

The Abrogation of the Mosaic Law

By Dr. Paul W. Peters

[*Die Schwagerrehe* delivered at Milwaukee City Conference, April 19, 1948]

My attention has been called to the necessity of differentiating between law when speaking of the spiritual abrogation of the law and law when dealing with the outward abrogation of the law. A question has also been raised as to the use of the term “abrogation.” I prefer to begin with the latter term which is not used in the Latin Translation of the New Testament for any of the many Greek terms. The Vulgate uses *evacuare* Ephesians 2:15 and 2 Corinthians 3:7. While *evacuare* means to make void or null, the meaning of *abrogare* is to demand from, to recall, then, to do away with, to withdraw. Among the Romans abrogation of the law was the repeal of that law by means of a notion of proposal to the people. The exact Greek equivalent of *abrogare* is *ἀπαιτεῖν*, to ask back, to demand back. The New Testament speaks of the soul being demanded back (Lk 12:20), but does not apply this word to the law. The New Testament terms are:

μετατίθεσθαι, a term applied to the law in Hebrews 7:12. We read: For the priesthood being changed (*μετατιθεμένης*), there is made of necessity a *metathesis*, a change also of the law. As little as the Aaronic priesthood was unalterable, but was to be superseded with the Melchizedekian priesthood of Jesus, the Son of God, thus the laws regarding the Aaronic priesthood were not unalterable, since these stood and fell with the Old Testament priesthood. Yet *μετατίθεσθαι* is a mild term, only involving a change of the law. The following terms are much stronger:

Of these *λύειν* is used in Ephesians 2:14 in reference to the law as the middle wall of partition which had kept the Jews away from the Gentiles and which Christ had broken down with his blood. This wall of partition or this system of legal regulations was the source of enmity between Jews and Gentiles. By putting the words, *τὴν ἔχθραν* and *τὸν νόμον*, the enmity and the law, into apposition with one another, Paul can add in verse 15 that Christ caused to cease, that He abolished, *καταργήσας*, in his flesh, i.e. in His body on the Cross, this enmity or this law.

Another figure of speech is used by the Apostle Colossians 2:14, where he compares the Mosaic Law with a handwriting and adds: But this handwriting *ἔξαλείψας*, has been wiped off and wiped away, has been erased and obliterated, has been wiped out and blotted out. Our Lord did this when He bore this handwriting clear away and had it nailed on the Cross. “Not only the writing was stricken out, the very document itself perished on the Cross” (Lenski).

Another New Testament term is *ἀναιρεῖν*, which we find in Hebrews 10:9, where the Messiah is presented to us as taking away the first thing, i.e. the offerings, that He may establish the second, i.e. the voluntary doing of God’s will. In other words, the thing of the first testament has to yield to that of the second according to God’s will. But the Apostle, does not only use the words “first” or “second” thing in the sense of a *pars pro toto*. In Chapter 8:13 the word “first” connotes the whole old covenant law. This law is characterized as growing old (*πεπαλαίωκεν*), as becoming aged (*γηράσκον*), and as near to disappearing (*ἐγγὺς ἀφανισμοῦ*).

While the Apostles do not use the Roman concept of repealing the law, they use concepts which convey a much stronger meaning, which speak a still stronger language than *abrogare*, such as terminating and abolishing, wiping and blotting out, growing old and disappearing. All this is said of the law. Which law has been terminated and abolished by Christ when He died on the Cross for us? The law as such, the law in the proper sense of the word, the law that condemns every man, whether Jew or Gentile. It is true that the Apostle Paul, when speaking of the spiritual abrogation of the law, often simply refers to Mosaic Law. In Galatians 3:17-19 for instance, where he is proclaiming the redemption from the law, he argues from the viewpoint of the

law that came 430 years after the covenant, that was confirmed before of God in Christ. This law is, of course, the Sinaitic Law. There are however many passages, in which the Apostle does not refer with so many words to the Mosaic Law, but only speaks of law, with or without the article, for instance in Romans 4:13, 7:1, and 10:4. Does he in these passages mean the Mosaic Law? Lenski in his commentary denies this throughout. "We must not restrict this word to the Mosaic law," he says, "It is included," he continues, but adds, "as well as all that can rightly be called law." Law or the law (the article being defined as generic) "is not the statutory formulation in a code, but the *Rechtskraft*, the power of right involved in the law" (*Galatians*, 146). And the "integral part of law in the biblical sense is the promise and the curse operating in the law," Lenski concludes his argument.

