

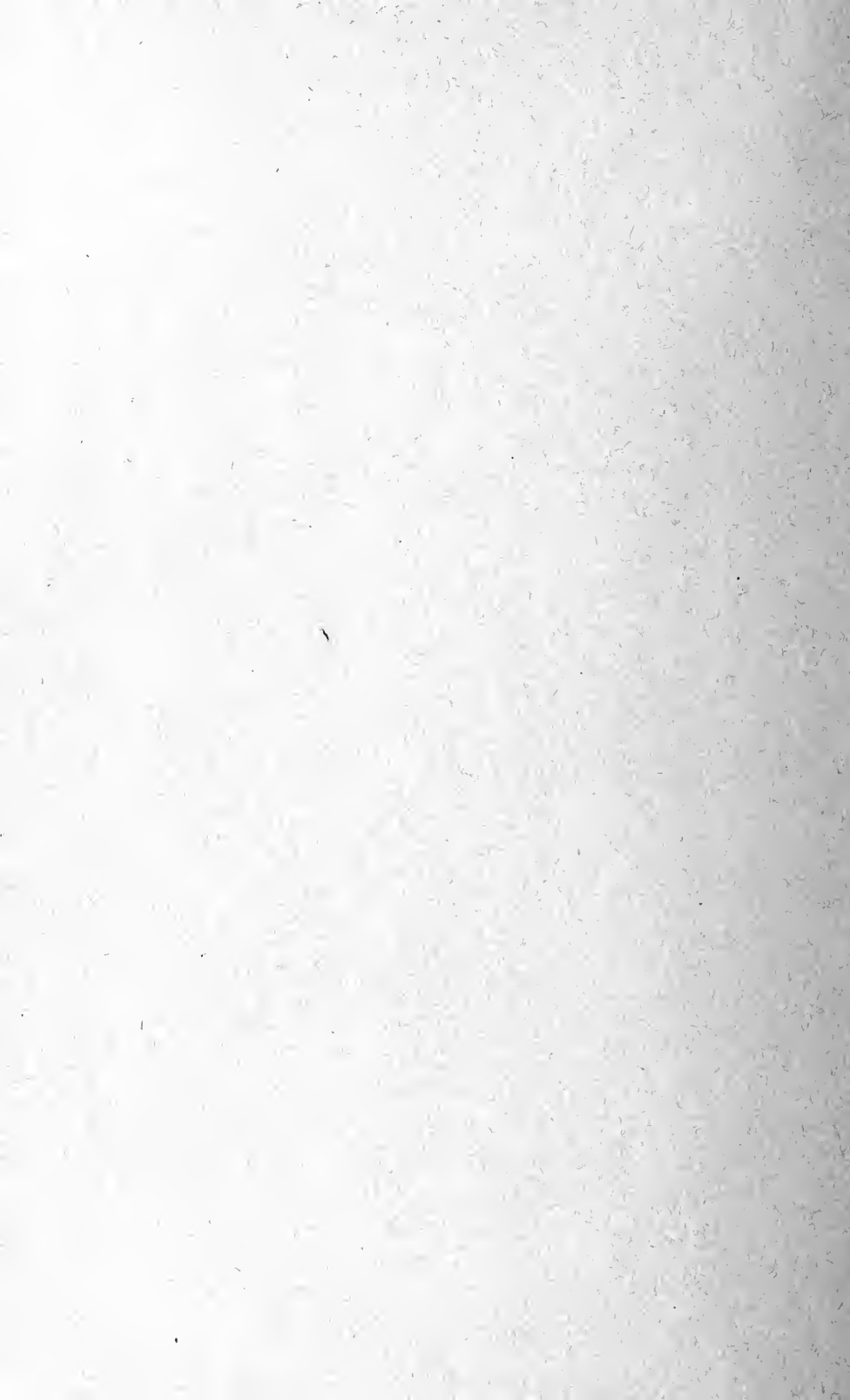
The Library
University of California, Los Angeles
From the Theodore E. Cummings
Collection of Hebraica and Judaica
The gift of Mrs. Cummings, 1963

Digitized by the Internet Archive
in 2008 with funding from
Microsoft Corporation

OATHS AND VOWS IN THE SYNOPTIC GOSPELS

JACOB MANN

Reprinted for private circulation from
THE AMERICAN JOURNAL OF THEOLOGY, Vol. XXI, No. 2, April 1917



