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PAUL, THE LAWYER, ON LAW

Jerome Hall*

FOREWORD

Saul, a Jew, later called Paul, was born in the predominately Greek city of Tarsus located in Asia Minor. The Greek Jew was a zealous Pharisee and a contemporary of Jesus although he had not seen him. One day in approximately 35 A.D. he was traveling to Damascus to arrest Christians who were to be punished (persecuted). On the road to Damascus he was met by Christ, who asked him: "Saul, Saul, why do you persecute me? And he (Paul) said, 'Who are you Lord?' And he said, 'I am Jesus whom you are persecuting . . .'" (Acts 9:4-5). Paul fell into a coma and lost his sight which was restored three days later by Christ's agent. He was utterly convinced and never doubted that he had been authorized by Christ to be an apostle.

The most important facts that should never be lost sight of are, first, that Paul's experience on the road to Damascus was so dramatic, emotional, and intense that his consequent profound faith in Christ must supply the premise of any interpretation of his epistles. Second, quite different but also extremely important is the almost universal agreement that Paul was a genius. In sum, we are dealing with the discourse of a genius, a very emotional one, who had an overwhelming experience that made faith in Christ paramount in all aspects of his subsequent life.

Paul's epistles to the Galatians and the Romans have given rise to an enormous literature and sharp differences of opinion. In some of his discourse Paul praises law in the highest terms while in other passages, he criticizes law, sometimes very severely. Early Protestant-

* Professor of Law at the University of California, Hastings College of Law. Professor Wilhelm Wuellner (Pacific School of Religion) counselled me in my research, read a late draft of this essay and made helpful suggestions, for all of which I am greatly obliged. I am also obliged to Professor Hans Hübner (Göttingen) who also read a late draft of this essay, and on June 11, 1985, wrote me a long letter agreeing in part, but mostly defending his interpretation, "only to demonstrate how your line of argument is to be judged from my perspective."

1. "... I advanced in Judaism beyond many of my own age among my people, so extremely zealous was I for the traditions of my fathers." Gal. 1:14.
2. "... a thorn was given me in the flesh, a messenger of Satan, to harass me ..." 2 Cor. 12:7.
ism, following Luther, disparaged law, relying on Paul's criticism of it and on his numerous statements that salvation depends only on faith, not on law or works. At the other extreme, some theologians, such as M. Barth, said that Paul was "an enthusiastic teacher and advocate of the law." The present official Roman Catholic view is that "although in expounding the paschal mystery St. Paul teaches that justification is not obtained by the works of the law but by means of faith (cf. Rom. 3:28; Gal. 2:16) he does not thereby exclude the binding force of the Decalogue (cf. Rom. 3:28; Gal. 5:13-25, 6:2) nor does he deny the importance of discipline in the Church of God. (cf. 1 Cor. 5 and 6)" Professor Käsemann wrote: "What is done away is not just the curse of the law or the tyranny of an idea of legality and moral order of retribution. It is the Torah itself." But Professor Sandmel writes: "Nevertheless, it needs to be clear, even at the cost of a dozen repetitions, that it is not the Pentateuch as a totality, or, indeed the Bible, which Paul turns his back on, but only those legal requirements in Scripture which come from or through Moses . . . Paul considers outmoded not the Law but the laws."

To give a final, very telling example of the divergence of expert opinions, consider the following. Professor, now Bishop, Stendahl wrote: "What Paul brands 'judaizing'—circumcision and dietary laws for Gentiles—was not a barrier to Christianity, but quite attractive to Gentiles . . . . Even ritual laws like those from the Old Testament were not a liability but an asset—as any reader of Galatians can see." But Professor E.P. Sanders wrote: "There is good reason to think that, although observing the law was not burdensome to Jews, it appeared onerous and inconvenient to Gentiles." Paul's discourse on

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7. Sandmel, supra note 3, at 48.
9. E.P. Sanders, Paul, the Law, and the Jewish People 29 (1983). "Paul there (Gal. 3:10; 5:3) stresses that one who is circumcised is obliged to fulfill the whole law. Obviously this should be enough to discourage the Galatians from being circumcised and searching for justification in the law . . . ." H. Räisänen, supra note 4, at 95, 261. Paul is "opportunistic, because he wants to make it religiously and sociologically easy for Gentiles to become Christians . . . ." J.C. Beker, Paul, the Apostle 43 (1980). "To all appearances, in the Galatian congregation the demand for circumcision is . . . a requirement which can be fulfilled
law raises such complexities as to lead Professor J.A. Sanders to conclude that it “has been one of the most puzzling and seemingly insoluble (problems) in biblical study.”10 If distinguished scholars disagree so sharply on the important issues it would be illusory to think that there can be a definitive solution of the problems raised by Paul’s discourse on the Law.

Some of the reasons for these extraordinary difficulties are evident. Historical data are scant, and important discoveries like that of the Dead Sea Scrolls necessitate revisions of that history with consequent changes in the context of the epistles. A constant uncertainty concerns suspected emendations especially in Romans.11 There is uncertainty regarding the membership of the churches Paul addressed—were they Gentile Christians or Jewish Christians or God fearers or all of these? The plain fact is that there are statements in Paul’s epistles that support almost all of the opposed interpretations! The historical and textual difficulties and those fed by bias, such as those of Nietzsche and those of the Nazi propagandists who excoriated Paul’s Jewish influence on Christianity, were aggravated by the perhaps inevitable fact that theologians have read Paul from the perspective of their religious beliefs. In sum, at both ends of the spectrum—the text and the exegete—the difficulties in the study of Paul’s attitude towards the law are very great.

In addition to the complexity of the problem there is another reason that might deter a legal scholar from trying his hand in such a difficult terrain, namely, the fact that theologians have many skills commonly associated with “lawyering.” That is especially true of their skill in exegesis which in some ways is more advanced than lawyers’ current treatises on the construction of statutes. Some theologians, including Anselm and Calvin, studied law in universities; Tertullian had a legal mind and may have been a lawyer.12 Many other theologians have had legal training. Some have also been clergymen and among these, a few have been brilliant speakers and critics of opposed views. In light of all this, is there any reason why legal

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11. “The Epistle to the Romans has been extensively interpolated.” A. Schweitzer, *Paul and His Interpreters* 145 (1915).
scholars should try to contribute to the vast literature on Paul's position regarding law?

Several theologians have recently made statements that encourage legal scholars to try to contribute to the discussion. For example, Professor W.D. Davies has alerted them to the fact that "law," for Paul, did not mean what present-day lawyers and others mean by that term. This suggests that legal scholars by examining Paul's statements about "law" and the more abundant use of relevant propositions in the Old Testament can add to the extant knowledge of his epistle. More directly encouraging are specific suggestions by Stendahl, Beker, and many others, to take account of the specific problems and "crisis" situations Paul met in the churches he addressed. But especially encouraging are Betz's statement that Galatians is forensic, statements by Beker and Sanders that parts of Romans are a "debate with Jews," and Wuellner's use of the logic of argumentation in his analysis of Romans. These are almost invitations to legal scholars to participate in the dialogue.

14. Stendahl, supra note 8, at 5, 23, and Beker, supra note 9, at 45, 69 ff. 94-95.
15. "The apologetic letter, such as Galatians, presupposes the real or fictitious situation of a court of law, with jury, accuser, and defendant." Galatians is a "debate." H.D. BETZ, GALATIANS—A COMMENTARY 24 (1979).
Relying on classical rhetoric, especially ARISTOTLE'S RHETORIC I, 3, 1358b, 5-20, Professor George A. Kennedy criticizes Betz' characterization of Galatians as "forensic"; instead, it is "deliberative rhetoric." G. KENNEDY, NEW TESTAMENT INTERPRETATION THROUGH RHETORICAL CRITICISM 145-46 (1984). "Forensic" in Aristotle's rhetoric was restricted to proceedings in courts of law, to past facts and to justice or injustice. But "forensic" now has a wider connotation, e.g., "an argumentative exercise in the form of a speech or thesis . . . belonging to courts or to public discussion and debate." WEBSTER'S INTERNATIONAL DICTIONARY Accordingly, "forensic" in this essay includes all of Aristotle's genres and more. Aristotle said: "Forensic speaking either attacks or defends somebody." RHETORIC 1358b, 10-11. Cf. Gal. 1:6-9; 2:4,5,11; 3:1,3; 4:17; 5:10,12; 6:13. This raises questions not only about Kennedy's statement that Paul did not write a defense—"instead he preached the gospel of Christ" (Kennedy, supra 144-45)—but also, and more importantly, whether Aristotle's genres are mutually exclusive. There are obviously linguistic differences between classical rhetoric and modern usage. For example, Kennedy, a classical scholar, writes that "exhortation . . . is not regarded as a part of judicial rhetoric by any of the ancient authorities." Id. at 145. But in modern usage exhortation is at the heart not only of trial lawyers' arguments but also of the speeches of politicians and legislators. In this essay, "forensic" is used in a current, extensive sense.
16. Wuellner, Paul's Rhetoric of Argumentation in Romans, in THE ROMANS DEBATE 153 (K. Donfried ed. 1977). For Professor Wuellner "situation" does not mean the theological or social or political situation, but the "argumentative situation." Id. at 155. Professor Wuellner writes that "despite the parts you lift up as forensic, I continue to see in the overall argumentation of Paul in Romans the epideictic [in Perelman's interpretation] or demonstrative element or emphasis prevailing." Letter, June 29, 1985. Regarding the form of Galatians, see Betz, supra note 15, at 16-23. For the form of appellate court decisions, see B.E. WITKIN, APPELLATE COURT OPINIONS Ch. 5 (1977).
This essay builds on the above and other suggestive thoughts of able theologians. If Galatians is best understood when Paul's role in that epistle is recognized as that of a trial lawyer, important consequences follow. For example, the question not only there but also in Romans is whether Paul contradicted himself, as has been charged by many theologians. This is the crucial question because unless it can be resolved, it is impossible to know what attitude Paul had toward the law. Since the logic of argument is the lawyer's stock-in-trade, it should be possible to advance beyond critical textual analysis of the alleged contradictions. Present legal scholarship, especially in the philosophy of law, should be able to cast light on the meaning of "law" and on Paul's use of that term. Just as theologians study ancient Greek and Roman letters to advance knowledge of Paul's epistles, so, too, a comparison of Galatians and parts of Romans with certain legal data to be noted, written and spoken, should also be helpful. Most important in this regard are the psychology of persuasion and the logic of argument lawyers employ in their speeches to juries, and judges in their decisions. One may even venture to think that the use of these tools and methods will demonstrate the invalidity of some of the findings of the traditional textual approach to Galatians and the forensic parts of Romans.

"Law" in Paul's Epistles

Paul defended himself before Roman officials, claimed the rights of a citizen, and urged payment of taxes and civil obedience. The (pagan) rulers are God's agents! (Rom. 13:1-8). Their commands were "positive laws." But Roman law is not what Paul meant by "law."

Paul never defines "law," but "Torah," the Hebrew word for "law," has been taken to mean the Pentateuch, the first five books of the Old Testament. 17 But it is now widely agreed that Torah means much more than that. It includes not only the Mosaic law and other commandments but also the teaching of the prophets, especially their moral precepts, the wisdom literature, and even Israel's history, in sum, "the whole of the revealed will of God." 18 If "law" meant all of

17. "The Law is the Pentateuch, the first five books . . ." Introduction to the R.S.V. xxv, xviii (1962).
18. Davies, supra note 13, at 1460-61. Cf. "The Greek word which we translate as law (nomos) is used [in ancient Greece] to mean ethical custom, commerical custom, religious rites, law in general, a rule of law, and social control as a whole." 1 R. POUND, JURISPRUDENCE 27 (1959).
that to Paul, then the reader of this paper, especially if he or she is a lawyer, must discard any preconception that “law” for Paul meant only or primarily positive law. Nevertheless, it is also important to keep in mind that the Old Testament, especially the Pentateuch, is replete with the terms “statute,” “ordinance,” “judgment” and other words in present-day legal usage, and also that there are many commands in the New Testament, especially in Paul’s epistles (1 Cor. 5:2, 6:13, 7:18, 27, 36, 39; Rom. 13:1-9).

The fact that “law” had the very extensive meaning noted above, raises certain questions about Paul’s attitude toward it. Did he reject all the law, thus turning his back on his entire past as a Jew and a Pharisee? Or did he reject only the laws regarding food, feast days and other cultic rules while remaining loyal to the Decalogue and other vital religious or moral principles? Again, did Paul take one position regarding the law so far as salvation was concerned, and another regarding the law from Moses to Christ and still another regarding daily behavior, including that of Christians who sinned?

If we examine the omnibus meaning of “law” through the spectacles of modern philosophy of law, several distinctions must be made. What Paul called the law of his “members,” (Rom. 7:23) must be distinguished from any norm, legal or ethical. His use now means instinct, desire or libido; and if we used “law” regarding a generalization about these facts, we would say that it is a descriptive or scientific law, not a prescriptive or normative proposition.19

Paul and many later theologians also spoke or speak of “the law of Christ.” The essence of this “law” is love of neighbor (Rom. 13:8): and one may grant that if one is always motivated by love, he will never sin or commit a crime. But this “law” is far from the meaning of either scientific law or positive law although it is possible that the “law of Christ” was intended to include the moral law of the Torah. In any case, the immediate reason for the use of “law” was and is that in both Testaments the relevant propositions are stated in imperative terms, such as “love God” and “love thy neighbor.” The “Law of Christ” connotes, for Professor C.H. Dodd, the moral precepts Jesus preached not only in the Sermon on the Mount but also at many other places. He is careful to note that these precepts are not “enforceable by judicial or disciplinary measures.” They indicate “the quality and the direction of action which shall conform to the standard set by the divine agape.” Dodd acknowledged that “the precepts cannot be di-

rectly transferred from the written page to action.” But they are not “mere broad generalities” or “vague or ambiguous.”

