applied in a mechanical, wooden fashion to guarantee automatic results. The criteria help us identify likely candidates, but then the individual cases must be probed from many different angles, applying every relevant

criterion, every type of literary criticism, and everything we know about Palestinian Judaism in the early 1st century, to reach a final judgment.

Does this mean that every tradition about Jesus and the sabbath disappears from the historical radar screen? No, I don't think so. Some of the sayings of Jesus, now embedded in sabbath stories, do have a fair claim to historicity. Perhaps the most intriguing are those in which Jesus asks rhetorical, a fortiori questions about being willing to draw a sheep out of a pit or a son or an ox out of a cistern on the sabbath. Not only is there multiple attestation for this type of rhetorical argument from Jesus; more important, such arguments fit perfectly into halakic debates about the sabbath in Palestine in the pre-70 period. We now know from the Damascus Document as well as from fragments from Cave 4 at Qumran that the Essenes forbade drawing any animal out of a pit or cistern on the sabbath. Indeed, not even a human being could be drawn out if a ladder, rope, or any other instrument had to be used. The only wiggle room the Essenes allowed in the case of humans, but not animals, was that a would-be rescuer could throw his own garment to the person in danger.

Hence, a quick overview of the data suggests that perhaps it is more correct to speak of Jesus' reasonable, commonsense approach to sabbath observance rather than his radical or liberal stance. In any event, the material that is most likely historical presents us with a Jesus who takes for granted the institution of the sabbath and then argues about its proper observance in certain cases. There is no sign of antipathy to the sabbath as such.

Summing up so far: the overall meaning of Torah as well as the laws about divorce, oaths, and sabbath—all these topics have proven both confusing and surprising. But they pale in comparison when we come to the hopelessly complicated question of purity rules in the next chapter

of volume 4. Indeed, so convoluted is the topic that the chapter on purity rules takes up 135 pages. Most of the attention has to be given to the sprawling pericope of Mark 7:1-23, which encompasses such diverse topics as the obligation to wash hands before eating, the vow of Qorban, and the eating of clean and unclean foods. While I did not expect every item in this literary amalgam to turn out to be historical, I began my work expecting that at least the core of each tradition would meet the test. I was sorely disappointed—to say “surprised” would be putting a smiley face on the matter. As I proceeded with my analysis, almost every part of Mark 7:1-23 disappeared bit by bit like a Cheshire cat from the historical radar screen. For example, there are no Jewish texts from the pre-70 period that make hand washing obligatory before eating; indeed, differing rabbinic opinions on the subject are found as late as the Tosefta. Moreover, when Jesus responds to the question about hand washing, he bases his argument about human traditions annulling the word of God on a proof text from Isa 29:13. The problem is, Jesus’ argument works only if he is citing the Greek Septuagint form of Isaiah, as rewritten by Mark. The Hebrew of the Isaiah text, either in its Masoretic or in its Qumran form, does not support Jesus’ line of reasoning. Only the Septuagint form does, provided we include the changes Mark makes in the Septuagint form.

The question of the vow of Qorban does fit well into what Jewish texts and inscriptions tell us about Palestinian practice around the time of Jesus. However, a careful literary analysis shows that Jesus’ saying about Qorban has been inserted secondarily into a context where it does not really fit. It is ironic, though, that the Qorban tradition may be the only item in the whole of Mark 7:1-23 that can be salvaged for the historical Jesus. This came as something of a personal shock to me. From my tender, innocent days of first reading about the historical Jesus in the essays of Ernst Käsemann, the solid rock of historical traditions about the radical Jesus was always Mark 7:15:

“There is nothing outside a human being that, by entering into him, can defile him; but those things that come out of a human being are the things that defile him.” Surely here, if anywhere, the criterion of discontinuity applies. Yet further reflection unearthed a number of objections to historicity, all of which could be tucked under the general rubric of the impact or effect of the saying on subsequent history (*Wirkungsgeschichte*). Nowhere in the rest of Jesus’ ministry, nowhere in the rest of the Four Gospels, and nowhere in the history of first-generation Christianity does this astounding, shocking, explosive dictum have the slightest impact or echo. Moreover, Mark 7:15 lacks multiple attestation of independent sources (Matthew simply softens Mark, and the Coptic *Gospel of Thomas* reflects Matthew’s redaction of Mark), and nothing else anywhere in the Four Gospels is comparable to Mark 7:15. Even in Mark 7 the Marcan disciples, often astounded or bewildered by what Jesus says and does elsewhere, voice no question or objection to a teaching that would tear down the most effective wall of separation between Jews and Gentiles. Amid all the accusations and vituperation we hear from Jesus’ opponents in all Four Gospels, this most offensive of teachings is never mentioned. Neither, come to think of it, are we ever told that Jesus or his disciples actually acted on this teaching during the public ministry. This lack of reverberation anywhere in the Gospel tradition is paralleled by an absence of any mention or memory of this saying of Jesus in the first decades of the church—precisely at a time when the church was wracked by controversies over food.

Alas, once Mark 7:1-23 fades away, leaving only the Qorban saying behind, we begin to notice how spare and scattered are the other sayings of Jesus about purity matters in the Gospel. This scarcity of material is all the more striking against the backdrop of Palestinian Judaism at the turn of the era, where both texts and archaeology attest to lively debates among various groups about the

extent and proper observance of purity rules. Granted this context, the relative silence of Jesus would seem to argue that he was neither zealous for nor fiercely opposed to purity rules; rather, the feel we get is one of studied indifference to a question that excited many of his coreligionists.

Now, I grant you, by the end of this lengthy chapter on purity rules, one might well feel disappointed that so much time and effort should come up with such a meager and largely negative result. But I would nevertheless claim this as a gain. All too often major assertions are made about Jesus either as the iconoclastic radical who rejected all purity rules or as the pious observant Jew who carefully kept them. It is a gain to realize how little historical material we have in the Gospels on the subject and therefore that sweeping claims on both sides of the argument lack a firm basis in the data.

All these disparate questions of ḥalākā may give us the sense of drowning in a sea of detail. That is why in the last and longest chapter of volume 4, I step back and broaden the focus, asking if there is any indication that Jesus ever addressed the question of the Mosaic Law seen as a whole. Most of the candidates brought forward, like the programmatic statement on Law and prophets in Matt 5:17, are heavily laden with Matthean vocabulary and theology. I think that the one chance of seeing a larger vision in Jesus' halakic teaching lies in his commandments concerning love. I purposely use the plural here because, curiously, in the Gospels, we find three different forms of a love command, each in a different source. Mark gives us the double command of love of God and neighbor, Q gives us the love of enemies, and John's Gospel gives us the christologically based "love one another just as I have loved you." We are left in the odd position of having multiple sources for the vague affirmation that Jesus issued a love commandment, while lacking multiple attestation for any one form of a command to love. I had the sinking feeling that once again a great deal of effort

spent on a few key sayings would come up empty-handed. This time, I was pleasantly surprised to find out that I was wrong.

At first glance, the Marcan double command of love does not seem a promising candidate. After all, the core of Jesus' saying consists simply of two citations from the Pentateuch: the Šemā (Deut 6:4-5) and the command to love one's neighbor as oneself (Lev 19:18b). It was hard to see how one could construct an argument that this teaching, bereft of multiple attestation, came specifically from Jesus rather than from contemporary Jewish tradition put into Jesus' mouth by the early church. Alternately, the double command of love could simply be a catechetical creation of the early church itself. To my surprise, though, the decisive argument that this double command comes from Jesus himself is the criterion of discontinuity. To start with, let us remember that in the double command of love, Jesus does four striking things: (1) he cites both Scripture texts word for word, and not just in a paraphrase or an allusion. Remarkably, neither Deut 6:4-5 nor Lev 19:18b is ever cited word for word as a commandment of the Torah in either the rest of the Jewish Scriptures or the Jewish intertestamental literature datable before 70 C.E. (2) Jesus cites not just one of these pentateuchal texts but both of them, back to back. (3) Even as he juxtaposes these two texts, Jesus explicitly orders them numerically, insisting that Deut 6:4-5 is the first commandment of all and that Lev 19:18b is the second. (4) Jesus concludes this dialectic of combination yet numerical differentiation with an affirmation of the superiority of these two commandments over all other commandments. No Jewish source from the pre-70 period does even the first of these four things, let alone all four together.