OATHS AND VOWS IN THE SYNOPTIC GOSPELS

JACOB MANN

Reprinted for private circulation from
THE AMERICAN JOURNAL OF THEOLOGY, Vol. XXI, No. 2, April 1917

OATHS AND VOWS IN THE SYNOPTIC GOSPELS

JACOB MANN
London, England

Oaths and vows are common among all peoples. There are the legal oaths imposed by the judges in their administration of justice. But there is also the prevalent custom of a person binding himself in a certain direction by means of a vow. In ordinary speech a man would emphasize his statements by expressions of asseveration invoking either the deity or the component parts of the universe, or purporting to stake his own life or the life of those dear to him as surety for his veracity. This was also much in use among the Jews and, owing to the peculiar binding force of the Jewish oaths, occupied a great deal of the attention of their spiritual leaders.¹ The Essenes are reported to have avoided swearing, and esteemed it worse than perjury, for "they say, that he who cannot be believed, without [swearing by] God, is already condemned" (Jos., *War*, ii, 8, 6, § 135; cf. Philo, ed. Mangey, ii, 458). On this account, it seems, they were relieved from taking the oath of allegiance to Herod (*Ant.*, xv, 10, 4, § 371). In the Slavonic Enoch (49:1) it is said, "I swear to you, my children, but I swear not by any oath, neither by heaven, nor by earth, nor by any other creature which God created. If there is no truth in men, let them swear by the words 'yea, yea,' or 'nay, nay.'" Jesus also was strongly opposed to oaths and vows. Matt. 5:33-37 is a close parallel to Enoch. "But I say unto you," Jesus teaches, "Swear not at all;² neither by the heaven, for it is the throne of God; nor by the earth, for it is the footstool of his feet; nor by Jerusalem, for it is the city of the great King"; it therefore makes no difference whether you mention God's name explicitly or

¹ About the Semitic oath in general, cf. now Pedersen, *Der Eid bei den Semiten*, Strassburg, 1914; the remarks on the rabbinic oath (pp. 196, n. 3, and 177-78) are a digest of Frankel, *Die Eidesleistung bei den Juden*, Dresden and Leipzig, 1840.

² *ὅλωσ* is not translated in Syrsin; cf. Merx, *Matthaeus*, pp. 101-2.

BS
255
M310

anything belonging to him. "Neither shalt thou swear by thy head, for thou canst not make one hair white or black. But let your speech be Yea, yea; Nay, nay."

Does this passage denote that Jesus was opposed altogether to every kind of oath even when imposed by Jewish courts in accordance with the Law? The different views of the gospel-commentators on this question are well summarized by Montefiore in *The Synoptic Gospels*, II, 511. He himself, following Loisy, is of the opinion that "the most probable interpretation of vs. 34 is that all oaths of every kind and on every occasion are forbidden for the disciples and the members of the coming Kingdom. This would be in accordance with the practice and ethics of the Essenes." But they themselves seem to have been inconsistent in the matter of oaths. How are we to reconcile their practice, as mentioned before, with the fact which Josephus reports (*War*, ii, 8, 7, §§ 137-42) that the Essenes imposed frightful oaths on those that were about to enter their sect? Nor is it likely that they would have opposed the oaths prescribed in the Mosaic law, seeing that "what they most of all honoured, after God himself, was the name of the law-giver, whom if anyone blasphemed, he was punished capitally" (Jos., *ibid.*, § 145).

It is more likely, with Wellhausen and Merx, that Jesus' attack was not directed against oaths rendered by a court of justice, but against unnecessary swearing in ordinary speech. Jesus demands of his followers not to emphasize their statements by any of these formulae of oaths, whether expressly mentioning or implying God, but to answer with a simple and manly yea or nay. It is in a similar way that we have to understand the practice of the Essenes. Only on solemn occasions, as when accepting a new member into their fraternity or when called upon in a lawsuit, would they take recourse to an oath.