The “law of Christ” may be related to “natural law” (Rom. 2:14). But “nature” has many connotations, and it is doubtful that the Noachian precepts were the “equivalent of the Stoic doctrine of the law of nature.” What is clear is that it was intended to be contrasted with the law of Moses revealed by God in terms of commandments and written on tablets of stone. If one wished to speak in Aquinas’ terms one would say that the Decalogue is divine law revealed by God, as reported in the Bible. One may think of this as positive natural law which is very different from the positive law of the analytical school of jurisprudence. “Written on their hearts” plainly means “unwritten,” and if it also implies conscience and reason, there is a rough analogy with a theological view of natural law.

In further elucidation of the “law” let us take a jurisprudential glance at some aspects of the legal system in which Paul was trained. The Jewish law consists of 613 precepts. Many of these are moral precepts, while others are cultic, dealing with food, holidays and other ceremonials. 248 are affirmative injunctions; 365 are prohibitions. The rabbis reduced them to a few common generalizations so that “the whole Torah” could be obeyed. These laws governed almost every aspect of life, many of them being derived from civil laws. Following his father-in-law’s advice and also because when “Moses sat to judge the people, and the people stood about Moses from morning till evening,” (Ex. 18:13) Moses appointed many judges but retained final jurisdiction. Facing a very difficult problem “Moses brought their case before the Lord” (Nu. 27:5). Hundreds of years later, in Paul’s time, the judiciary was well established, the supreme court residing in Jerusalem.

Professor C.F. Kent, a leading scholar on the law of ancient


23. S. Sandmel, supra note 3, at 58.


Israel,\textsuperscript{26} classified it into the following branches:

1. **Personal and Family Law** which regulated the relations of children to parents, the authority of the father, marriage, divorce, aliens, slaves, masters and also property laws concerning ownership and inheritance.

2. **Constitutional Law** covering political organization, military regulations, the judiciary, witnesses, instruction in the law and many others.

3. **Criminal Law**: Crimes against religion, sorcery, labor on the Sabbath, bribery, obstruction of justice, crimes against morality, illegal marriage, sodomy, bestiality, prostitution, indecent assault, kidnapping, perjury, murder, manslaughter, rape, seduction, theft, including theft of land by removing landmarks, false weights and measures, and many others.

4. **Humane Laws** which include kindness to animals and to unfortunate persons, especially widows, the poor and the handicapped, philanthropic measures, reverence for the aged, love of neighbors and resident aliens.

5. **Laws Defining Obligations to Jehovah** which included prohibition of apostacy and idolatry, study and preservation of the law, and precepts stated in terms of gratitude, loyalty, obedience, love, and service.

6. Finally, **Ceremonial Laws** regarding sacred objects, and shrines, altars and temples, sanctuaries, sacred officials, the hierarchy, their property and means of support, their qualifications and consecration, clothing, authority and duties, ceremonial cleanliness regarding food, loathsome diseases, childbirth, circumcision, tithes, sacrifices, and many related “offerings.”

The above list and what follows can only indicate the extensiveness and detail of the Jewish law. Many provisions have a distinctly modern ring, and it is only necessary to glance at the opening pages of Hale’s *Pleas of the Crown* and at American Colonial laws to recognize the influence of Jewish law.

If we examine these “laws” from a jurisprudential viewpoint\textsuperscript{27} we find that they have two characteristics in common with the positive law of Austin’s theory. First, although they were believed to be of divine origin, many of them were promulgated by Moses, the

\textsuperscript{26} C.F. Kent, *Israel’s Laws and Legal Precedents* (1907).

\textsuperscript{27} In his *Letter, supra* note 8, Professor Hiibner wrote: “As regards the form of Old Testament law you must by all means see Albrecht Alt, “Die Ursprünge des israelitischen Rechts” in A. Alt, *Kleine Schriften zur Geschichte des Volkes Israels*, 278-332 (Munich, 1959).
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equivalent of Austin's "political sovereign." Secondly, as noted, they are given the form of commands, hence called "commandments." Beyond that there are important differences from Austin's concept of positive law. His distinction of positive law from the law of God and from public morals was not observed; the Jewish Law included all those norms and more. Again, if one adheres to the prevailing view, expressed not only by Aquinas and Kant but also by Austin and Kelsen, that positive laws are sanctioned by penalties or civil privations, then again no such specification may be found in many Mosaic "laws." In some of them, to be sure, a negative sanction is stated, e.g., "He that smiteth . . . [or] . . . curseth his father or his mother shall surely be put to death" (Ex. 21:15, 17). Again, "[I]f a man entice a maid that is not betrothed, and lie with her, he shall surely endow her to be his wife." (Ex. 22:16). Further, "If an ox gores a slave, male or female, the owner shall give to their master thirty shekels of silver, and the ox shall be stoned" (Ex. 21:32).

These commandments closely approximate Kelsen's concept of law; they state that "if" a certain violation occurs, then a specified penalty must be imposed. Legal words such as "statute" and "ordinance" occur frequently; "regulation" occurs occasionally; and in Ex. 12:32 restitution is ordered as well as payment of double or more damages for injuries to or theft of property.

Quite different in the modern perspective is Deut. 5:16 which prescribes "Honor thy father and thy mother . . . that thy days may be prolonged . . ." This may mean that a physical consequence is a benefit; neither is now regarded as a legal sanction. "A man shall not take his father's wife" (Dt. 22:30) or any other relation. The offender is "cursed," which might mean condemned by God. [A priest] "shall not marry a harlot" or a divorcee (Lev. 21:7); no sanction is appended. "Thou shalt not oppress a hired servant," (Dt. 24:14); no sanction. "The Lord spoke to Moses . . . take a census . . ." (Nu. 1.1,2). "And ye shall hallow the fiftieth [jubilee] year, and proclaim liberty throughout the land to all its inhabitants; and return each to his possession and ye shall return each to his family" (Lev. 25:10). Then there are sanctions that are vague or that command omissions or nonaction. "[B]e not afraid of them (thine enemies); for the Lord, thy God is with thee. . ." (Dt. 20:1). If a fellow countryman "becomes poor . . . and sells himself to you, you shall not make him serve as a slave." (Lev. 25:39). "You shall not give up to his master a slave who has escaped from his master to you." (Dt. 23:15).

It is noteworthy that there are also occasional precepts that run
not in terms of "command" but in terms of what we call a "privilege" or "power," for example, "To a foreigner you may lend upon interest but to your brother you shall not lend upon interest" (Dt. 23:20a). There were many procedural rules regarding the appointment of priests and other officials, and regarding witnesses, including the provision that no one shall be condemned to death on the testimony of only one witness (Dt. 17:6).

This scant report, it is hoped, will help one to understand the legal mind of Paul and to appreciate his expertise in the Jewish legal system, qualities acquired and developed in his Pharisaic education and practice; for it was in that experience that Paul learned the art of skillful debate and the techniques of interpretation.

Although lawyers, as agents of litigants, were not recognized in biblical times and that use of them was even disparaged,28 many functions which we attribute to lawyers were performed by the Pharisees. Paul was a student of Gamaliel, the greatest law teacher of his time. The Pharisees were strict exegetes and unlike the Sadducees, they recognized oral law. They engaged in many debates about the meaning of scriptural terms and precepts; they advised "clients" and their opinions were promulgated and regarded as authoritative. Not least, they developed and applied a set of moral principles that has had lasting effect.29

**Lawyer and "Lawyering"**

Appraisal of the thesis that Paul was a lawyer, especially in Galatians, requires a wider conception of "lawyer" than the present professional one. We think of lawyers as persons specialized in positive law and licensed by the state to practice a monopolistic vocation. They draft instruments, negotiate, advise clients, write briefs, organize corporations and try cases. In ancient and probably in many primitive societies, there were officials who performed some of these functions in much less specialized forms. This was plainly the case in biblical

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times when three persons called "lawyers" questioned Jesus, two of them asking what is necessary for salvation, the third asking what are the most important commandments (Matt. 22:35; Luke 5:17, 7:30; 10:25). Paul, an expert in Mosaic law, often cited it and sometimes, like debaters everywhere, he did not cite passages opposed to his argument. Many lawyers are specialists, and organizing a corporation (Paul organized churches) is very different from trying a case before a jury. Evidently, "lawyer" is a very vague label when it is used to denote all of the different skills and jobs that lawyers have and perform. It would clarify discussion if one distinguished their different roles or functions.

The most dramatic one, the role that is uppermost in the public mind, is that of the trial lawyer, the devoted advocate who does his utmost in behalf of his client, refuting his adversaries' arguments and making a strong affirmative case; both aspects of advocacy are interrelated and necessary to win a case. As we shall see, both refutation and affirmation are employed in Galatians.

What were Paul's other roles in the epistles? One can hardly regard Paul as a philosopher; he was rather an artist with powerful insight, imagination, and literary aptitude as well as a lawyer in Galatians. Scholars who have systematic treatises in mind say that Paul was not a theologian; Stendahl, appreciating other qualities, said he was a "great theologian." The almost universal description of Paul is that he was a "missionary." But that says very little about Paul. We think of missionaries as preachers of a given text, sent abroad to convert "heathens," i.e., believers in religions other than that of the missionary. Paul invented his text. Moreover, Paul's epistles were not addressed to Gentiles to persuade them to believe in Christ. They were directly addressed to Gentile and Jewish Christians to persuade them to accept or to remain faithful to his (Paul's) teaching. Certainly, if one focuses on Galatians, "trial lawyer" is more apt than "missionary," but if one wishes to call Paul a "missionary," one should state why he was a very special missionary—one of a kind.

30. E.g., in his frequent comments on circumcision Paul cites Gen. 15:18 but he does not cite Gen. 17:10 or Lev. 12:3 where God commands circumcision. In Galatians Paul does not say that Abraham was circumcised after the promise; he does say that in Rom. 4:10. In Rom. 4:6 Paul quotes Ps. 32:1 to support "righteousness apart from works," but "works" does not appear in Ps. 32. Cf. "no one will today seriously suggest that we should follow Paul in his exegesis." RAISÄNEN, supra note 4, at 72.

31. STENDAHL, supra note 8, at 46. So, too, Beker writes: "Paul is a theologian, probably the most important—if not earliest—theologian of the primitive church." Supra n.9, at 353.
any case, if interpretation is to be significant, the various roles of Paul in his epistles must be distinguished.

**Paul's Epistles**

Paul's discourses have been called "epistles" because they were dictated by him to his "co-workers" and addressed to the churches organized by him (except Romans); the "letters" were read aloud by Paul's messengers. Presidents dictate memoranda to their assistants who deliver them orally to members of Congress, stating the reasons for approval or opposition to proposed bills. One would hardly say that they were "letters to Congress." When a teacher distributes excerpts from his earlier lectures one would not characterize them as "letters."32 Paul's epistles differ in important respects from Plato's Seventh letter and from those of other scholars in Ancient Greece, many of which were written by scientists or philosophers to explain or summarize their theories.

Paul's epistles have been studied as "rhetoric" or "dialectic" or "dialogue." For Aristotle "rhetoric" is "the art of public speaking" and its pejorative sense fits some statements in Galatians. Unlike Socrates or Plato, Paul did not confront an adversary who challenged him point by point, nor did he probe for an agreement with the Judaizers, upon which refutation was based. "Monologue" would be more apt than "dialogue" for although Paul, like every competent lawyer, held his opponents' arguments clearly in mind when he dictated to his secretary, he did not include their answers to his arguments. Better still is "monodialogue" or "autodialogue," Unamuno's terms for much of his own writing. "Dialectic" for Aristotle was "the art of logical discussion." 33 But "logical discussion" did not mean formal logic, the logic of demonstration. It meant practical reasoning, the kind of reasoning expressed in any argument. It may be based on or proceed from an agreement by the parties on a certain issue,34 and it

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32. "Actual letter style can only be found in the introduction and conclusion of the (Romans) letter. . . . Throughout there is a continuous change between first, second and third person. This is obviously not the way one writes a letter or a didactic treatise." Jervell, *The Letter to Jerusalem*, in Donfried, supra note 16, at 70, 71.


34. In his *Letter*, supra note 8, Professor Hübner wrote: "In his diatribe questions, in my opinion, Paul picks up the arguments of his opponents which he then admittedly reduces to absurdity. To this extent there is a dialogical moment in Romans after all."