Even more startling is the discontinuity of Jesus' double command vis-à-vis the rest of the New Testament. The text of Deut 6:4-5 is never cited elsewhere word for word. While Lev 19:18b

is cited word for word a few times, it is never joined back to back to Deut 6:4-5, to say nothing of establishing a numerical order between the two commands and putting them together above all other commandments. So, to my surprise, I was left with a fairly strong argument for the authenticity of the double command as coming from Jesus.

Still more surprising is the corollary that therefore Jesus is the first Palestinian-Jewish teacher to be documented as using the argument later called the gēzērā šāwā. In later rabbinic hermeneutics, the justification of jumping from one text in Deuteronomy back to a different text in Leviticus and letting them interpret each other would be the fact that both texts use the rare verb form wě·āhabtā (“and you shall love”), which is found in the whole of the Jewish Scriptures only in these two texts and then in two echoes of these texts in the same chapters.

Unfortunately, the same strong argument from discontinuity is not available for the Q command, “love your enemies.” The substance of this command, though not its exact wording, can be found in the Jewish Scriptures, intertestamental literature, and of course the New Testament. It is surprising, though, that the closest parallels in thought and argumentation can be found in the pagan Stoic philosophers who were contemporaries of Jesus, notably Seneca and Epictetus. Nevertheless, nowhere in any of these voluminous sources can we find the exact verbal parallel; nowhere does a named teacher or prophet issue the sharp, disconcerting, and terribly laconic command, “love your enemies.” In a curious way, and only secondarily, one might also invoke an argument from coherence, since Jesus seems to have had a habit of making his teaching memorable by formulating it in brief, blunt, disturbing formulas: “Swear not at all,” “follow me,” “let the dead bury their dead,” and finally “this is my body.” Granted, the argument from discontinuity (plus coherence) is not as strong in this case as it is for the double command of love, but it inclines me to

think that this radical love command comes from Jesus as well.

The same, I would claim, cannot be said for the Johannine “love one another just as I have loved you” (John 13:34, repeated in 15:12). The form of this command is firmly anchored in and colored by specifically Johannine theology (high christology, realized eschatology, and stark dualism) as well as by the specifically Johannine setting of the Last Supper discourses. Indeed, so anchored is this command in its Johannine milieu that one begins to suspect a Johannine creation. Now, this is not the place to give a thumbnail sketch of Johannine theology, which would be needed to flesh out my argument. Suffice it to say that (1) the isolation of the Johannine love command in the Last Supper discourses, with no connection to or echo in the body of this basically a-moral Gospel, (2) the identification of the ground and metric of Christian love with the love Jesus shows his own even unto death, and (3) the restriction of the recipients of this love to the fellow members of the community—taken together, these considerations argue for an origin in Johannine theology. In this connection, it is telling that any form of a command to love one’s enemies is lacking in the Fourth Gospel. Indeed, it may even be that the Johannine love command is not John’s recycling of the love commands of the Jesus tradition but rather John’s recycling of the command to love one’s neighbor from Lev 19:18b. The extent of the love seems no wider than “the neighbor” of Lev 19:18, in the original sense of the fellow members of one’s cultic community. What is new is John’s typical “christological implosion”: all religious structures, symbols, categories, or titles collapse into, are absorbed by, the person of Jesus. The same is true of the sole specific moral command in the whole of the Fourth Gospel directly issued by the earthly Jesus: “Love one another just as and inasmuch as [*kathōs*] I have loved you.”