Professor Stoeckhardt in his commentary *Romans* interprets the term νόμος, with or without the article, in the above passages as always denoting the Mosaic Law. We here do not want to become involved in a discussion of the pros and cons of the meaning of this term. Let it suffice to state that the Apostle nowhere in these passages is only speaking of the law as a code of laws, but of the law in its essence, of "the righteousness of the law" (Romans 2:26) of "the truth in the law" (2:20), of "the law of righteousness" (9:31), of "the law of God" (7:22,25), This law was given by Moses (John 1:17), but had already been written into the heart of man by the Creator, so that the Gentiles knew of this law and were a law unto themselves (Romans 2:14). Luther often equates the Ten Commandments with the law in the proper sense of the word, but adds, "If you say that the Ten Commandments are the law of Moses, then Moses came too late. For prior to Moses this law was known to the Gentiles." He therefore speaks of it as "the law of the whole world" (XIX,1444) [References to Luther are to the St. Louis Edition of Luther's Works], "the law that Jews and Gentiles have in common" (III,1039), and adds, "When the Apostle uses the word law, it is the law of God that lays hold of the heart and places demands on the innermost heart" (XIV,95). And our Confession tells us that "the Law is properly a divine doctrine, in which the righteous, immutable will of God is revealed" (Triglotta 957,17).

This law has been abrogated by Christ, Christ is the end of the law (Romans 10:4). What does this mean? It certainly cannot mean that the law as such is abolished, so that it cannot be taught and preached anymore (cf. Stoeckhardt, 480). Indeed not. Luther has this to say: Christ did not free us from the law by breaking and undoing the law, but by the gift of a willing spirit that does everything without being driven and forced, irrespective of the law (*unangesehen das Gesetz*) (XII,233). Again he says: The Lord has not freed and exempted us from the law, but from the power of the law, which is the true liberation from the law (XVIII,1545). In other words, the spiritual abrogation of the law is the abolition and annulment of the law by faith in Christ, who was made under the law to redeem them that were under the law (Galatians 4:4,5). Christ, who redeemed us from the curse of the law in that He was a curse for us (3:13), replaced the condemnation of the law by the righteousness and justification of faith. In 2 Corinthians 3:13 Paul speaks of the end of that which is abolished, i.e. the end of the law or the functioning of Moses to be followed by the Gospel and the functioning of Christ. Wherever Christ rules by His grace in our conscience, the law of the Ten Commandments has no right to accuse or to frighten our conscience (cf. Luther IX,583). By His blood Christ purged our conscience, so that it is relieved of the law and may cheerfully ignore the law (Luther, Galatians 164,170, and Hebrews 9:14). We are to know that the law is made for a righteous man (1 Timothy 1:9). This is the liberty wherewith Christ has made us free (Galatians 5:1).

But how about the immutable will of God, that commands us to be holy, even as He is holy. This will of God is written in the hearts of the believers and put into their inward parts by means of the new covenant that God has made with his people as their God, according to Jeremiah 31:31ff. Hebrews repeats this lesson for us by contrasting the old and the new covenant (8:10ff), by testifying to the mediator of the new testament (9:15), who by one offering has perfected forever them that are sanctified (14) and then concludes its line of argument by quoting for the second time the words of Jeremiah 31:31ff in 10:16-17.

Now it is true that even the Christian, because of his old Adam, must be reminded of the law that is written into his mind and heart. When he is thus being reminded of the law, he is not thereby again being placed under the yoke of the law, he is not being robbed of his liberty from the law. He is only being exhorted to do those laws which are already written into his heart and which he willingly keeps and fulfills according to his new man. Again, when Jesus and the Apostles quote the laws of Moses, it is not their purpose to reintroduce the