". . . reasoning is 'dialectical' if it reasons from opinions that are generally accepted." *Aristotle, Topics* Book 1, 100a, 30. See C. Perelman & L. Olbrechts-Tyteca, *The New Rhetoric—A Treatise on Argumentation* (1969) and Recasens-Siches, *The Logic*
has many characteristics that distinguish argument from other kinds of discourse. In legal arguments, including Paul's, reliance on precedent and analogy is central. But, as is evident in the trial of a case and especially in a lawyer's speech to the jury, emotion, appeals to the experience of the audience, to well known facts, and dire prognostications of future consequences enter into the psychology of persuasion. Thus the logic of argument and the psychology of persuasion interact for a single purpose—not to establish the truth of a thesis but to convince an audience that it is true or has other merit and to incite congruent action. In Galatians Paul made use of all these strategies. He also chides, praises, addresses them as "brethren," speaks of friendship, suggests that his enemies have used occult forces and relies on the highest possible authority to support his argument.

Paul's advocacy had much in common with that of Clarence Darrow, one of the most brilliant trial lawyers of this century. In his speech to the jury in defense of himself, charged with an attempt to bribe jurors, Darrow expressed surprise that he was prosecuted. (Cf. Gal. 1:6.) He was the champion of the poor. (Cf. Gal. 2:10.) Because he had defended labor unions, rich industrialists were bent on his destruction. (Cf. 2 Cor. 11:23-26.) Darrow criticized a former employee who was enlisted by his enemies to spy on him, and Paul castigated "false brethren" who spied on him (Gal. 2:4). Darrow called the lawyers for the prosecution "cowardly," "sneaky," "brutal," "malicious," "felonious," and "criminal." Paul said: "Look out for the dogs, look out for the evil-workers, look out for those who mutilate the flesh." (Phil. 3:2.) Whether what Paul said about the Judaizers was milder or not, the point is not merely that it seems impossible to avoid such breaches of civility in very heated arguments but also and more importantly, this kind of speech may be deliberate, intended to influence the audience by arousing their disapproval or even hatred of the opposition.

In his defense of Leopold and Loeb, sons of multimillionaires charged with kidnapping and murder, Darrow emphasized seven
points: (1) the public clamor for blood (Cf. Gal. 1:10); (2) the bias against the rich although, in fact, this had only brought neglect and other disadvantages to his clients; (3) the youth of his clients, 18 and 19, whom he called “boys,” “children,” “minors”; (4) the uniform practice of clemency on pleas of guilty, illustrated by the observation that of 450 who pleaded guilty to murder in Chicago only one was hanged and he was 23 years old; (5) the plight of the families of both the victim and his clients; (6) the “senselessness” of the crime, caused by the mental, emotional illness of his clients despite their intellectual brilliance; and (7) Darrow’s philosophy of determinism and humanitariansim—the capital penalty, far from deterring anyone, would be a step backwards to the jungle.

Each point was repeated several times, carrying more weight each time because he had in the interim used other arguments. Like a great actor, Darrow led the judge and the auditors to the climax of mounting tension, pathos and tears. His sole purpose (utterly impossible to achieve when he entered the courtroom) was to save his clients from the capital penalty. He won his case!

Darrow’s strategy was as effective as his substantive argument. He pleaded “guilty,” placing the responsibility on the judge alone, avoiding the death penalty in the inevitable sentence by a jury. He subtly praised the judge, (Cf. 2 Cor. 7:4), apologizing for placing this heavy burden on him, at the same time criticizing the “savage” prosecutors and the state’s psychiatrist whom he called a “peddler of perjury.” (Cf. 2 Cor. 2:17). He asked the judge to recall his own adolescence—a time of wild imagination, fantasy, and delusion. He vividly portrayed Loeb’s obsession with detective stories leading to his desire to commit the “perfect crime,” as well as Leopold’s obsession with Nietzsche’s superman. Paul was also a skillful advocate who, in pursuit of his purpose, used many similar arguments and strategies (2 Cor. 10-13).

Each Pauline epistle is distinctive in some ways but certain themes regarding law are discussed in several epistles. In Galatians, Paul’s role as advocate is obvious. Romans, while partly polemical, also differs markedly from Galatians in mood, purpose, and situation.

Theologians have expressed various opinions regarding the purpose of Romans. Was it written to establish his apostleship? Or, to deal with a conflict between Gentile Christians and Jewish Christians?

Pharasaical argument, that does not invalidate the interpretation of Galatians as “forensic” in a modern sense of the word.
Or was he, at the invitation of his Pauline followers in the church, responding to Jewish-Christian criticism? Or was it the rehearsal of a future speech? Since his other letters were written to particular churches to meet a specific problem, so, too, it is said, that must have been true of Romans. On the other hand, it is widely recognized that Romans contains many generalizations that summarize the arguments of Paul's earlier epistles, especially Galatians. Thus, Romans has been called Paul's "last testament," not because it was his last letter, but because of its character as the summation of important doctrines previously expressed. It seems to me that Professor Donfried is correct in holding that both purposes are compatible and necessary to describe the Romans genre.\(^{37}\) There was a problem in the Roman Church and Paul addressed it in general terms based on his past experience.

In the society of Paul's time there were Jews divided into several sects, pagan Gentiles, Gentile Christians, and Jewish Christians who either agreed with James or with Paul and many of his converts who shared his rejection of circumcision and Torah, at least as regards salvation. Aristotle said "... of the three elements in speech-making—speaker, subject, and person addressed—it is the last one, the hearer, that determines the speech's end and object."\(^{38}\) To which party or parties were the epistles addressed?

Unfortunately, the need to know what audience Paul was addressing meets apparently insuperable historical difficulties. Even the membership of the Galatians audience is uncertain. We are informed that the members were Gentile Christians,\(^{39}\) and that the membership was "mixed," and included Hellenized Jewish Christians and God-fearers.\(^{40}\) Opinions regarding membership of the Roman church are also diverse. They were said to be Jewish Christians,\(^{41}\) but the prevailing view is that it was a mixed church.\(^{42}\)

After reviewing many opinions on this subject, Professor Donf-
fried concluded that “we know virtually nothing” regarding the audience in *Romans*. Even stronger language was used by Professor Jervell, who said: “It can be shown that the attempts to understand Romans primarily on the basis of our knowledge of the Roman congregation leads us to a dead end.”

The question of “audience” is further complicated by the fact that the epistles were probably “circular letters” intended for a much larger audience than the particular churches to which they were addressed (1 Thess. 5:27). Letters by ancient Greek writers addressed to particular friends were meant for a much wider audience. There is some evidence to support the view that the letter addressed to Romans was a copy of a letter sent elsewhere. Unfortunately, there is also much uncertainty about even specified segments of the wider audience. For example, regarding the Judaizers, we are told that they were Gentile Christians; that “The most natural view seems now as before to be that they were Jewish Christians . . . ;” that “perhaps they were Jews after all,” but probably, that “A ‘Judaizer’ is not a Jew . . . .”

In light of these uncertainties and negative prognostications, efforts to test Paul’s consistency by referring one statement to one party, and the other which, on its face, contradicts it, to another party would be an exercise in futility if they were based on vague historical hints. It is possible, of course, to add to current knowledge by careful textual analysis. For example, Professor Räisänen observes that “it is striking how often the polemic against the law as the way to salvation is found in a context where the question of the inclusion of the Gentiles is the most important problem (Gal. 2-3, Rom. 3-4, Rom. 9-10).”

The “circular” character of Paul’s epistles has its counterpart in

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43. Donfried, *supra* n.16, at xiv.
44. Id. at 62-63.
45. Stirewalt, *The Greek Letter-Essay*, in *id*. 176-77. “. . . in Romans we have a letter addressed to a specific community and, as it appears, only to that community.” H. Gamble, *The Textual History of Romans* 137, quoted by Beker who italicized the last four words. Beker, *supra* note 9, at 70.
47. Prof. Munck “claims that the Judaizers’ of Galatians were not Jews but Gentiles recently circumcised . . . who were now insisting on circumcision for other Gentiles . . . .” W.D. Davies, *Christian Origins and Judaism* 182-3 (1962).
the decisions of appellate courts. They are definitely "circular", for while they are directly addressed to the lawyers and litigants in the particular cases, they are printed and published to the entire legal profession and in leading constitutional cases, to the general public. The decisions of great judges reverberate through the years, sometimes ages, influencing lawyers and changing law and legal institutions. So, too, Paul, and eminent biblical exegetes down to the present time, have in their published ("circular") work influenced conceptions of religion and the religious practices of countless populations.

**GUIDELINES TO INTERPRETATION OF THE EPISTLES**

By far the most important guideline is Paul's profound faith that Jesus was the Messiah. That is the platform from which he spoke or wrote following his experience on the road to Damascus, which, however, was qualified by his personal attitude towards the law.

Two subordinate issues had to be successfully met. He had to establish his authority as an apostle and he had to overcome the scurrilous attacks on his character and reputation (Rom. 3:8, 2 Cor. 10:10, 15, 11:1, 16; 12:1). If he failed in either of these efforts, his effectiveness would diminish, if it did not evaporate. Paul replied to both attacks by emotional portrayals of his unfailing devotion and loyalty to Christ, his perseverance in the face of many physical assaults, even attempts on his life, his hazardous journeys, and constant physical pain (2 Cor. 6:4-10)—none of which caused him to diminish his efforts. He could have filed a demurrer, insisting only on his fidelity to Christ.

Our lawyers rarely face a challenge to their authority to practice law; their license settles that. But the question of legal "competence" arises at many points. Limitations are imposed by the code of ethics, such as the prohibition against representing conflicting interests and there are restrictions on lawyers in public office both during their tenure and for some time after that. A lawyer's reputation is jealously guarded and often determines his effectiveness in court. Paul's "competence is from God" (2 Cor. 3:5-6). The modern concepts of authority, competence, and jurisdiction are much more complex than their simple analogues in Paul's time.

Of the utmost importance for any understanding of Paul's epistles is the fact that prior to 70 A.D. Christians were not regarded, and did not regard themselves, as comprising a religion other than Judaism. It is therefore more accurate to speak of Paul's "calling" rather
than his "conversion." Indeed, although "Christians" are referred to in Acts 11:26, the word was not used by Paul, and "Christianity" does not appear in the New Testament. "Christ" at that time was simply the Greek word for "Messiah." What Paul says to Jews must therefore be interpreted as intramural, not lifted from that human context and interpreted to conform to the bias of later exegetes. There were many sects or parties in the Judaism of his time, and the claim to be the Messiah did not imply advocacy of a new religion.

Among the legal principles that may be helpful guidelines in interpreting Paul's epistles are, first, that where a text contains both a generalization and specific provisions that contradict the generalization, the latter prevail. Thus, if Paul criticizes law in general terms but he also approves and supports some laws, e.g., parts of the Decalogue, marriage and family laws, laws forbidding certain crimes and certain moral principles, the specific propositions prevail. This principle cannot be applied to all of Paul's discourse because, with reference to salvation, Paul almost always excluded law and works entirely. His general statements to that effect prevail unless in a particular situation the evidence clearly supports an exception. The above legal principle helps to solve the problem of Paul's attitude toward the Law in contexts regarding daily behavior not related to salvation. It supports the opinion that Paul was not an "antinomian" in those contexts.

The second legal guideline is the principle of "presumption." The best known application of it is the presumption of innocence that prevails until the required proof to the contrary is provided by the prosecutor. A similar principle, not technically a legal presumption,
is the inference that the jury may draw, without instruction by the judge, that if it is proved that a witness lied regarding one fact, he probably lied in his testimony about another fact although that cannot be proved.  

54 This is not a technical legal rule; it is simply a fact of ordinary interpretation. It must also be emphasized that this presumption is rebuttable. If “sufficient” proof to the contrary is produced, the inference must give way; it is “overcome.” This principle is relevant to the charge that Paul often contradicted himself. Thus, it can be used by both sides to argue that since Paul contradicted himself (or did not do so) in Galatians, that in itself supports a similar judgment regarding Romans. Finally, there are the extremely important guidelines required by the logic of argument and psychology of persuasion. With the above interpretative guidelines in mind let us more closely examine the two epistles that are the subject of this discussion.

GALATIANS

Paul begins, as would any lawyer similarly challenged, by establishing his authority. He was, he said, appointed an Apostle by “Jesus Christ and God the Father” (Gal. 1:1). Then, after a brief salutation, he states the main problem—the Galatians are “turning to a different gospel” (1:6). The Judaizers “want to pervert the gospel of Christ” (1:7). Let them be “accursed”! He cries and repeats (1:9). Paul’s gospel was not taught him by men; “it came through a revelation of Jesus Christ” (1:12). He relates some autobiographical facts regarding his training and zeal in Judaism, and he reports on his conference in Jerusalem with Peter and James. He succeeds in his negotiation with them; they would continue as Apostles to the circumcised—the Jews—he, to the uncircumcised Gentiles. They gave him “the right hand of fellowship” (2:9), apparently agreeing that Gentiles need not be circumcised or bound to obey the Law, requiring only that he “remember the poor” which he “was eager to do” (2:10). Evidently, Paul was a competent negotiator. Since Peter and James knew Paul’s teaching regarding salvation (Gal. 2:2), they were probably not Judaizers.


Having established his apostolic authority, Paul states the central thesis of his case: justification is not by law but by faith; if it were by law, Christ died in vain (2:16, 19, 21). "Who has bewitched you?" he asks (3:1-2). "Did you receive the Spirit by works of the law, or by hearing with faith?" He quotes Hab. 2:4 to persuade them that "the righteous shall live by his faith." He quotes another Old Testament verse in a dubious construction to prove that one who violates a single commandment or who relies on works of the law is cursed (3:10-11). "Christ redeemed us from the curse of the law" (3:13), implying, obviously, a very negative view of law at least as regards salvation.