In fact, several such expressions of asseveration in ordinary speech are found in the talmudic literature, which proves that they were quite common among the people and were even used by scholars. The following story will illustrate the popular trait. Simon b. Antipatris, a contemporary of Johanan b. Zaccai, once had visitors whom he pressed to have a meal with him. But they

refused the invitation and "vowed by the Thora not to eat or drink with him" (i.e., Simon). Soon, however, they disregarded their vow, and partook of the meal. On this account their host maltreated them (Derekh Erez, c. 6, beginning). Evidently these people never intended it to be a proper vow, but used it unnecessarily for emphasizing their refusal. R. Gamaliel (probably II) uses the expression *העבודה*, "by the (temple) service," when assuring in ordinary conversation with the two scholars, whom he sent to the famous Hanina b. Dosa to pray for his sick son, that the saint's prediction was exactly correct (Berakot 34b missing in the parallel account in Yer., v, end).¹ About Gamaliel's father, Simon (cf. Jos., *Vita*, 38, 39), the Mishnah (Keritot 8a) relates that "once a pair of doves [required for sacrifices, Lev. 12:6] fetched in Jerusalem the exorbitant price of a gold denarius. Then R. Simon b. Gamaliel said, 'By this sanctuary [*הבית הזה*], I shall not go to sleep [tonight] till the price will drop to an ordinary denarius'" (for a similar oath, cf. Acts 23:12 f.). Likewise the priest Zachariah b. *הקצב*, who went through the revolution of 66-70, makes use of this expression for the sake of emphasizing his statement (Ketubot 2:10). R. Eliezer b. Hyrcanos, when hearing a new Halakha about which he had no previous tradition, exclaims, "By the covenant [*הברית*], these are the very words that were said unto Moses on [Mount] Horeb" (Tos. Halla 1:6; Pesahim 38b).²

To return to the formulae of oaths expressly mentioned by Jesus. With "by heaven" cf. Sifra to Deut, § 304, *השמים*.³ Elijah the prophet is supposed during a conversation with R. Josë b. Halaftha to use the expression, "by thy life and the life of thy head" (*חייך וחיי ראשך*, Berakot 3a bottom). But "by thy head" in Matthew means, of course, that the person who uses this expression would say, "by my head" (*בחיי ראשי*); "by my head" is contracted from "by the life of my head"). People used also to vow

¹ R. Hiyya, the contemporary of Yehuda, the Patriarch and redactor of the Mishnah, also uses this expression, Yebamot 32b.

² Cf. Yer. Pea 196, bottom, where for R. Eleazar b. Azarya read most probably R. Eliezer (b. Hyrcanos).

³ See also Nedarim 11:13: a woman says to her husband, *שמים ביני לבינך*. This is, however, explained by Yer. (42d, ll. 63-64) to mean, "Just as heaven is distant from earth so is this woman estranged from her husband."

by the life of their children. This is reflected in an Agadic parable by Eleazar b. Azarya, a contemporary of Gamaliel II, "[It is like] unto a king who longed for children. When he has a daughter born he vows by her life. But when afterwards a son is born, the king stops vowing by his daughter but begins to do so by the life of his boy" (Mekhilta Bo 16, ed. Friedmann, 19a top). Instructive is Sanhedrin 3:5. A defendant, having been sentenced to deny by oath the claims of the plaintiff, obtains a concession from the latter, who declares, "Vow thou by the life of thy head" (דור לי בחיי ראשך). But now the plaintiff wants to withdraw the concession and insist on the original oath. This is granted by R. Meir, but not by his contemporaries (הכנמים). This Halakha clearly shows that the legal oath was different from such expressions as "by thy head" which were used in ordinary speech for the sake of asseveration. The former was regarded as superior in binding force to the latter—at least so in popular opinion. But it also shows that the rabbis regarded such a vow, if intended as such, to be legally binding in monetary affairs, and that no trifling was allowed with such formulae of oaths. The Mishnah Shebuot 4:14 בשמים ובארץ, הרי אלו פטורין, which is often quoted to show the contrary, is quite a different case. Schürer's (II⁴, 576, 109) translation, that if a man "swears by heaven and earth he is *not* guilty of perjury," is totally wrong. The case speaks of witnesses who refrain from giving evidence. Thereupon the plaintiff can publicly announce an oath binding anybody who knows any evidence not to withhold it (Lev. 5:1). In such an emergency, if the plaintiff used the formula "I adjure you by heaven and earth to give your evidence," the witnesses were not bound to respond.