laws of Moses, which were given to Israel only. Their purpose is to set forth the substance and essence of the law of God. When the scribe in Matthew 22:36 wanted to know which is the great commandment in the law, Jesus told him that love for God and for one's neighbor is the fulfillment of the law and that on these two commandments the law and the prophets hang. Jesus thus compared the two commandments with a nail from which all else in the Old Testament hangs suspended, also the Gospel, and therewith taught the scribe that both faith and love are prerequisites for the fulfillment of these two great commandments, faith being the fulfiller, love being the deed of fulfillment. Yes, love is law as Luther has it (Theodor Harnack, *Luthers Theologie*, 494). This law is actually being fulfilled in this life by faith, in the life to come by love. But one cannot really say, as Luther adds, that we fulfill the law in heaven, because there will be no law, but only that which the law required of us in this life. Again, when everything has been created anew just as it should be, Luther continues, then the law does not first of all have to bring about such a blessed state. Consequently the Law as such, Luther concludes, will vanish (*eingehen*) and will be done away with (II, 496; Triglotta 19, 1770). The 6th commandment, for instance, which tells man and wife to love one another and not to commit adultery, will not be necessary any longer, for in the resurrection they neither marry nor are given in marriage, but are as the angels of God in heaven. In this connection we may say that even the moral law is of a relative nature in that it pertains to our life here on earth only. In the new heaven and on the new earth there will be no need for such a law. Since our lives will have taken on an altogether new form and state, there will be no need for laws as we find them in the Ten Commandments. There will be no family life, no government that wields the sword, no society held together by creative ordinances, and consequently no law to command these things.

Coming down from these heights, to which Luther has led us, we may now be all the more prepared to discern that which pertains to the outward abrogation of the law. The outward abrogation of the law has no dealings with the law in its essence, with the law as such. It deals with a law which has been given at a certain time, for a definite period of time, and to a certain people. It is the law of Moses which here comes into consideration, of which the apostle says that it was given 430 years after the covenant with Abraham had been confirmed of God in Christ. It is a law which has never been given to the Gentiles, which, moreover, was to function as a wall of partition between the Jews and the Gentiles. It is that law of which the Apostle, as Luther expressed himself, seems to be speaking "unseemly," in that in Hebrews 9:10 he speaks of the weak and beggarly elements," of "carnal ordinances," i.e. regulations for the body (*δικαιώματα σαρκός*) as meats and drinks and diverse washings. Indeed, the Mosaic Law is a temporal law, imposed on the Israelites and rendered obligatory to the period of righteousness, i.e. of the right and final order in Christ constituted by the Holy Spirit through the New Covenant. This law was only a go-between, was as such tentative, temporal, transient.

As long as we are only speaking of "the beggarly elements" and "the carnal ordinances" of this law none of us insist on retaining it. Still less do we do so when the New Testament paints out specific laws, as for instance the Sabbath Commandment or the laws pertaining to sacrifices, as being a shadow of the things to come. But as soon as the discussion revolves round about those precepts of the Mosaic Law, which are classified as "moral" laws, we are averse to accent an outward abrogation of these laws, the less so since they are being repeated in the New Testament. First of all we should realize, in taking this stand, that we are strongly under the influence of the threefold division of the Mosaic Law into civil, ceremonial and moral laws. Consequently we find it difficult to think in terms of the Mosaic Law as such, as a code and a corpus of laws, containing ceremonial and civil laws. And of the Decalogue as a summary of the law also. On the other hand we are not always aware of a tendency on our part of drawing a wrong conclusion from the New Testament abrogation of certain Mosaic laws pertaining, for instance, to meat and drink and holy days (Colossians 2:16). These laws, we say, are, of course, not binding on us anymore, because our Lord and the Apostles tell us that with so many words. The other laws, however, that are not listed in the New Testament as abrogated laws, what of them? But are they not abrogated outwardly likewise? Does not the fact that the New Testament specifies certain Mosaic laws as laws that have been thus abrogated justify us to draw the conclusion—if conclusions we must draw—that all the other laws of Moses are likewise abrogated, that Colossians 2:16 and Hebrews 9:10 are but specific examples of the outward abrogation of the whole Mosaic Law, examples to which many more could be added, if we had the desire to list all the separate commandments of the Mosaic Code. But in this case we are

not in need of drawing conclusions at all. Colossians 2:16, for instance, is preceded by the sweeping statement of the Apostle that the handwriting of ordinances that was again against us has been blotted out. “Here remember,” to quote Lenski, “that this handwriting contained *all* the demands of God made upon us. The cancellation wiped out *all* of them. That means that none are now *left*, such as the Judaizers in Colosse imagined, requiring Christians to avoid this and that (v. 20), and to observe this and that (v.16). Again Hebrews 9:10 with its “carnal ordinances” is preceded by the sweeping statement that the old covenant is decaying and waxing old and is ready to vanish-away with it, certainly, all covenant-laws.