Proceeding further as a lawyer, he summons precedent to support his claim. Abraham was justified by faith not by works of the Law (3:6-87). By faith the Galatians, being in Christ, are the seed of Abraham and heirs to the promises God made to him (3:8-9). Relying on family law, he says that Gentile Christians are the seed of Abraham because lawful descent (Jesus') was through the free-legitimate, not through the slave-illegitimate, child of Abraham. God's promises to Abraham and his offspring cannot be revoked or altered; the law of wills determined that no one can annul or change a will "once it has been ratified" (3:15)—even then a probably invalid proposition. He becomes the proverbial Philadelphia lawyer when he points out that: "It does not say 'And to offsprings,' referring to many, but referring to one, 'And to your offspring,' which is Christ" (3:16). Having relied on scriptural precedent and grammar, and ignoring the collective meaning of "offspring," he finds further support for his argument (that salvation is by faith, not by law), in history. The law of Moses was revealed 430 years after God's promises to Abraham (3:17). Plainly, it was not (could not have been) Abraham's obedience to (nonexistent) law that prompted God's blessing and promises.55

Speaking retrospectively from the Christ event, he argues that since only faith in Christ redeems, God placed definite temporal limits on law, namely from Moses to Christ. Not only was the Law given definite temporal limits, it was to function only as a "custodian until Christ came" (3:24); but now the faithful "are no longer under a custodian" (3:25). Finding an analogy in family law and the law of succession, Paul points out that a child, though heir to his father's estate, is under "guardians and trustees" (4:2). He is no better than a slave

55. "It was common in rabbinic thought to claim that the patriarchs observed the whole Torah . . . before it was actually given." R. RUETHER, FAITH AND FRATRICIDE 38 (1974).
until he is emancipated by his father. When her husband dies, the widow is no longer bound to him. So, too, those who are in Christ are freed from domination by the Law. He therefore chastises the Galatians for observing certain Jewish feast days (4:10) under the influence of the Judaizers (4:17) and he praises them for their earlier acceptance of his teaching.

Paul's frequent criticism of circumcision which, for him, is the symbol of "bondage" to the law, is supplemented by his statement that circumcision and uncircumcision are equally irrelevant to salvation (5:6, 6:15). The Judaizers are to blame for teaching them differently. Let them "mutilate [castrate?] themselves," (5:12) he cries. This was strong language by a former Pharisee who knew that circumcision was believed by Jews to be a reminder that God was the only creator as well as the symbol of entry into God's covenant and beneficial guidance by His holy Law. But Paul was talking about Judaizers, not to or about Jews. He was presumably talking mostly to Gentile Christians and what he said was probably not offensive to that audience. Paul then warns the Galatians not to sin or commit certain crimes—precepts representing Jewish law and morality (5:19). He urges them to "Bear one another's burdens and so fulfill the law of Christ" (6:2).

Paul's attitude toward the Judaizers, his principal adversaries in Galatians, is obvious. To say that he hated them may be an exaggeration, but he was certainly hostile, scornful, and bitter. He was not trying to persuade them to reject circumcision and the Torah any more than a prosecutor or a plaintiff's lawyer in the trial of the case has any thought of convincing defense counsel to agree with him regarding the merit of the case. Paul needed to refute their reasons for adherence to Torah and circumcision as a necessary precondition of the persuasiveness of his affirmative argument to Gentile Christians to adhere to his teaching as regards salvation.

The issues—faith versus faith and works, gospel versus gospel and law—have been discussed through the ages; even from Luther onward the theological literature on this subject is voluminous. In some of his discourse, especially in Galatians, Paul was very critical of the Law—he was "enslaved" by it; it was a mere "custodian," an accuser, a necessary part of God's plan only because of its negative function—to make all men sinners who can be saved only by God's grace and, most drastic, that the law was a "curse" shown by the fact that

56. "The concept of 'curse of the Law' is strange and occurs only here in Paul." B E T Z,
it regarded a criminal convicted of a capital crime and hanged on a
tree as "accursed" (Deut. 21:23). Paul's problems with the law when
he was a Pharisee and the resurrection, which he interpreted as the
negation of and victory over that law, influenced his depreciation of
the law and his option for faith alone.

There is an additional explanation suggested by Paul's role as
lawyer. It may be wondered—indeed, it is a major problem—why a
once zealous Pharisee did not follow the the easier path of James and
cleave to Torah as well as to faith in Christ Jesus. The answers, I
think, are, first, their appointment as apostles was "normal"; they
were followers of Jesus and were appointed by him in his lifetime.
Paul's authorization was quite different, and that may have en-
couraged him to take a distinctive stand.57 Second, the fact that Paul
lived for some years in the Diaspora in proximity to many Gentiles
may have influenced him to favor them by freeing them from what he
regarded as the burden of the law.58 But, third, and most impor-
tantly, Paul was a vigorous advocate whom Luther called a "pugi-
list,"59 in Galatians he exhibited both the strength and the limitations
of the legal mind formed in adversarial situations. The influence of
these conditions was greatly increased by the fact that Paul's mind
was focused on the most important issues of his day among Jews—the
question of faith in Jesus as the Messiah and the importance of the
Law for them. While the former claim did not imply a new religion
and was accepted by many Jews, (Acts 13:42; 14:1) many others, prob-
ably the majority, rejected that claim. Their conception of the Mes-

supra note 15, at 149. Paul's frequently reiterated thesis "where there is no law there is no
transgression" Rom. 4:15, and that the law brought him knowledge of sin (Rom. 3:20) antici-
pates recent American scholarship e.g., "... the criminal law is the formal cause of crime.
That does not mean that the law produces the behavior which it prohibits ... , it means only
that the criminal law gives behavior its quality of criminality." J. Michael & M. Adler,
Crime, Law and Social Science 5 (1932). Regarding the modern principle of legality—
nullum crimen sine lege, see J. Hall, General Principles of Criminal Law Ch. 2 (2d ed.
1960).

57. Justification by faith alone is a "Pauline Creation." G. Bornkamm, Paul 115
Pharisee, it is difficult to accept Schoeps' thesis that Paul "failed to grasp the inner meaning of
the Mosaic law namely, that it is an instrument by which the covenant is realized ... he tears
asunder covenant and law, and then represents Christ as the end of the law." Schoeps, supra
note 52, at 218, 213.

58. "In the course of his work among Gentiles he had fully internalized the Gentile point
of view and identified himself with it." Räisänen supra note 4, at 258. So, too, Sanders,
supra note 9, at 152-3.

Hübner: "What Räisänen and Sanders say is untenable and misjudges the essense of
Paul's experience of his call." Letter, supra note 8.

siah was that of a warrior-king who would free Israel from foreign domination. But more importantly, that rejection was tied to a stubborn adherence to the beloved Law. This incited the combative lawyer to espouse the opposite extreme—not just faith in Christ, but only that faith, at least as regards salvation. Especially among trial lawyers it should come as no surprise that an important issue is framed in either/or terms. For Paul, the lawyer, that meant either faith or law. In sum, logically and perhaps "normally" the Judaizers were right—there was no conflict between faith and law; instead both were quite compatible. But psychologically, given the Damascus experience and the adversarial cast of his mind, Paul's position is understandable, if not persuasive.

This brief summary (obviously no substitute for reading this short epistle) has been focused on Paul's role as lawyer. The crucial question of many alleged "contradictions" will be discussed later. Critics of Paul say that he leaps from one point to another, then returns, perhaps several times, to his original point. That, however, judges him by the standards of a (systematic) theologian or by letters of eminent Greeks. But if the standard is that of a trial lawyer's speech to the jury, exemplified by Darrow's in the Leopold-Loeb case, we get a very different evaluation. Repetition of the key points is necessary for persuasion, and between the lack of a tight, logical organization of a speech and the weight of repetition, the obvious choice for a trial lawyer is to hammer away at his key points a number of times.

It was in his letter to the Galatians that Paul was the lawyer **par excellence**, refuting and attacking his adversaries and, in his affirmative case, making expert use of analogy, precedents, and history. It is a fair inference that when Paul quoted Scripture, interpreting it differently from the Pharisees and ignoring relevant parts of it, he knew what he was doing. He knew how to win his case; he won it! \(^{61}\)

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60. In Galatians, "Paul aims at an either/or decision since all is either won or lost." BEKER, supra note 9, at 45. Beker draws a nice distinction between a "polemic of persuasion" (Romans) and a "polemic of confrontation," a "combat" letter (Galatians). Id. at 104. "It is further remarkable, that all five of the groups of metaphors just mentioned [justification, reconciliation, forgiveness, redemption, adoption] are taken from the practice of law." A. DEISSMANN, PAUL—A STUDY IN RELIGIOUS HISTORY 176-77 (2d ed. 1927).

7. Paul found in the sacred texts what he was looking for, and often interpreted them against their original intention." RAISÄNEN, supra note 4, at 73; also id. 95 note 13.

For distinctions between proof (demonstration) and persuasion (psychology) see Michael & Adler, The Trial of an Issue of Fact, 34 COL. L. REV. 1228, 1236, 1239-40, 1481-86 (1934).

61. Paul's appeal "was obviously crowned with success, for the Galatians remained a Pauline Christian community," SCHOEPS, supra note 52, at 78.
Romans

Romans is among the last of the genuine Pauline epistles. To understand Paul's role in Galatians, we looked at his arguments through the eyes of a trial lawyer. To understand his discourse on law in Romans we must try to appreciate the subtlety of his argument, especially in Romans 2.

In Romans Paul repeats many points he made in Galatians or he adds to them or he omits harsh statements made in Galatians and he discusses a few matters not dealt with there. For example:

(1) He is a legitimate Apostle, authorized by Jesus Christ. (Gal. 1:1,9; Rom. 15:16)

(2) Justification is by faith, not by law. (Gal 2:16, 19, 21; 3:8; Rom. 3:21,24,27; 4:5, 16, 25; 5:1)

(3) Abraham is discussed more fully in Romans (4:3,10,15,20,24; 8:17) than in Galatians (3:6-9,17). Thus, in Romans Paul amplified what he had previously said about the seed of Abraham and he makes the additional point that the promises were made to Abraham before he was circumcised (4:10).

(4) He modifies his negative view of circumcision (Gal. 5:6; 6:12) saying, first, that it has "value if you obey the law, but if you break the law, your circumcision becomes uncircumcision." (Rom. 2:25).

(5) He again extols the "Law of Christ" (Gal. 5:14; 6:2. Rom. 6:14, 7:25, 8:2, 4, 7).


(7) Most of Galatians was expressed in vehement criticism of the Judaizers (Gal. 1:7-8, 6:12-13); in Romans, there is only a rather mild reference to his adversaries (16:17-18).

(8) In Romans Paul cites statements by David and Elijah (4:6-8; 11:3) adding to his reliance on the precedent and history he employed in Galatians regarding the case of Abraham (3:17; 6:13).

(9) Paul's fervent desire for a church that would make no distinction between Jew and Greek, male and female is repeated in emotional tones (Gal.3:28; Rom. 9:24).

(10) Paul's essentially Jewish moral precepts are emphasized in both epistles (Gal. 5:19-21; Rom. 12; 9 ff.).

(11) Galatians 3:17, that the Law came 430 years after Abraham, is omitted from Romans. Also omitted is Galatians 3:10 requiring obedience to "all things written in the book of the Law."
Finally, (12) Paul says he is speaking to (or the context shows that, as in 1:22-32, 2:5, 17-24) Gentile Christians (11:13) or to Jews (2:18).

**ALLEGED CONTRADICTIONS**

"Consistency" has a wider connotation than "contradiction;" it refers to an entire text, large or small, while "contradiction" is specific. They are, of course, interrelated although it would be odd to say that a writer consistently contradicted himself. "Consistency" is a logical virtue but it has no necessary connection with truth. If one starts with a false major premise, e.g., "All Cretans are liars" then, even if \(X\) is a Cretan, the logically valid implication "\(X\) is a liar" may be false.

In a wide use of the term, it may be said that Paul contradicted Judaizers and Pharisees; that is, that he affirmed beliefs that were opposed to theirs. But what is relevant here and what is an issue among theologians is *self* contradiction. Self-contradiction means that in the same situation a person both affirms and denies something (a predicate) about the same subject. This raises problems when the subject of discourse is not numbers but more or less vague concepts; and not many terms are vaguer than "law" and "faith." Second, even if a contradiction is found in a single epistle, it may very well be the case that one sentence was addressed to Gentile Christians and the other to Jews. More important, assuming that both statements were addressed to the same audience, is the question of the effect of that on the persuasiveness of the speaker. Finally, if Paul made a statement in *Romans* that contradicted something he said in *Galatians*, it is possible that he had changed his mind in the interim. In that case "development," not "contradiction," is the apt term.