Jesus demands of his followers that their (ordinary) "speech be yea, yea; nay, nay" (cf. James 5:12; II Cor. 1:18-20). A similar statement is found in Sifra to Lev. 19:36, B. Metzia 49a (cf. Yer. Shebiit, 39d bottom) in the name of Jose b. Jehuda, a scholar of the second half of the second century A.D., "Let thy Yea be true and thy Nay true" (שידהא דקן שלך ולאו שלך צדק). The repetition of yea, yea, nay, nay is merely for emphasis and not for the purpose of making it an oath in the rabbinic sense, as several gospel-commentators assume. R. Eleazar, an Amora of

the second half of the third century A.D., states that *yea and nay* are oaths (Shebuot 36a). To this Râba, a Babylonian Amora (d. 352), remarks that for such a purpose *yea and nay* must be repeated twice. But this is too late a talmudic statement in connection with the Gospels. The accepted opinion in the time of Jesus certainly knew of no such a distinction and hardly regarded *yea and nay* as a legally binding oath.¹ There is therefore no ground for assuming that the repetition in Matthew, as against James 5:12, is due to an interpolation in the rabbinic sense, as Johannes Weiss, *ad loc.*, maintains.

In this connection it is of interest to compare the statements of Philo about oaths and vows. They may sometimes appear in a form peculiar to Philo, the Greek eclectic philosopher and at the same time the Jewish moralist. But we also detect in them conceptions and conditions similar to those found among the Palestinian Jewry. Philo too is against unnecessary swearing. "That being which is the most beautiful, and the most beneficial to human life, and suitable to rational nature, swears not itself, because truth on every point is so innate within him that his bare word is accounted an oath" (*De decal.* xvii). "For the word of the virtuous man shall be his oath, firm, unchangeable," is Philo's explanation of the commandment not to take God's name in vain (*De spec. leg.* i). He knows some people who, "without any idea of acquiring gain, do from a bad habit incessantly and inconsiderately swear upon every occasion, even when there is nothing at all about which any doubt is raised, as if they were desirous to fill up the deficiency of their argument with oaths," while others will "in profane and impure places" go on "swearing and stringing together whole sentences full of oaths, using the name of God with all the variety of titles which belong to him, when they should not, out of sheer impiety" (*De decal.* xix). He advises those who find it necessary to swear, to do so by "the health or happy old age of his father or mother, if they are alive, or their memory, if they are dead" (*De spec. leg.* i). In support he mentions one of the patriarchs as "swearing by the

¹ Cf. also Tosafot to Shev. 36a: **וְלֹא דִשְׁבוּעָה מִמֶּשׁ הוּא**. Quite different is the confirmation Amen after the recital of an oath; cf. Num. 5: 22 and Shev. *loc. cit.*; Matt. 26:63-64.

face of his father" (evidently referring to Gen. 31:53). He praises those people "who, when they are compelled to swear are accustomed to say (in the oath) only thus much, 'By the' or 'No, by the' without any further addition, giving an emphasis to these words by the mutilation of the usual form, but without uttering the express oath. However, if a man must swear and is so inclined, let him add, if he pleases, not indeed the highest name of all, but the earth, the heaven, the universal world; for these things are all most worthy of being named and are more ancient than our own birth and, moreover, never grow old" (*ibid.*). It is difficult to ascertain whether Philo speaks here of the oaths imposed in the law courts. He would then be opposed to the Halakha as prevalent in Palestine. Still more strange is the view of Philo that in the utmost an oath should only be in the name of the Logos and not in that of the highest being (cf. Frankel, *Eidesleistung der Juden*, pp. 19 ff.). But it is also possible that Philo intersperses his own ethical speculations with the actual custom of the Alexandrian Jews as regards oaths and vows. Be it as it may, it is worth noticing the difference of opinion between Philo and Jesus as regards such formulae of oaths as "by heaven" or "by earth." Philo, the contemplative sage, advocates their use in preference to the mentioning of the divine name; he points out their real significance and expects the person who swears to be fully aware of it. But Jesus had in mind the masses of the people who usually do not give full account to themselves of every expression they use. He therefore condemns all such formulae of oaths, especially in ordinary speech, as being tantamount to proper oaths.

An attack on the pharisaic way of defining vows is contained in Matt. 23:16-22. It is a common error to assume that the instances mentioned in this passage refer to oaths one takes, for example, in monetary disputes. To refer in such oaths to the temple or to the gold of the temple would lack all connection and relevance. The Mishnah Shebuot 4:13, which Schürer quotes as an illustration to this passage of Matthew, has already been dealt with above. Matt. 23:22 could possibly have been directed against the rabbinic view expressed in this Mishnah. But the context in connection with vss. 16-17 is against this assumption.