All laws, we say, whether we are now thinking of sabbath laws or of those that pertain to the priesthood and the tabernacle, all laws, whether we have in mind the laws that pertain to meat and drink or to those that pertain to marriage and divorce. Consequently the Apostles disavowed the Judaizers who had agitated the Gentile Christians with declarations telling them that they must be circumcised and keep the law. “We gave no such commandment” the Apostles assert in their letter to the Gentile Christians, Acts 15:24. And we also have received no commandments from our Lord or from the Apostles that we, who are likewise under the New Testament dispensation, should keep any Mosaic laws, whether ceremonial laws pertaining to days and weeks (Galatians 4:10) or judicial laws pertaining to marriage as we, for instance, find them in Leviticus 18 and 20. No such commandments have we received from our Lord or the Apostles. On the contrary, we are told that they are abrogated. And if modern Judaizers, who tell us that we cannot be saved without these laws, or modern legalists, who do not differentiate between the Old and the New Covenant, want to unsettle our souls by forcing us under these laws, we must stand firm and insist that according to God’s revealed will these laws are abrogated.

But the Ten Commandments are not abrogated outwardly, we hear it said. The Ten Commandments that were written with the finger of God on two tables of stone (Exodus 31:13; cf. 32:16; 34:1,27,28; Deuteronomy 10:2,4), the Ten Commandments that contain the will of God to love Him above all things and our neighbors as ourselves. These laws cannot be abrogated outwardly, we hear it said. Wherever this line of thought is used two essentially different definitions of law being blended together, an impossible procedure when we want to prove something. The Law in the proper sense of the word, the law in its essence, the substance of the law as the expression of the immutable will of God on the one hand, and the law as a code of laws given to one people and for a limited period of time on the other hand, are not to be confused when speaking of the outward abrogation of the Mosaic Law. The law in the first sense of the word, the *iustitia legislatoria* (Pieper II, 407), does not enter into the picture at all in view of the outward abrogation of the law. It is only the law in the second sense of the word, as a code and corpus of laws, with which we are now concerned. The Mosaic Law is such a code of laws, given to Moses by God for only a limited period of time and bearing all the earmarks of temporal laws. These laws including the Ten Commandments as a summary of all the Mosaic Laws are abrogated outwardly. The fact that the Mosaic Law, especially the Decalogue, contains the substance of the law which is to be equated with the Natural Law, does not forbid us from making the above statement. Our statement refers to the Mosaic form in which the substance of the law is contained, not to the substance of the law as such.

That the Ten Commandments are not to be excluded from the outward abrogation of the law can be learned from Matthew 12:8 and Mark 2:28. According to these two passages Jesus as the Son of man declared Himself to be the Lord of the Sabbath, i.e. the Sabbath and the Temple were under Him as κύριος, as Messiah, not only because He had instituted the Sabbath law and would brook no violation of it, but because He had come to fulfill it and to finish its purpose. When thus fulfilled the Sabbath, although covered by the Third Commandment, as well as the Temple and the sacrifices would disappear. Again in Ephesians 6:2 the promise of the Fourth commandment is changed to read, “And thou mayest live long on the earth.” Finally the First Commandment in the form in which it is written Exodus 20: “I am the Lord thy God, which have brought thee out of the land of Egypt, out of the house of bondage, thou shalt have no other gods before me, thou shalt not make unto thee any graven image or any likeness,” is not to be found in the New Testament and in our Catechism. But when we say that their form is obsolete we do not imply that we now have another *code of laws* in a somewhat different form more adapted to New Testament times. Jesus and the Apostles always made use of the Old Testament wording (compare the Sermon on the Mount and Romans 13:9) despite the above listed

changes. Why should they use any other but Moses' commandments, since they not only spoke to Jews, but since nowhere, as Luther says, are the laws of nature so well composed and arranged as in Moses (Reu, 109). Luther also in his Catechism uses the Ten Commandments with certain changes and omissions. Even prior to Luther the Church had made these necessary changes, Luther only "adopted" them, as Dr. Reu informs us, "so that the reformatory innovation is not found in a change of form but in the explanation" (107). Indeed, since Christ took the law into His hands and explained it spiritually, (Trigl. 803,7; cf. 955,11) we know that we do not have to receive the Ten Commandments in their Old Testament form, still less give them an Old Testament explanation (Reu, *Catechetics*, 358). Not being obliged to do so implies and presupposes that they are abrogated outwardly.