A similar misuse of "consistency" that has long been debated concerns the myth that the United States Constitution never changes and is unchangeable; hence, when Justices of the Supreme Court render opinions that contradict or diverge from the alleged original meaning of certain phrases, those opinions are inconsistent with that meaning. Realistic scholars, on the other hand, point to vastly changed social and economic conditions and to corresponding changes in the meaning of words. For example, for centuries "person" meant human being; now it includes corporations. "Inter-state" has expanded with the increased economic complexity of the country. "Conspiracy" contracted its meaning when the illegal association of
workers became legal after recognition of unions, and so on. A salient example of this common process is the famous case regarding segregation in schools, where the constitutional meaning of "equal" was changed by the Supreme Court. Chief Justice Warren wrote: "In approaching this problem we cannot turn the clock back to 1868 when the Amendment was adopted, or even to 1896 when Plessy v. Ferguson was written [holding that separate accommodations on trains were "equal"]'). We must consider public education in the light of its full development and its present place in American life throughout the nation."

One may believe that God's Law is eternal and unchangeable but there is no escaping the fact that imperfect human beings have taken it to mean different things at different times. So, too, regarding the language of Paul's epistles. The large problems of hermeneutics cannot be discussed in this essay. But there is one issue that must be discussed, namely, the charge that Paul frequently contradicted himself in talking about Law. Schweitzer wrote of "... the peculiarly inconsistent attitude of the Apostle toward the law..." Schoeps said "Paul is a man of antithesis and contradictions..." So, too, in his recent study, the Finnish theologian, H. Räisänen, states that "... Galatians is full of obscurities, contradictions, improbable remarks and nonsequiturs..."

On the other side, Professor Beker writes: "Instead of blaming Paul for inconsistency of thought or lack of intellectual power, as a long standing tradition of scholarship had maintained (cf. Schoeps ...) we should question instead our own doctrinal premises and prejudices." Rabbi Leo Baeck, discussing Paul's statements on law, said "This is not, as some scholars have assumed, an inconsistency. On the contrary it shows the congruity of Paul's thinking." And Professor Sandmel wrote: "Paul's matured attitude toward the Law has unjustly exposed him to the charge of inconsistency... There is

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63. Schweitzer, supra note 11, at 160.
64. Schoeps, supra note 52, at 278.
65. Räisänen, supra note 4, at 6.
66. Beker, supra note 9, at 95. Beker detects "occasional inconsistencies." Id. at x; but he also writes (consistently?) that the logic in Galatians is "often inconsistent." Id. at 57-58.
67. L. Baeck, Judaism and Christianity 163 (1958). After noting that Paul's epistles have been criticized as "disjointed, loose, full of warmth and zeal," John Locke (1632-1704) wrote that Paul "knew how to prosecute his purpose with strength of argument and close reasoning... He is certainly a coherent, argumentative, pertinent writer." John Locke, A Paraphrase and Notes on the Epistles of St. Paul 14-16 (London, 1823).
no real contradiction in his multi-faceted attitude towards the Law.” 68

When eminent theologians disagree on this crucial question it
would have little significance for this writer to take either side if he
employed only the method of critical analysis of the text. Moreover,
the nature of Paul’s discourse and much other religious language al-
low interpretations that differ more or less from other interpretations.
The logic of debate and the psychology of persuasion add a new di-
mension to traditional analysis; for, despite the fact that there is also a
subjective factor in weighing the importance of various arguments,
this perspective introduces a distinctive standard of understanding
and appraisal of a text. Those who interpret from that platform, even
if they disagree regarding the weight to be given certain arguments,
are at least reading the text from a particularly cogent point of view.
Paul’s contradictions become pointed and meaningful when they are
analyzed in the forensic perspective.

Professor Räisänens states that “Paul’s theology of the law can
only be understood if the tensions and contradictions in it are taken
seriously.” 69 He found that there are many contradictions and he
very acutely defends his thesis. His solution is not forensic but psy-
chological—the tension in Paul between his experience as a Pharisee
and his life as a Christian. Theologians who find serious contradic-
tions in Galatians and Romans might admit that Paul was a religious
genius but still maintain that he was a very emotional person and that
his letters, dictated and not revised, contain important contradictions.
They might also think that the evidence that he won his case in Galat-
tians is slim and not sufficient to raise a presumption in favor of Paul’s
competence or consistency. Some support for almost any interpara-
tion can be found in the poetic, imaginative, exhortative character of
much of religious language.

With reference to the pro-contradiction interpretation, it is nec-
essary to move in two directions. First, was there really a textual
contradiction? Second, if there was a textual contradiction, did that
hurt Paul’s case? Indeed, we must also ask the question that may
surprise many scholars, namely, did it make his argument more per-
suasive than it would otherwise have been?

At the outset it must be asked, how can self-contradictions help

68. Sandmel, supra note 3, at 57, 66. The extent of differences in interpretations of reli-
gious language is shown in Räisänens’s rejection of “the popular explanation that the law is
annulled as a way to salvation while remaining in force as the expression of God’s moral will.
This explanation runs counter to 2 Cor. 3:6 . . . .” Räisänens, supra note 4, at 83.
69. Räisänens, supra note 4, at 83.
one to understand Paul’s theology or any other text? Self-contradiction unrelated to a forensic purpose has negative connotations—incompetence of the speaker or writer and lack of significance of the text if, indeed, it does not make nonsense of it. For example, Paul said “law is holy” and if certain statements by him are interpreted to mean “law is not holy,” that might persuade those who agree with this interpretation that a study of Paul’s epistles is a waste of time. It might also lead them to think that Paul was very confused, even muddle-headed.

The opinion that Paul was much too competent to contradict himself in his arguments on important issues—unless he had a very important forensic reason to do that—is based on his legal education and training in precision and sophisticated methods of interpretation, on his success in converting Gentiles, and on the probability that he won the Galatians case. Paul’s sensitive soul-searching and his brilliant epigrams regarding the human condition, even if they do not directly refute “inconsistency,” certainly do not support incompetence. Moreover, although no interpreter should shut his eyes to well-established facts and meanings, still, if there are none he should opt for consistency; there should be a presumption in favor of consistency. For while logical consistency may not be the most important quality of a text, it is the minimal quality of any meaningful text.

The present submission is (1) that when all the evidence pro and con self-contradiction is weighed on the above somewhat biased scale, the case for textual consistency by and large can be proved not beyond any reasonable doubt but by a preponderance of the evidence and (2) a major textual contradiction becomes a small matter when the effect of the discourse on the audience is considered; sometimes a very serious textual contradiction helps an argument.

Let us consider some of the alleged contradictions first from the viewpoint of textual analysis and their possible resolution by that method, and then from the forensic perspective.

1. (a) The Law is divine and was revealed by God (Rom. 7:16,22, 8:7).

(b) The Law was brought by angels (Gal. 3:19), that is, by intermediaries. This is contrary to (a) but it does not contradict it unless one holds that “angels” means or implies worldly or demonic forces, or those “not divine.”

70. “We must not, therefore, simply assume that the mention of the angels was made to emphasize that the law is not divine.” (citing Acts 7:30,35,53 Gal. 4:14 and Deut. 33:2). R.
2. (a) The Law is holy (Gal. 5:14; 1 Cor. 7:19; Rom. 3:31, 8:4; 13:8-10).

(b) The Law is a custodian who enslaves. First resolution: the Law represents the will of God, but sin and the "law" in Paul's "members" enslave.

Second resolution: The Law is holy but men do not interpret it correctly.\footnote{\textsc{Thus the Law is not evil but they are evil to whom it was given . . . .}. \textsc{Luther, supra} note 59, at 279.}

Third resolution: The food laws and those on festivals (Rom. 14:2-6, 14, 17, 20) must be distinguished from the moral laws although Paul does not explicitly do that.\footnote{\textsc{As a former Pharisee he could not distinguish between the cultic and the ethical Torah, as later Christianity did, for to him the law was indivisible.}. \textsc{Käsemann, id.} at 186.}

Thus, Paul's criticism (2b) was directed only against the cultic rules (Rom. 14:2, 5-6:15); in fact, much of the scriptural legislation was not obeyed by Jews in the Diaspora.\footnote{\textsc{The only concrete sin \textit{qua} sin in his life, the sin which he mentions, is that he persecuted the church (1 Cor. 15:9).}. \textsc{Stendahl, supra} note 8, at 14.}

Fourth resolution: As regards much of his criticism and his praise of the Law, Paul gives a clue to their resolution. In mind and spirit he "delights" in the Law (Rom. 7:22). He criticizes the flesh that makes transgression inevitable.

3. (a) The Law is God's will.

(b) But Law cannot save.

Resolution: God never intended that His holy law would lead to salvation. For other purposes (Gal. 3:19, Rom. 5:20) God limited the temporal validity and jurisdiction of the Law; it began with Moses and ended with Christ. 3(b) will be discussed later in relation to Paul's remarkable statements in Romans 2:6-7,13.

4. (a) All men are sinners\footnote{\textsc{Side by side with his numberless moral exhortations to Christians to battle against sin, there are confessions of Paul the Christian himself, testimonies that even one who has experienced the new creation still knows at times the old deep sense of sin.}. \textsc{Deissmann, supra n.60, at 179}. \textsc{Cf. Gal. 2:17}.} (Rom. 3:9,23; 5:12).

(b) But Paul also said he was "blameless" under the law (Phil. 3:6). This certainly looks like a contradiction, but "blameless" must be elucidated before a decision is made.
Critics of his adverse comments on the Law have not accepted this self-adulation. For a former Pharisee to deprecate in any serious respect the Torah which, together with the Covenant, was central in Judaism, he must have had serious problems with the Law. Some support that view by pointing to his emotional confession regarding his transgressions (Rom. 7:24); that, they say, is strong evidence that he was conscience-stricken. On the other hand, Bishop Stendahl’s monograph has persuaded many that one should not read modern moral psychology, such as Luther’s self-condemnation, into Paul and his discourse. He frequently spoke of himself in confident, even conceited terms (Gal. 1:14; 2 Cor. 11:5,23; 12:11). Still, there is considerable support for the opinion that Paul had serious problems with the Law.75

If the psychological explanation is rejected, there are other explanations of “blameless under the law.” Taken literally, “blameless” means that Paul zealously conformed to all 613 commandments. More likely is the supposition that although he had violated one or more of them, they were minor infractions or, if serious, he had made restitution and had repented and thus, in the Jewish view, God had forgiven him; his sin erased, he was left blameless.

Thirdly, Paul may have regarded himself as blameless because it was not he who transgressed, but “the law of his members.” Paul disassociated himself from his flesh. It was not Paul, understood as his mind and spirit, that transgressed; on the contrary, he in his mind and spirit loved the Law of God. “So then it is no longer I that do it, but sin which dwells within me” (Rom. 7:15-20, 22-25). Just as the logic of the “irresistible impulse” implies that certain harmful behavior should not be imputed to the doer so, too, it was not Paul but the uncontrollable “law of his members” that transgressed.

75. Even if Paul was not conscience-stricken, unless his unhappy experience as a Jew is premised, “it becomes unintelligible how and why Christ superseded the law.” “When he indict[s] the Jew for transgressing the law or for boasting . . . he must have known something of both in his own Jewish life.” BEKER, supra note 9, at 241. “We can never exclude with certainty the possibility that Paul was secretly dissatisfied with the law before his conversion call.” Sanders, supra note 9, at 152. And see supra note 56. Sandmel writes of Paul’s “inability to live up to the Law” and of “the personal, subjective difficulty which the Law occasioned for Paul.” Supra note 3, at 28, 29, 33, 48, 56.

If, as some maintain, the Galatians were attracted to the law and if it is assumed that this was also true of Gentiles generally, the question arises—why did not Paul agree with the Judaizers and thereby win more converts? That he did not do this, that, indeed, he did the very opposite as regards salvation, supports the thesis that (1) the Galatians were unique; for (other) Gentiles the law would be a burden and handicap conversion. Or (2) Paul had such a serious personal problem with the law that despite its attractiveness to Gentiles he could not use it even to increase conversion.
5. Professor J.A. Sanders discusses the apparent contradiction between Paul's statements that the law is abolished or ended (Rom. 7:1-10, 10:4; Gal. 2:19; 2 Cor. 3:4-17; Gal. 3:19-4:5) and his statement in Rom. 3:3 where he asks "Do we then abolish the Law by this faith?" He answers, "By no means! On the contrary we affirm the Law." Professor Sanders discusses eight attempted "solutions," and he does not accept any of them. They are based on exegesis restricted to the text. His thesis is that what is much more important in getting at Paul's meaning are his statements in relation to Heilsgeschichte, that is, the history of the stages in God's plan.

The emphasis of Professor Sanders and many others on Heilsgeschichte is helpful because it supplements critical study of the text with a historical dimension that is needed to understand Paul's attitude towards the law. For example, to say that the Law is divine and, also, that the Law cannot save may be viewed as a contradiction by those who disagree with Paul's belief that God's purpose was to limit the temporal validity of law. But given Paul's premise, there was no contradiction. The issue is not Paul's logic, but his interpretation of the Christ event. There is, however, a question to be asked regarding the relevant history. For some, the suggested image (not Sanders') is that the history is "out there" objectively. In the view of the revival of Kant's philosophy and of Gadamer's influence, we should think, to some extent at least, in terms of Paul's Heilsgeschichte. But Paul's Heilsgeschichte, while necessary, is not sufficient; it should be supplemented by an appreciation of Paul's "role as lawyer." This model can advance our knowledge of Galatians and parts of Romans by viewing Paul's discourse as an effort to make history, specifically by defeating the Judaizers. The significance of the forensic perspective will be illustrated next in relation to very important passages in Romans and Galatians.