What is apparently meant in these verses is the vow by means of which a Jew imposes upon himself or upon other people the penalty not to enjoy something by the declaration that it should be regarded as holy and as inviolable as a sacrifice, the temple, or any of its belongings. In short, it should be קרבן, Qorban, i.e., like Qorban (בקרבן; cf. Ned. 1:4). In such cases it was necessary to formulate the vows in an exact and well-defined way, in order to make them clear and well defined (cf. Nedarim 11a). Now the Pharisees, according to Matthew, maintain that if "one swears by the temple it is nothing" (אינו כלום), but if "by the gold of the temple," he is bound (ὡφειλεי, הייב); secondly, if by the "altar," the vow has no effect, but if by the "gift that is upon it," it becomes valid. In other words, if a Jew declares a certain thing as sacred to him as the temple, he is not bound by the vow (נדר). Only then does the vow become valid when the specified thing is to be like the gold of the temple; and likewise in the other instances. But the talmudic tradition (Ned. 1:3) is in complete contradiction to this statement of Matthew. The Mishnah states that a vow (נדר) with the declaration "like the temple," כהיכל, "like the altar," כמזבח, is valid. The Talmud reports on this point no different opinion by any individual scholar to be taken as a remnant of the early Halakha. It is therefore difficult to account for Matthew's denunciation of the Pharisees in this particular instance of the formulae of vows (so also Frankel, *Eidesleistung*, p. 60, n. 103).

But the most serious attack on the rabbinic tradition as regards vows is contained in the retort of Jesus concerning the filial obligations toward parents (Mark 7:1-13; Matt. 15:1-11). According to Num. 30:1 ff., a Jew could impose by a vow a certain disadvantage upon *himself* (Num. 30:3, לאסר אסר על נפשו). But it is nowhere mentioned in the Bible that a man can prohibit another person by means of a vow from deriving any benefit from anything that belongs to the former. Thus, to use the talmudic phraseology, קרבן שאני נהנה לך, "Qorban be anything that I would benefit from thee," is biblical, but קרבן שאתה נהנה לי, "Qorban be anything that thou wouldst benefit from me" (cf. Ned. 1:4 [Babli 116, 13a]; 3:5; 4:1 ff., 8, 5:4;), is not mentioned

in the Bible as being a valid vow. Yet already in early times the tradition developed to the effect that a Jew could declare all his belongings to be Qorban in regard to one or many particular persons. Against this tradition Jesus protested, adducing the hypothetical case of a son and parents, as was the custom in those times in arguments (cf. the instance of seven brothers marrying in succession one and the same woman, Matt. 22:23 ff. and parallels). According to the principle of your tradition Jesus argues against the Pharisees, it is possible for a disobedient son to declare to his father or mother by a vow **לִי קָרְבָן שְׂאֵתָהּ נָהֵנָה לִי** and in this way transgress the fifth commandment. Such a case is actually reported in Ned. 5:7 to have happened in Bêth Ḥoron (בֵּית הָרֶן מִשְׁשָׁה) (בבית הרן באחד שהיה אביו מודר ממנו הננייה).

This is the meaning of Jesus' attack on the Pharisees, which is so generally misunderstood by the gospel-commentators. Only Merx, *Matthaeus*, p. 244, recognized that Jesus attacked the tradition of **לִי קָרְבָן שְׂאֵתָהּ נָהֵנָה לִי**, without, however, elaborating the point. Hart, in his long article on Qorban (*JQR*, XIX [1907], 615-50), entirely failed to grasp the fundamental problem of vows and their annulling. He therefore made the unwarranted suggestion that Jesus himself was a Nazirite and as such could not benefit his parents from his work. Whereas Luke (1:15) clearly states that John the Baptist was a Nazirite, it is nowhere mentioned that Jesus was such a one. Nor is there any indication in the Talmud that the labor of a Nazirite was regarded as sacred and that none was allowed to derive from it any benefit.²

As regards the details, the expression "Qorban" in Mark 7:11 is quite exact. The gloss "Given to God" (*ὅ ἐστι δῶρον*, cf. Matt.