May this study have aided us somewhat in gaining the right approach to Leviticus 18 and 20. We are not studying these two chapters because they contain commandments that lie outside the realm of outwardly abrogated commandments. All of the commandments in Leviticus 18 and 20 are abrogated outwardly just as much as all the other commandments of Moses. In so far we have no reason at all to go back to these chapters. We indeed prefer to stay within the New Testament in order to find an answer to our question on the *Schwagerehe*. Here the words of Luther are in place: We have enough laws in the New Testament, therefore we do want to have him (Moses) in our consciences, but are only concerned in keeping Christ undefiled (III, 1032). Again: "Moses is not our master, We have our master Christ, who has submitted to us what we should know, keep, do and leave undone" (III,16). Let us in this connection also remind ourselves of the manner in which the Apostle Paul instructed the Corinthians concerning marriage. He did not fall back on laws of Moses but on the commandments of Christ. And if he had no commandment of Christ he gave his own inspired judgment. In 1 Corinthians 7:10 we read: "And unto the married I command, yet not I, but the Lord, Let not the wife depart from her husband: But and if she depart, i.e. if she separated for some reason or other, let her remain unmarried or be reconciled to her husband: and let not the husband put away his wife." Here the Apostle is referring to the Lord's commandment as one that was well known to the Corinthians. In the following verses 12ff he has no commandment of the Lord and therefore continues, "But to the rest speak I, not the Lord." Here he gives the Corinthian the directive to dwell with his or her unbelieving spouse and adds, "But if the unbelieving depart, let him depart. A brother or a sister is not under bondage in such cases," i.e. he or she is free, when the unbelieving spouse has deserted him or her and is from that day not any longer bound by the tie of marriage. This case the Apostle settled by his own pronouncement after having stated clearly in verse 12 that he had no commandment of the Lord. Concerning maidens who were in an unmarried state the Apostle also says, "I have no commandment of the Lord: yet I give judgment as one that hath obtained mercy from the Lord to be faithful." And then he goes on to tell the married and the unmarried what is good for them in view of the impending persecution which may soon rend the man from his wife and the wife from her husband and the children from their parents. In all these cases the Apostle either gives the Christians of Corinth a commandment of the Lord or his own judgment as an Apostle of the Lord. He himself does not fall back on Moses or refer his readers to Moses. Where he does quote Moses, as in Romans 13:9 and in 1 Corinthians 9:9, he does it in order to cull the substance of the law from the individual commandments or, as in the case of 1 Corinthians 9:9, to "go back to the underlying basic principle" of such commandments (cf. Lenski's excellent exposition of this passage).

In regard to the *Schwagerehe* we have no commandment of the Lord and no word of one of the apostles. Therefore the Christian Church either decided this matter in its church councils or reminded its members of the laws of the State, as Luther, for instance, did. Still ecclesiastical and State laws differed and differ widely from one another and from each other. Our Synodical fathers sought to base a uniform practice as regards the *Schwagerehe* on Leviticus 18. Their interpretation of this chapter has now been questioned by the Rev. O.J. Eckert, resulting in a renewed study of this chapter. But why do we at all go back to a chapter in Leviticus which contains laws which were given to Israel only. We do so because of verse 24 in this chapter: "Defile not yourselves in any of these things: for in all these the nations are defiled which cast out before you." Although this word, as all the other preceding words, is addressed to the Jews, it nevertheless also refers to the Gentiles. As such it applies that the immutable will of God pertaining to incestuous marriages finds expression in one or the other form in this chapter. Where in this chapter we are to look for it is another question. Not every

prohibition in this chapter is a law of incest. Verse 18, for instance, “Neither shalt thou take a wife to her sister, to vex her, to uncover her nakedness beside the other in her life time,” does not contain a prohibition which can be classified as a law of incest. Verse 7, however, prohibiting the uncovering of the nakedness of the father or the mother, is such a law. In short, we must, first of all, assure ourselves of the correct interpretation of each verse in this chapter—not forgetting how often even the Ten Commandments have been misinterpreted—and then must remind ourselves that our only aim is to find the *iustitia normativa*, God’s immutable will concerning the legality and illegality of marriage between blood-relatives and in-laws, not however to declare abrogated commandments in their Old Testament form as still binding on Christians under the New Testament dispensation.