6. In Romans 2:6-7,13 Paul states that God "will render to every man according to his works: to those [who do good]. . . . he will give eternal life . . . ." This obvious contradiction of Paul's numerous statements that faith, not law or works, saves may be resolved if they are taken to mean that those who have faith do good works, implying that faith is paramount while works are merely a necessary consequence. But Paul's statement that those in Christ fulfill the Law is

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76. Sanders, supra note 10, at 132.
77. Id.
not found in the context of the above verses; and for other reasons to be discussed that easy solution is not acceptable.

Before discussing these verses, it is desirable to note some relevant differences between Galatians and Romans. Much of the theme in Galatians is that salvation is by faith in Christ, not by law or works. Although he emphasizes faith in Christ, he does not do that to persuade the Galatians to believe that Jesus was the Messiah; they were Christians. He emphasizes faith only in the context of excluding law. Because the Roman church was “mixed” and also because the purpose in that epistle was more complicated, his role as lawyer is best seen in those parts of Romans that comprise a “dialogue with the Jews.”

In Galatians, “Jew” occurs rarely and has a neutral connotation (2:14-16; 3:28) while it is frequently used in Romans in an honorific connotation. For example, in Romans (3:1-2) Paul speaks of the advantage of the Jew. God has not rejected his people. “Israel will be saved” (11:26, 10:1). These positive statements do not appear in Galatians because he was not addressing Jews there. In Galatians, Paul does not say that Abraham was circumcised, but he does say that in Romans 4:10. It is also in Romans (13:9) that Paul supports parts of the Decalogue. Perhaps the most persuasive evidence of Paul’s forensic efforts regarding the Jews is his very emotional appeal in Romans 9:3-5. Thus, Paul identifies with the Jews (11:1-2) and is much concerned for their salvation. Even his severe criticism of the Jews in Romans 3:9-18 implies a subtle compliment that contradicts the law of his members—the Jews can obey the law.

In both epistles Paul says that circumcision is of no advantage, but in Gal. 5:24 he says with dubious warrant that the circumcised are “bound to keep the whole law.” In Romans 3:1 he says circumcision is of much value, repeating what he said in 2:25, adding the qualification “if you obey the law.” These comments fall short of the Jewish attitude towards circumcision, but if they are compared to Gal. 5:12 where he speaks of it as ‘mutilation’ the difference when he was speaking as a Jew to Jews is evident.

Thus, as Professor Räisänen pointed out, it is in Galatians, assuming he was addressing mostly Gentile Christians, that Paul criti-

78. BEKER, supra note 9, at 74, 77, 78, 81, 86, 99. “Romans 1:18-4:25, then is essentially a dialogue with the Jews.” Id. at 83. “To be sure, the direct dialogue with the Jew ceases with Rom. 5:1 . . . .” Id. at 78.

Cf. “. . . the Jews become the main topic only in Romans 9-11. In Romans 1-4 even taking into account 2:17-29, Paul’s view is focused on the Gentiles.” Sanders, supra note 9, at 30.

79. See supra text accompanying note 51.
cizes the law. It is there (3:19), as was noted above, that he calls the law a “curse”; it was given because of transgressions (3:19); it was a custodian (3:24). In Romans, where he is addressing Jews, he “establishes” the Law (3:31); the Law is “holy” (7:12); it is spiritual and good (7:14-16). He even delights in the Law of God (7:22) and, as noted, he praises important parts of the Decalogue (13:9).

This takes us to our principal problem—Romans 1:18—2:29 and particularly to Romans 2:6-7, 13. The purpose of the following discussion of Professor E.P. Sanders’ interpretation is not to depreciate his brilliant scholarship on Paul and the law. Instead, the purpose is to question a particular use of it and more importantly to test the validity and significance of the thesis that in the interpretation of an argument the logic of that kind of discourse and the psychology of persuasion are of paramount importance.

Professor Sanders begins his discussion of Romans 2, especially 1:18-2:29, by noting “the general agreement” that the purpose of the section is “to demonstrate (or illustrate) the universal sinfulness of all (3:9,10).” “Thus,” he notes “the sustained negative argument: not by works of the Mosaic law, which would favor the Jews. Special attention, however, is paid to the Jews in the argument that they are also culpable, the argument which dominates Chapter 2.”

All of this sounds quite Pauline, but Sanders quickly finds that there is more than that in Chapter 2; indeed, he states directly that there are difficulties, “internal inconsistencies.” Further, he recognizes that this section of Romans is an “inner Jewish debate and exhortation.” That it is the Jewish law as such which is to be done is indisputable in 2:12, 13, 17, 18, 23, 25. He suggests that “the best way to read 1:18-2:29 is as a synagogue sermon.” Accordingly, he finds “no distinctively Pauline imprint in 1:18-2:29 . . . ;” the passages on “works” and “doing” are “unpauline.” “The question throughout Chapter 2 is whether or not one does the Jewish law, not as the result of being in Christ, but as the sole determinant of salvation.”

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80. Sanders, supra note 9, at 123.
81. Id. at 128.
82. Id. at 130.
83. Id. at 128-29. Cf. Hübner: “In Romans 2:6f-13 Paul was not ‘un-Pauline,’ since these passages are directed at Romans 3:9, but Romans 3:9 is the premise for the argumentation of Romans 3:21 ff. Consequently, I see no difference in Chapter 2 from that which is found elsewhere in Romans. Sanders and Räisänen construct contradictions here where none exist.” Letter, supra note 8.

“When Paul sought to be a Jew to Jews, it was not just formally but materially toto caelo
Despite the fact that he quotes 2:7,13, which include “eternal life,” “immortality,” “righteous before God,” and “justified,” when he comes to his conclusion, Sanders, asking why Chapter 2 is in Romans, answers that it is there to put Jew and Gentile on “the same footing.” He allocates Chapter 2 to an Appendix because “in Romans 2 we are dealing with a point of view which at no point reflects specifically Christian thinking.” Chapter 2 “stands out because it deals directly with salvation and makes salvation dependent on obedience to law.”

What must first be said with regret is that finding an obvious contradiction in the text is small pickings for the considerable effort spent on Romans 2. Much more serious is that despite the fact that he discovered the glaring contradiction in Romans, he wrote, regarding both Galatians and Romans: “Thus the position that righteousness is not by law does not alter.” This is correct in a sense to be noted, but it is textually invalid because it completely ignores Paul’s statement of his belief in 2:6-7,13 which no exegesis, however ingenious, can expunge. The “position” is purchased at the cost of ignoring the fact that universal transgression does not alter the meaning of 2:6-7,13.

There is a clue to Sanders’ interpretation that the purpose of Romans 2 was to put Jews and Greeks on the same footing “as regards salvation,” in his statement that “It is not necessary for the present purpose to decide whether the Jews are exclusively in mind from 2:1 on.” Of course, much of Chapter 2 concerns Paul’s “universal” church, “all sinners,” and the equal standing of Jews and Greeks. But that does not warrant the deliberate omission of any reference to 2:6-7, 13 and other verses which Sanders correctly characterized as a debate with Jews and a sermon in a synagogue.

Professor Sanders was more precise in his essay in the Festschrift different from when he sought to be a Greek to the Greeks.” K. Barth, Church Dogmatics, IV/3/2, p. 877 fn.

84. Sanders, supra note 9, at 131.
85. Id. at 131-32.
86. Id. at 148. Compare this generalization with the statements quoted in the text above, and also: “There is, first, the famous statement that those who do the law will be righteous Romans (2:13).” Id. at 125.
87. “Thus Cullmann writes on the basis of Rom. 1-3: ‘All divine salvic efforts . . . his revelation in the law could in principle already have led men to salvation, had Gentiles and Jews responded to them with faith.’” Translated and quoted by Räisänen, supra note 4, at 151-52.
88. Sanders, supra note 9, at 132.
for David Daube, where he states, correctly, that Paul gave two reasons why "man cannot be justified by works of law. (1) One could in fact be justified by doing the law if he performed it perfectly . . .” [but . . . .] (2) Even perfect obedience is useless “since justification by definition comes only by faith.” Sanders concluded; “The result [of 1 and 2] is certainly the same.”89 This apparently led to the bland generalization that Paul’s “position” in both Galatians and Romans “does not alter.” But “result” and “meaning” are not synonyms.

Professor Sanders, to his credit, discovered and emphasized Paul’s extraordinary contradiction of his principal doctrine. Unfortunately, instead of trying to explain the contradiction (calling it “un-pauline” and allocating it to an appendix obviously do not explain the contradiction or why Paul contradicted himself) Sanders dismissed it and ignored it when he generalized that Paul’s position “does not alter” in Galatians and Romans.

In the analysis of an argument, especially one that contains a contradiction, the logic of argument and the psychology of persuasion are necessary tools. The following may not be the best use of those tools; in any case, the purpose is to show their aptness and importance in the analysis of an argument.

Instead of generalizing over all of Romans 2, it is preferable to deal first with 1:21 to 3:1-9. If that is done there is no escape from the extraordinary force of 2:6-7,13. For reasons to be stated shortly those verses should therefore form the point on which most of 1:21 to 3:1-9 must focus. The verses specifying certain crimes and implying certain offenders, while they do not exclude the general castigation (“men,” “oh man whoever you are”) cannot be ignored. This necessitates the rejection of the thesis that 2:1-3:20 is “the great indictment of Judaism.”90 There are two difficulties with that opinion. First, there are the 2:6-7,13 verses which cannot be ignored in any generalization on a text that includes those passages. Second, although Paul was often very critical of Judaism, Romans 1:21 to 3:1-9 are exceptional. In those passages Paul does not criticize Judaism; he criticizes Jews who do not obey the law and therefore implies praise of law and therefore of Judaism. The importance of this in the forensic perspective is evident because the verses that immediately precede 2:6-7,13, namely 1:21 to 2:5 become relevant and meaningful. There is little doubt that

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most of them are jeremiad passages that refer to Jews. Paul does not say that Jews cannot obey the whole law; he says they have violated it in the grossest possible ways. Therefore, relating this to the focal point, he says that 2:6-7,13 is true but since no one has obeyed or will obey the entire law, Jews need faith in Christ as their avenue to God’s kingdom.

If we read extraordinary verses for what they plainly say and if we do not lose sight of the centrality of 2:6-7,13 or allow other passages to turn us only to the “same footing,” there is an alternative forensic interpretation, namely, that Paul made those statements to lead Jews to Christ and to his teaching about law in relation to salvation!

But how could 2:6-7,13, which, as Sanders said, was Jewish and sufficed for salvation, lead Jews to accept Paul’s very different usual teaching? It is not surprising that even Sanders, having decided that Paul was “unpauline” when he contradicted his most important doctrine, simply ignored those versus when he generalized about Galatians and Romans.

In the forensic perspective, however, facts and statements take meanings that sometimes differ greatly from those gotten by textual analysis. Instead of being startled by a major contradiction and ignoring it, that contradiction is given a meaningful place in an argument. Instead of being “unpauline,” Paul becomes most Pauline when he is seen as a very sophisticated advocate and faithful Jew who would even be “accursed” if he could lead his kinsmen to Christ on his terms.

First to be noticed is that Paul was directly addressing Christians—Jewish and Gentile, and to both groups, though for different reasons, Paul’s argument might have been persuasive. But it is the effect of Paul’s argument on the Jews that raises more interesting questions. Among the Jews who heard Paul either in the synagogue where many followed him (Acts 13:42, 14:1) or who heard him via the Romans circular letter, there must have been some who, like himself, had problems with the Law, and for many Jews recognizing Jesus as the Messiah was not a serious obstacle. The Jewish belief was that

91. That Jews were the primary target (even “man,” e.g., 2:1, clearly refers to Jews) is evident from 1:21, 32. From 1:18-2:8 Paul accuses the Jews of practically all the crimes and sins which the prophets levelled against them. There follow immediately the crucial verses 2:6-7, 13. Later verses such as 2:17-18, 23 reinforce the opinion that Paul was primarily addressing Jews. “It is plain from . . . the whole tenor of this chapter (Rom. 2) that St. Paul, by these words means the Jews . . . .” John Locke, supra note 87, at 262.
repentance would bring forgiveness, but some Jews, perhaps many, may not have repented or made the required restitution. Among these Jews the good news would be that only faith in Christ was needed for salvation. This, however, is the minor step.

For it was with Jews who had no problem with the Law that Paul had an extremely difficult task. If he failed, that would not diminish his talent as an advocate; even the most successful trial lawyer does not win every case. Certainly, it was in trying to “convert” these Jews, presumably the majority, that Paul’s advocacy met its greatest challenge.

The relevant questions to put to Paul in the forensic perspective are (1): “did you lose your case concerning Jews because you said Romans 2:6-7,13”? To this Paul would have replied that those lines could not possibly have hurt his case; the presumption must be quite to the contrary. He could also have pointed to the evidence in Acts that many Jews followed his preaching in the synagogues. In more lawyerly terms he could have dismissed that question as “leading” or rhetorical because no poll was taken.