It is high time to wind up this survey of vol. 4, take stock of what we’ve learned, and draw

a few general conclusions—and second thoughts:

1. First, the historical Jesus that emerges from volume 4 is a Jesus deeply steeped in the Jewish Scriptures and in the halakic debates of 1st-century Palestinian Judaism. Personally, I find it astounding that so many of the recent treatments of the historical Jesus either ignore the whole question of Mosaic Law, or interpret the Law problem through the traditional Christian lenses of Paul, Augustine, and Luther, or try to say some politically correct things about purity and holiness in Judaism while usually managing to mangle the concepts. To take Jesus seriously as a 1st-century Jew is to take seriously his engagement with Law and hälākâ as understood and debated in the 1st century. Hence my mantra, constantly repeated throughout volume 4: the historical Jesus is the halakic Jesus. A reconstruction of the historical Jesus that lacks a serious halakic dimension is ipso facto not the historical Jesus.

2. Second, this emphasis on the Jewishness of Jesus need not stand in hopeless opposition to the recognition of how Greco-Roman Hellenistic culture may have influenced some of his teachings and practices. From summing up religious and moral obligation under two headings, through gracious treatment of enemies, to a prohibition of taking oaths, we can find a number of intriguing parallels in Greco-Roman philosophers, both pagan and, in the case of Philo, Jewish. To reject the once-popular portrait of Jesus as a wandering Cynic philosopher is not to reject a sober appreciation of how Hellenistic culture had long since penetrated Jewish Palestine, though in different degrees in different places.

3. Third, the startling realization that, in Jesus' teaching of the double command of love, we may have the first documented use by a nameable Jewish teacher of what would later be called the gēzērâ šâwâ raises again and in more pressing fashion the question of Jesus' education as a youth.

In volume 1 of A Marginal Jew, I struggled to mount an argument that Jesus was at least not illiterate. At the time, the best I could do was point to the varied public debates with experts over Scripture and *hălākā* during the public ministry. Jesus' elegant use of the *gĕzērâ Šāwâ* makes that general argument much more specific and convincing. However, it makes all the more difficult and intriguing the question of Jesus' early education.

4. Fourth, what of the larger question that moved us to look at all the love commands of Jesus? Did Jesus ever give an indication of his stance vis-à-vis the Mosaic Law as a whole? Well, with a bow to Abelard, sic et non, yes and no. On the one hand, nowhere in the material that we can attribute to the historical Jesus with fair probability do we find the full, programmatic statement of Jesus' relation to the Law that Matthew gives us in Matt 5:17 and in the six antitheses that follow, a grand creation of Matthew himself. What chapter 5 and the Sermon on the Mount in general show us is that Matthew is the first great Christian theologian to begin the project of a systematic Christian moral theology. The original sin of most work on the historical Jesus and the Law is to attribute to an itinerant Jewish eschatological prophet the first Christian synthesis of moral teaching that probably demanded a decade or so of work from a Christian-Jewish scribe writing toward the end of the 1st century. The historical Jesus is the halakic Jesus, but he is not the Matthean Jesus. The conflation of these two is the major mistake of most treatments of the historical Jesus and the Law.

And yet, Jesus' teaching of the double command of love in Mark 12:28-34 shows us that the historical Jesus did not simply issue ad-hoc halakic pronouncements on scattered topics like divorce, oaths, or the sabbath. He did reflect on the totality of Torah and did extract from that totality the love of God and the love of neighbor as the first and second commandments of the Torah, superior to other commandments, which, nevertheless, remain. That much the historical Jesus says by way

of holistic approach to the Law. But that is all he says. Once we move on to claiming that Jesus made love the hermeneutical key for interpreting the whole Law or the supreme principle from which all other commandments can be deduced or by which they can be judged or ordered, we have shifted from the historical Jesus, or even the Marcan Jesus, to the Matthean Jesus. It is Matthew and Matthew alone who, in his redaction of Mark, both draws the two love commandments closer together and—more significantly—states that the whole Law “hangs upon” these two commandments.