¹ On the other hand, we find an instance of a father vowing not to benefit in the least from the work of his son, in order that he should devote all his time to the study of the Law (Tos. Bekhorot 6:11; the case was brought before José b. Ḥalafta, who lived at Sepphoris, middle of second century A.D.; see also Ned. 38b; Yer. Bikkurim III, end, 65d, ll. 72 ff.). More frequent are the cases of fathers in their anger disinheriting their children by means of vows. Jonathan b. Uzziel, a disciple of Hillel, was thus disinherited by his father (Yer. Ned. V, end, 39b, ll. 47 ff., different in B. Bathra 133b); El. b. Hyrcanos was all but disinherited by his father (Gen. R. c. 42, Aboth d. R. Nathan c. 6, and Pirke de R. El., beginning); Rachel, the wife of Akiba (Ned. 50a top; Ketubot 62b bottom); cf. further B. Kamma 9:14; Yer. Ned. 39b, l. 2.

² About the dissolution of vows (Hart, *ibid.*, pp. 643-44) see farther on.

15:5; Syriac versions and some Greek codexes read in Matthew, also Qorban; see Merx, *Matt.*, *ad loc.*) is only misleading, because in using the formula קרבן שאתה נהנה לי one does not make one's property an actual gift to God. The meaning is simply that all the belongings of the person who pronounces the vow should be to the person specified in the vow in the status of a Qorban (קרבן = כקרבן; cf. above, p. 266, and also Ned. 3:2), i.e., just as from anything dedicated to the temple [הקדש] none must derive any benefit. But no advantage accrued to the temple treasury, in most cases, as the result of such a vow.¹ This is the general talmudic conception of these vows. Philo (*De spec. leg.* iv) has evidently vows of this kind in mind when he writes that "there are some men who, out of the excess of their wicked hatred of their species, being naturally unsociable and inhuman, or else being constrained by anger as by a hard mistress, think to conform to the savageness of their natural disposition by an oath, swearing that they will not admit this man or that man to sit at the same table with them, or to come under the same roof; or, again, that they will not give any assistance to such a one, or that they will not receive any from him as long as he lives. And sometimes even after the death of their enemy they keep up their irreconcilable enmity, not allowing their friends to give the customary honours even to their dead bodies when in the grave." All vows of this kind are made by using the formulae קרבן שאתה נהנה לי or קרבן שאני נהנה לך.

The term "Qorban" is used by Josephus promiscuously to denote several kinds of vows. In *Ant.*, iv, 4, § 73, he speaks of "such also as dedicate themselves to God as a Corban, which denotes what the Greeks call a gift." By this "ministration" he means the vow to pay one's value to the priest (ערכך, Lev. 27:1 ff.). For the various kinds of this vow see Erakhin, chaps. 1-5; the talmudic expressions of them being נדריים and ערכין. An actual case of the temple times we read in Erakhin 5:1 (Tos. 3:1 has a fuller report which we quote here). "The mother of Rimatia vowed that 'if my daughter recover from her illness, I shall pay to the temple treasury her weight in gold.' When the daughter recovered, the

¹ This explanation of Qorban is also pointed out by Montefiore, *The Synoptic Gospels*, I, 164-66, without, however, citing the talmudic evidence.

mother went up to Jerusalem and weighed her in gold." As far as can be gathered from the talmudic sources, the whole obligation to the treasury was a monetary one; there is no indication that the labor of the person concerned in the vow was consecrated as long as the vow was not yet carried out (cf. Erakhin 21a; Tos. 1:2; 2:16; and 3:14). In *Contra Ap.* i, 22, § 167, Theophrastus is quoted as enumerating among others, "particularly that called Corban, which oath can only be found among the Jews, and declares what a man may call 'a thing devoted to God.'" Here really the vow of "Qorban be what thou (or I) benefit from me (or thee)" can be meant, of which the Gospels speak.¹ But in this vow the specified thing is actually not a gift "devoted to God," but is placed in the status of such as regards the person specified in the vow. In a third passage Josephus calls the temple treasury (the γαζοφυλάκιον, Mark 12:41-44; Luke 21:1-4) by the name of Qorban. Pilate "raised another disturbance, by expending that sacred treasury which is called Corban, upon aqueducts" (*War*, ii, 9, § 175). Evidently the treasury was so called because the money contained therein was the result of vows by means of which people actually consecrated a part of their fortune to the temple treasury. The usual expression in the Talmud for such gifts is הקדש. A portion of this treasury seems to have served as a charity fund (cf. Shekalim 5:7 and Tos. 2:16). Such dedications are reported even after the destruction of the temple. They are called הקדש לשמים, "consecration to heaven (God)," i.e., for divine purposes such as charity and similar objects. Tos. Nidda 5:16 relates that once a child "consecrated an axe to heaven" (שהקדיש קרדום אחד לשמים) and the case was brought before Akiba. More instructive is the story in Sabbath 127b (top). A Jew of upper Galilee, after working for a farmer in the Darom for three years, demands on the eve of the Day of Atonement his wages in order to return to his family. But the employer declares to be unable to pay, as he possesses nothing to claim as his own. After the festival, however, he visits his employee and pays him his due liberally. In the subsequent conversation the employee says that on hearing the employer's refusal to pay his wages, he