The second question to be asked in this perspective is: ‘would you have been more effective in your argument to the Jews if you had not said 2:6-7,13’? Paul could answer that as to these Jews, he had to praise the Law in the extreme terms of 2:6-7,13 to produce a sympathetic attitude towards him. This becomes evident if we ask—should he have told the Jews directly and bluntly that although the Law was holy, good and the expression of God’s will, it was worthless as regards salvation? That was the goal Paul wanted them to reach. But among Jews who sang their praise and love of the Law in Psalms 1, 19, and 119, who believed that the Law was inextricably tied to the covenant with God, the forthright frontal attack would only have alienated that audience. Paul used a much more subtle approach and argument: Praise the Law in the ultimate terms of 2:6-7,13. But they are sinners and won’t get eternal life by means of law. Then advance step by step—identification with his kinsmen; emotional outcries; those in the Messiah will fulfill the Law; “Christ welcomes you”—and thus lead them to acceptance of his distinctive teaching about law and salvation.

That this interpretation is not supported by explicit statements in the text does not invalidate it; no lawyer worth his salt spells out his strategy to the jury. The pertinent question is whether any statement in the text invalidates this interpretation. And the most important question is in terms of a choice to be made among various interpreta-
tions. If, as scholars, we evaluate a text by the usual criteria, and find that, say, nine times out of ten, Paul takes a certain position regarding Law in relation to salvation, and then we come upon the tenth time when he says just the opposite about law and salvation, the verdict is obvious—contradiction. But instead of resting content with that finding it is necessary to enter into the forensic perspective. When Luther's "pugilist" addressed Gentiles and Gentile Christians, criticism of the Law might have helped his cause. But when he was trying to convert Jews, his job was much more complicated. Shrewd advocate that he was, he proceeded in several stages of argument, and he used every strategy to win them over to his theology.

In sum: was he "unpauline" when in the course of his argument he said Rom. 2:6-7,13? Obviously "yes," if we analyze the text, separate those verses from their context and functional purpose, and compare them with ninety-nine other passages about law and salvation. But if an argument is to be understood and interpreted, if we see Paul as a shrewd advocate, then the use of a major textual contradiction such as 2:6-7,13, becomes meaningful. Paul was not a weakling under tension who without reason flatly contradicted his principal teaching; he was a confident advocate arguing consistently with his calling and his purpose. It probably never occurred to Paul that what he told Jews about Law and eternal life contradicted what he said to the Galatians and others. He had a lawyer's job to do, and one can only admire the skill and subtlety with which he did it.

Let us turn to another major test of the forensic thesis. It is easy to see a contradiction between Rom. 5:20, 11:32 and Gal. 3:19 (if they are interpreted to mean that God intended to provoke transgressions—which will be discussed later) and Paul's frequent praise of God; indeed, for some exegetes that may have been an even greater contradiction than Rom. 2:6-7,13. In Gal. 3:29 Paul said that the Law "was added because of ("on account of") transgression." This may be interpreted in the usual sense, namely, to deter transgression. But "many scholars" think that "on account of" (or "because of") means 'for the sake of producing transgressions.'\(^{92}\) This, in effect, assimilates Gal. 3:19 and 5:20 (and Rom. 11:32 to be discussed later) where Paul said, "Law came in to increase the trespass" (R.S.V.) or "that the offence might abound."

But "because of" and "might abound" are not clearly words of

\(^{92}\) Sanders, supra note 9, at 66, ital. added, and 85; RÄISÄNEN, supra note 4., at 145; Beker, supra note 9, at 86 and 235; Betz, supra note 15, at 165.
intention or purpose in their present meaning. Thus the above verses might imply that God (assuming that He was the legislator) did not want to have His laws violated, but only provided the necessary condition and that He knew that men would be tempted and therefore there would be more transgression than in the prior "lawless" situation. They can also be interpreted to mean that law tempts rebellious persons to violate it 'just because it is the law.' That interpretation must be rejected if Gal. 3:19 and Rom. 5:20 are read in terms of purpose or intention. Romans 11:32 ("For God has consigned all men to disobedience, that he may have mercy upon all") is important not only because it is clear that God was the legislator and that His act was intentional, but also because of a relevant rule of legal interpretation, namely, a later decision determines the meaning of earlier ambiguous ones or if they are not ambiguous, it supplants them so far as future decisions are concerned. In effect, this would mean that in all three verses God was the legislator and that "because of" and "might abound" connote "intentionality."

The idea that transgression was intended evokes the tyrannical image of the Emperor Caligula, who is said to have published his laws in such fine print that they could not be read, a fact which did not deter the despot from punishing "violators." Compare also Aeschylus' Oresteia, in which the Furies attribute conspiracy and murderous intentions to the gods, especially to Apollo. Plato criticized Aeschylus for his unworthy opinion of the gods, but whatever may have been Apollo's fault was opposed by Zeus, the supreme god, who fostered justice among men.93

Although Paul had discussions with Stoic and Epicurean philosophers (Acts 17:18) it is very doubtful that either Caligula's edicts or Greek drama had any influence on Paul's making these statements. Closer at hand and more relevant if lifted from its context is Ez. 20:25: "Moreover I gave them statutes that were not good and ordinances by which they could not have life . . . ." But if that is read in context it is plain not only that such a statute was rare but also that it was imposed as a punishment for a long period of transgression.94

Certainly, God did not want even a rare, punitive law to be disobeyed since that would frustrate His purpose in giving that law.

The man whose only justification of marriage was avoidance of hell for fornication and who also held what to us are strange opinions

94. RAISANEN, supra note 4., at 158-59.
about women might actually have believed what is impossible for the modern mind to accept, namely, that God wanted men to violate His law. Scholars are shocked and horrified that Paul should impute this vengeful purpose of God. Nor is it palatable to Americans who support the ethical policy of the law against entrapment. But instead of taking Paul statements literally and solemnly and therefore being appalled and repulsed by them, a more persuasive interpretation is that in this instance Paul’s enthusiasm and spontaneity caused him to ‘o’erleap’ himself and to speak in terms of an exuberant hyperbole. What warrants this alternative interpretation?

Having taken the first step in the required analysis, the textual decision is that the above verses may contradict Paul’s constant praise of God and His Law. But we must next apply the acid, forensic test—did those verses hurt Paul’s case? May they not have helped? The plain clue to the answer is that only parts of the above verses, the main clauses, were quoted and they are joined to the immediate assurance in the same sentence, that “where sin abounded, grace did much more abound;” and in Galatians by “till the offspring should come to whom the promise had been made,” and in 11:32 by “that he may have mercy upon all.” In effect, he was saying ‘no matter what or who causes you to transgress, even if (inconceivably) that is God’s purpose, nevertheless God’s agape, His boundless grace, will save the faithful.’ What is important in the forensic perspective is that it is improbable that Paul’s audience concentrated on the meaning of the first parts of Rom. 5:20, 11:32 and Gal. 3:19. The likelihood is that what held the attention of his audience was the statement about God’s love and mercy. The hard verdict based on the text—contradiction and horror—gives way, in the forensic perspective, to a psychological plus. In sum, grant that there was a textual contradiction. “So, what?,” as a colloquial speaker might ask in view of Paul’s utter commitment to his great mission. Paul won his case in Galatians and the probability is that 5:20 and 11:32 helped him in Romans.

The recent publication of an English translation of Professor Hans Hübner’s book several months after the above text was written

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95. “Paul’s assertion of the sin-engendering nature and purpose of the law is . . . ‘infantile absurdity.’” The last two words are Loisy’s, translated and quoted in Räisänen, supra note 4, at 13. J. Parkes finds Romans 5:20 ridiculous and “offensive to all Christian conceptions of God.” JESUS, PAUL AND THE JEWS 129 (1936).


97. “. . . in fact the law was given for the purpose of leading up to righteousness by faith, even though negatively (3:22,24); Sanders, supra note 9, at 67.

provides an opportunity, indeed, makes it necessary, to discuss his
distinctive "development" thesis. The rigorous logic and subtlety of
his analysis, and his mastery of the biblical data may well rank Profes-
sor Hübner's book among the most important contributions in this
difficult area of Pauline studies. Some of the writing is so technical
that only experts in Paul's theology will fully appreciate it. Accord-
ingly, the following should be read not as criticism of a distinguished
scholar's theology, but as an expression of the difficulties met by a
legal scholar who employs a different perspective. As the reader of
the above discussion will surmise, and as the title of this essay sug-
gests, the submission is that *Galatians* and parts of *Romans* are argu-
ments addressed to different audiences, and that their interpretation
requires the use of congruent methods.

Paul's speech about law and other important matters in *Gala-
tians* is obviously very different from what he said about them in *Ro-
mans*, and we have seen that theologians have been much concerned
with what they regard as contradictions. Professor Hübner's interesting
thesis is that in the interim between *Galatians* and *Romans* there
was "growth" in Paul's theology, indeed this "was a far from trivial
theological development on the part of Paul between the two let-
ters." In sharp contrast to the *Galatians* letter, in *Romans* Paul said
circumcision had value, that Abraham had been circumcised, that the
"seed" of Abraham included ethnic Jews, and he praised the Law in
the highest possible terms. This was not done "for tactical rea-
sons." Paul actually changed his mind regarding these crucial is-

99. *Id.* at 55. After referring to studies that find the interval between the two epistles to be from three to six months, Räisänen adds that even two years would be a short time "for the alleged development." He concludes: "But I do not find any straightforward development from any one *extant* letter to another." *Räisänen, supra* note 4, at 8-9.
100. *Hübner, supra* note 98, at 63.
101. *Id.* at 61-63.
102. *Id.* at 63.
103. *Id.* at 65.
search the heart, or fathom the intentions of the mind, otherwise than as they are demonstrated by outward actions. . .”

Nothing Paul did or said meant “I (Paul) changed my mind.”

In any case, there are definite difficulties with Hübner’s thesis. First, there is Galatians 2:9 which makes it unlikely that James, knowing what Paul was preaching to the Gentiles (Gal. 2:2), and giving him “the right hand of fellowship,” would later be angered by Paul’s epistle to the Galatians. They certainly would not agree with his harsh criticism of the law. But Paul’s statements were made to Gentiles for the purpose of converting them and to Gentile Christians. Paul’s goal was shared. In addition, James and Peter had made a solemn pact with Paul. Second, Hübner relies on Romans 4:13,16 and 18 to make the apt point that “seed” had an ethnic and also an inclusive connotation. Conspicuously absent from the analysis is 4:14 where the context of “adherents of the Law” plainly refers to the ethnic sons of Abraham who, as in Galatians, said Paul, are not among the heirs because if they were, “faith is null and the promise is void.” Thirdly, Hübner’s supposition that Paul wanted improved relations with Jewish Christians, took James’s advice and deliberately changed his theology in basic ways is not characteristic of Luther’s “pugilist” who was anything but a compromiser. He was, instead, a hard hitting advocate who did not give an inch regarding his stand on faith and salvation. Hübner’s statement that the subject of his investigation is the “growth” of Paul’s theology, not its final state, only complicates his task because such an important but also evanescent growth is, itself, a puzzle. To lend creditability to his thesis, Hübner, after a lengthy discussion about the agreement with James and Peter, in which circumcision and Torah were understood by all to be inseparable, assumes “that Paul had seriously misunderstood the agreement made at this Synod.” Writing about Paul’s “virtuoso treatment of the theme ‘Law’ in the context of justification by faith,” he asks, “How does Paul now regard the agreement at the Synod? Does he now suppose that at that time what was conceded to him was only freedom from circumcision for the Gentile Christian congregation but that no

104. IV BLACKSTONE, COMMENTARIES ON THE LAWS OF ENGLAND, 21.
105. HÜBNER, supra note 98, at 53.
106. Id. at 7.
107. Id. at 21-23. Hübner makes two points in support of his interpretation: (1) “God-fearing men who did not undergo circumcision, but assuredly committed themselves to observe the essentials of the law.” And (2) “those in Jerusalem could not be in agreement with. . . the law as enslaving power.” Letter, supra note 8.
freedom from the Law in principle had been decreed?"\textsuperscript{108} Since circumcision and law were inextricably tied to each other (\textit{Gal.} 5:3), it is not easy to accept the speculation that Paul, a former Pharisee, could believe at any time that what was conceded was freedom only from circumcision, that is, freedom from the symbol, but not freedom from what it invariably symbolized!

It comes as a surprise, if not quite as a bolt from the blue, that after his lengthy argument that Paul had changed his mind, Hübner wrote: “Nothing has in fact changed in what really matters to him, which is justification by faith in that gospel which reveals Jesus Christ.” To which he added, “He has rethought his theology of justification solely in respect of its implications for Israel . . . .”\textsuperscript{109}

“Implications for Israel” raises the most difficult problem because even if improved relations with Jewish Christians were very important for Paul, that does not diminish the gravity of Hübner’s failure to see parts of Romans as an argument addressed to Jews. Although Hübner called attention to \textit{Galatians} 3:12b,\textsuperscript{110} he does not discuss the significance of \textit{Romans} 2:6-7, 13 or even cite them. This is a remarkable omission in view of Paul’s “heart’s desire and prayer” (\textit{Rom} 10:1) and the passionate utterance of his wish even to be “accursed” if he could bring his kinsmen to Christ (\textit{Rom.} 9:3). Even Schmithals’s statement that in \textit{Romans} “Paul argues both with the Roman Gentile Christians and with Jews,” which Hübner quotes,\textsuperscript{111} did not divert him from concentration on development and reconciliation with Jewish Christians.