Still, like good pagan Stoics, let us be satisfied with what we have. Jesus’ reflection on how parts of the Law relate to the whole of the Law led him to love—specifically to love of God and love of neighbor as supreme. All you need is love? Hardly. For Jesus, you need the Torah as a whole. Nothing could be more foreign to this Palestinian Jew than a facile antithesis between Law and love. But for Jesus, love, as commanded by the Law, comes first—and second.

5. Fifth, and finally, let us look briefly ahead to the promise of vol. 5. Like a negotiator for a labor contract or a Near-East peace accord, I have purposely kept the most difficult questions till the end. That is why, in line with the alliteration in each volume’s title, I’m toying with the idea of calling vol. 5 “Concluding Conundrums.” Vol. 5 will tackle the three final enigmas, the final riddles that lie at the end of the quest for the historical Jesus. These three final riddles are the riddle-speech of Jesus’ parables, the riddle speech of his self-designations (or “titles”), and the final riddle of his death.

What will be most startling, even off-putting, to many readers is that the parables of Jesus are placed among the final enigmas, among the hardest nuts to crack. From Jülicher, Dodd, and Jeremias down to Hultgren, Snodgrass, and some members of the Jesus Seminar, parables have

always been hailed as the easiest and most assured way into the historical Jesus, the most solid foundation of Jesus research. I beg to differ. The first part of vol. 5 argues for a position that will be anathema to many: namely, the parables are among the most problematic texts, at least when it comes to arguing that this or that particular parable goes back to the historical Jesus. Since this will no doubt be the most startling part of vol. 5, permit me to explain my position quickly, by way of 7 unfashionable theses:

(1) The fact that scholars range widely and wildly when stating how many parables of Jesus there are in the Synoptic Gospels reveals an embarrassing fact. Scholars in general do not agree on a set definition of what a parable of Jesus is. (2) The wisdom māšāl of the Jewish Scriptures is not the prime source or analogue of the parables that are most characteristic of and particular to the Synoptic Jesus. The parables particular to Jesus are narrative parables, and their analogue is found primarily in the Former and Latter Prophets. (3) It is especially in the Latter Prophets, and most especially Ezekiel, that we find (a) a notable expansion of the genre of the comparative short story and (b) the use of the vocabulary of māšāl to designate this type of speech. (4) Therefore, the Synoptic Jesus who tells narrative parables stands primarily not in the sapiential but in the prophetic tradition of the Jewish Scriptures. (5) I purposely keep my definition of a narrative parable of Jesus general and vague: the parables are comparisons stretched out into short stories with at least an implicit beginning, middle, and end, i.e., with an implicit plot line. Any attempt to define them in greater detail, with a laundry list of supposedly essential characteristics, threatens to introduce qualifications that are true of some but not of all the parables of Jesus. (6) The claim that the parables in CGT represent an independent and indeed earlier and more reliable tradition of the parables of the historical Jesus is highly questionable. This thesis demands lengthy argumentation.

After detailed analysis of 9 sayings outside the parable tradition and 6 sayings from the parable tradition in Thomas, representing every Synoptic source and many different genres, I conclude that in each case the more likely judgment is that Thomas is dependent directly or indirectly on the Synoptics.

(7) All of this leads to the following disheartening conclusion. Relatively few of the Synoptic parables can be, with a good degree of probability, attributed to the historical Jesus. Without Thomas, very few of the parables have multiple attestation from independent sources. The criteria of discontinuity and embarrassment hardly apply. So we are left with a very discomforting conclusion. One can certainly affirm that Jesus taught in parables. For that we have abundant multiple attestation. But to prove that this or that particular parable goes back to the historical Jesus rather than to the creativity of the early church or the evangelist is very difficult to prove. Perhaps the greatest enigma connected with the parables of Jesus is why so many scholars for so long have presumed rather than proved that the parables, with few exceptions, go back to Jesus. This is a prime example of the “we all know that...” herd instinct that questers all too easily fall into. Thus, I hope that vol. 5, like the whole of my project, will do what any honest quest should do: question what we think we all know. With that Cartesian commitment, let me thank you for your kind attention.