There are, to be sure, occasional references by Hübner to “dialogue”\textsuperscript{112}—but addressed to whom? To tell Jewish Christians who had practiced circumcision and adherence to the Law that they could have had eternal life if they had obeyed the Torah would be irrelevant. They were already Christians; “could have” at most would be of past hypothetical interest for them. In any case, it is not a question of either/or. The importance of improved relations with James and other Jewish Christians does not exclude the importance of Paul’s ar-

\textsuperscript{108} Id. at 63, 65.
\textsuperscript{109} Id. at 65.
\textsuperscript{110} Id. at 55.
\textsuperscript{111} Id. at 66. Hübner wrote: “the interpretation of \textit{Romans} 2 from a forensic perspective cannot be correct [along] with your view that this chapter also serves a mission to the Jews. In \textit{Romans} (and in Rome!) the question concerned an internal Christian discussion.” The writer specified a few verses and was not generalizing about \textit{Romans} 2. Professor Hübner also wrote: “I consider your remarks in \textit{Romans} 2:6 f-13 to be correct in part.” \textit{Letter, supra} note 8.
\textsuperscript{112} HÜBNER, \textit{supra} note 98, at 63, 81.
dent purpose to convert the Jews. Quite obvious is the relevance of 2:6-7, 13 and other verses construed as an argument addressed to Jews and pointed at their future conversion.

Nor does Hübner pay much attention to the audiences addressed in the two epistles. He dismisses that because he thinks the great difference between the two epistles “cannot be accounted for . . . simply in terms of the different situations of the addressees . . . .”113 Yet later, he writes that “in fact it is methodically imperative to ask, particularly when interpreting a difficult text, how the situation of the addressees may help to clarify the text.” He did not pursue that imperative because for him that would involve the “inevitable hermeneutical circle.”114 But Paul sometimes makes it quite clear that he is talking to a particular audience, that is, to Gentile Christians or to Jews (Rom. 2:12 and 11:13). Besides, if the best way, sometimes the only way, to make sense of certain statements is to assume that they were addressed to a particular audience, that would be a necessary, helpful assumption.115

To sustain his thesis that Paul changed his mind Hübner must distinguish Galatians 3:19 from Romans 5:20 and 11:32. Since Paul criticized law in Galatians and praised law in Romans, Hübner argues (1) that demonic angels were the legislators in Galatians but that God was the legislator in Romans, and (2) that the angels provoked transgression while God provided only the condition, the “possibility,” of transgression in Romans.116 This distinction is also recognized in criminal law in the doctrine nullum crimen sine lege, that is, a penal law identifies and is a condition, not a cause, of criminal conduct.117

For reasons discussed above, it is questionable, if one is influenced by modern usage, that “entered,” “came in,” “was added,” or “because of” means “to cause,” as Hübner assumes.118 Even if the Greek words do connote “intention,” the verses can be interpreted to mean intention “to deter” or “to make known.” Hübner has no problem with any possible ambiguity; “the bald impression in Gal. 3:19 that the purpose of the Law was to provoke offences is not repeated in Romans.”119

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113. Id. at 5.
114. Id. at 54.
115. See Aristotle’s comment on the importance of the audience in the text supra at note 38.
116. HÜBNER, supra note 98, at 26, 78-79, 81-82.
117. J. HALL, GENERAL PRINCIPLES OF CRIMINAL LAW Ch. 2 (2d ed. 1960).
118. HÜBNER, supra note 98, at 26, 78.
119. Id. at 4. “We would have to suppose that when he wrote Galatians Paul was prepared
However, it is the first problem noted above, that in *Galatians* demonic angels "gave" the Law, that is the most difficult one to accept, not only regarding the "legislator" but also regarding Hübner's separation of *Galatians* 3:19 into two parts—the first being ascribed to demonic angels, the second, obviously, to God. Despite the fact that the preposition "till" implies a unitary statement emanating from one source, Hübner defends the separation and the consequent two sources as warranted exegesis even if that was not Paul's actual intention.

Then Hübner postulates three intentions—God's intention, the "imminent intention" of the Jewish law to save, and the demonic intention of the angels. The difficulty here is that propositions or verses have meaning; only persons have intentions. Accordingly, there are only two intentions—God's and that of the demonic angels unless two intentions are ascribed to God—that expressed in the Jewish law and that expressed in the Christ event. Hübner also assumes that God was aware of the angles' demonic intention and that it was "taken up" into God's intention, "overcome" and "cancelled out." This implies that God stood by for centuries, from Moses to Christ without intervening (*Gal. 3:22-24*).

There are other difficulties concerning the subject of the first clause. Hübner uses different words, to be listed shortly, and it will help to appraise them if we first draw certain relevant distinctions. A legislator makes laws. He may also promulgate laws but promulgation is not legislation. If he does not promulgate his laws, he hands them or communicates them to his agent (such as Moses or Muhammad) who promulgates them. The consequent question is, did the demonic angels make the laws or did they merely promulgate them? Hübner's terms are not clear in this regard. "Giving," "origin," "product," "their legislation," and "institute" may be taken to mean that the angels made the Law. But "promulgate" and "proclaim" imply agency.

This is no minor matter because Hübner's scenario reaches its climax when he states that the law the angels gave was "God's holy commandments." The Law must have been good and holy, he ar-

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4. Id. at 29.
5. Id. at 26, 28, 32. Hübner writes that his interpretation that angel was the "originator," not the "mediator," "is supported by many." *Letter, supra* note 8.
gues, for if it was bad law, violating it would be good.\(^\text{124}\) What difference would it have made, he asks, if God was the legislator? No answer is given, but one answer is that then the "fact" that demonic angels or their intermediary "gave" the Law becomes trivial or even irrelevant.

Let us briefly restate the possibilities regarding Galatians. (1) God made the Law and He also promulgated it. This is entirely rejected by Hübner. (2) God made the Law and, knowing the angel's nefarious intention, He appointed them to promulgate it. Inconceivable! An agent is appointed by his principal to represent him and to further the principal's intention and interests. (3) God made the Law but before He promulgated it or before His agent did so, the angels surreptitiously got possession of it and handed it to an "intermediary" who promulgated it. Even less conceivable!

To conclude: one possible interpretation is that Paul's statements about law in Galatians are not criticism of the Law per se (Gal. 3:12), certainly not of the morality of the commandments, but deal, instead, with the burden of indoctrination, the harshness of its administration, and the fatal consequence of failure to obey the Law—the taskmaster, enslavement, and the "curse" if the "whole" Law was not obeyed.\(^\text{125}\)

If some of Paul's statements are taken to be criticism of the Law itself, we confront the following question. Since those statements were addressed to Gentile Christians, were they contradicted in Romans by the praise of law addressed to Jewish Christians and to Jews?

Finally, we must ask, again assuming that there are textual contradictions, how serious were they? Compared to the love of God, the questions, who was the legislator in Galatians 3:19 and in Romans 5:20, and whether the legislator intended to provoke transgression or only to provide the condition or possibility of transgression become matters of relatively small forensic importance. It was the exuberant repetition of God's agape in both epistles that held the center of the stage and elicited the rapt attention of both audiences.

This does not imply that Paul wanted to win by any means. That cynical interpretation can be made of 1 Cor. 9:19-23, where Paul said,

\(^{124}\) Hübner, supra note 98, at 32.

\(^{125}\) Hübner does not discuss the possibility that Paul had problems with the Law when he was a Pharisee. As regards the distinction drawn in the text, it may be recalled that in the Apology and in Críto, Socrates does not criticize the law; he criticizes the jurors and others who administered the law. After quoting Mt. 23:23 E. Schillebeeckx writes: "Neither Jesus nor Paul directs his point against the law as such, but against autocratic compliance with the law." E. Schillebeeckx, Paul the Apostle 28 (1983).
“To the Jews I became as a Jew in order to win Jews; . . . To those outside the law I became as one outside the law . . . that I might win those outside the law . . . . I have become all things to all men that I might by all means save some.” Paul's irreproachable motive cannot be the ground for rejecting the charge of cynicism. Those who, out of love, approved the torture of heretics were well motivated.126 But although Paul had persecuted Christians when he was a Pharisee, he relied only on his skill as an advocate, i.e., on talk, to persuade others to follow him. What 1 Cor. 9:20 does signify is that Paul had the successful trial lawyer's sensitivity to identify with his auditors and to make his case persuasive because it was stated in familiar, appealing terms.127

One is driven to conclude that any interpretation of the forensic verses of these two epistles—whether it affirms or denies contradiction—if it is based solely on the formal logic of the text, even if it is aided by Pauline history, is at best a temporary half-way house if it does not actually mislead. What is needed to guide and correct textual analysis is interpretation based on Paul's role as a lawyer in Galatians and parts of Romans. The formal logic of the text is essential up to a point but more important, if an argument is to be interpreted, is the logic of debate and the psychology of persuasion.

A Glance Ahead

Galatians and parts of Romans were “made to order” for this effort in legal scholarship to build on certain suggestions of able theologians. It is also part of an expanding dialogue between scholars in theology and in law which has been manifested in several recent developments. In 1977 the Association of American Law Schools established a Section on Law and Religion, and in that same year the Council on Religion and Law was incorporated. There have already

126. See J. HALL, LAW, SOCIAL SCIENCE AND CRIMINAL THEORY 33 (1982).
127. For Professor Sanders 1 Cor. 9:19-23 is “hyperbolic.” Sanders, supra note 9, at 186. Interpreting those verses to mean that Paul lived according to the law in order to reach a stated goal, he finds an “intrinsic improbability—almost impossibility . . . how could he have been a Jew to the Jews and to the Gentiles in the same church?” Granted. But in the forensic perspective only speech is relevant, and 1 Cor. 9:19-23 were words addressed to members of his church who, far from being offended by them, would admire Paul's skill and dedication. In defense of Paul's veracity, it should be noted that the contexts immediately preceding 1 Cor. 9:19-23 include “proclaim the gospel,” “preach the gospel,” “entrusted with a commission” and again “preaching” in verse 18, which is immediately followed by 19-23 where the crucial word is “became.” Given that context, it is surely possible that when Paul said “became,” he had in mind “preached.” How much of an exaggeration is it to say that for Paul “living” meant “preaching”?
been many propitious results, but in this country we are only at the threshold of a new cooperative horizon.

A comparison of biblical exegesis by scholars in Judaism, Christianity, and Islam with theories of interpretation by judges and legal scholars is one of the principal, wide ranging problems that call for interdisciplinary study. The perennial problems of a sound balance between the rule of law and compassionate administration\(^\text{128}\) can also profit from cooperative study leading to higher levels of understanding common problems.

This, however, is not the place to discuss numerous problems that call for that kind of study. But the large scope of possible collaboration can be indicated by noting certain parallels in the thought of Plato,\(^\text{129}\) the philosophical genius, and that of Paul, the religious genius. For Plato law was a copy of the divine pattern. For Paul, also, the Law was holy. But Plato saw that laws, of necessity, were general; only the philosopher-king could attend specifically to the unique individuality of persons and the particularity of their situations. For Paul, the holy Law was perverted and not understood by human beings driven by their fleshly libido; only those motivated by the love of God, manifested in the Messiah, could fulfill it. Thus, for Plato, perfect wisdom, for Paul, perfect love makes law superfluous.\(^\text{130}\)

Plato, turning his attention from the ideal state of the Republic, where laws are not needed, to the actual state of laws, advocated in the Statesman the rule of law for existing imperfect states. Paul, seeing that even Christians sin, urged obedience of the Decalogue, other ethical norms and criminal laws. Thus, in imperfect states and for imperfect human beings, Plato and Paul were not antinomians. But in the republic of the philosopher-king and in the kingdom of God they were idealists.

For those who think that "the creative element in justice is

\(^{128}\) "Justice can be reached only if both the demand of the universal law and the demand of the particular situation are accepted and made effective for the concrete situation. But it is love which creates participation in the concrete situation." P. TILLICH, LOVE, POWER, AND JUSTICE 15 (1954).

\(^{129}\) See J. Hall, Plato's Legal Philosophy, in STUDIES IN JURISPRUDENCE AND CRIMINAL THEORY Ch. 3 (1958).


"Nothing is more false than to say to somebody: since I love you and you love me, I don't need to get justice from you or you from me, for love eliminates the need for justice. Such language is used by people who want to avoid the obligations which are connected with justice." TILLICH, supra note 127, at 82.
love,”¹³¹ for those who, instead of thinking of “freedom from law,” think it is impossible to have freedom without law, and for those who, conditioned by the complexity of a modern legal system that supplies solutions to problems that love alone cannot provide, even states of perfection need a just legal system. But whatever limitations one may find in the work of these two immortals, they have thoughtfully and dramatically raised basic questions that challenge the competence and sensitivity of theologians and legal scholars.¹³²

¹³¹ Tillich, id. at 83. For Calvin’s “didactic” view of law, see J. CALVIN, INSTITUTES OF THE CHRISTIAN RELIGION, Vol. XX, Bk. 2, Ch. 7, § 12-13 and at 349-59, 659 (J.T. McNeill ed. 1960).

¹³² In his letter Professor Hübner wrote: “A dialogue between representatives of legal and theological science is a scientific desideratum. It is precisely the theologian’s question about law in the New Testament that makes dialogue with a lawyer a necessity.” He also said he will be giving a joint seminar with a colleague who is a legal scholar. Letter, supra note 8.