¹ Cf. also Halewy, *Doroth Harishonim*, I, 314-16.

assumed that it was because "he consecrated all his property to heaven" (שהקדיש כל נכסיו לשמים). Thereupon the landowner replies, "By the temple-service [העבודה, cf. above, p. 262], it was actually so; I vowed all my belongings [*sc.* to heaven] on account of my son Hyrcanos because he did not study the Thora. But when I visited my colleagues of the Darom, they annulled my vow." Here we have a case, taken from actual life, of a father, enraged with his son, whom he disinherits by vowing his property *actually* to belong to charity and thus disinherits himself at the same time. But generally the vow of Qorban, as mentioned in the Gospels, was not an actual gift, but giving to a thing the status of such in relation to a specified person, as explained above.

Of much interest it is to find Origen (*Commentary on Matthew*, Book 11, 9, translated in the Additional Volume of the "Ante-Nicene Christian Library," 1897, p. 438) actually explaining Qorban in the Gospels to mean such a vow as we have discussed here.

But the Pharisees and the scribes promulgated in opposition to the law a tradition which is found rather obscurely in the Gospel, and which we ourselves would not have thought of, unless one of the Hebrews had given to us the following facts relating to the passage. Sometimes, he says, when money-lenders fell in with stubborn debtors who were able but not willing to pay their debts, they consecrated what was due to the account of the poor, for whom money was cast into the treasury by each of those who wished to give a portion of their goods to the poor according to their ability. They, therefore, said sometimes to their debtors in their own tongue, "That which you owe to me is Corban" [that is, a gift], "for I have consecrated it to the poor, to the account of piety towards God." Then the debtor, as no longer in debt to men but to God and to piety towards God, was shut up, as it were, even though unwilling, to payment of the debt, no longer to the money-lender, but now to God for the account of the poor, in the name of the money-lender. What then the money-lender did to the debtor that sometimes some sons did to their parents and said to them, "That wherewith thou mightest have been profited by me, father or mother, know that thou wilt receive this from Corban," from the account of the poor who are consecrated to God. Then the parents, hearing that that which should have been given to them was Corban—consecrated to God—no longer wished to take it from their sons, even though they were *in extreme need of the necessities of life*.

The fallacy of this explanation is obvious. If the parents were "in extreme need of the necessities of life," they could obtain

support from this very Qorban, the charity fund, just as other poor did!

Let us now return to the attack of the Gospels against the tradition of the Pharisees and the scribes. Admitted that the pharisaic, or the traditional, conception of vows made the case mentioned in the attack of Jesus possible, let us consider whether the scribes or the Pharisees whom we find so anxious about the honor due to parents,¹ deserved the charge leveled against them of "making void the word of God," as expressed in the Fifth Commandment. According to the Bible a vow is indissoluble. Only a married woman or an unmarried daughter in her father's house could have her vows annulled by the husband or the father respectively (Num. 30:2-17). Now it is to the great credit of the scribes that they have devised a relief from the burden of vows which people in their excitement and rashness would impose upon themselves or upon other people. It is the device of annulling vows, the so-called פתח הרטה in the talmudic phrase, allowing the person who vowed to offer reasons of regret which showed that had he taken them into consideration before his vowing, he would never have made this particular vow, that helped to ease the burden of vows often involving hardships and even misfortune for whole families (see, e.g., the instance discussed by Bêth-Shammai and Bêth-Hillel in Ned. 3:5).

Very likely the Sadducees were opposed to such a radical device overriding the obligation of vows as laid down in the Bible. The pharisaic scribes were forced to find some indications in the Bible to justify their innovation. But these could hardly be found. An early Mishnah contains a frank admission that the annulling of vows is, so to say, "floating in the air and has no support" (היתר נדרים פורחין באויר ואין להם על מה שיסמכו) Hag. 1:8;

¹ Cf. the stories of R. Tarfon and R. Ishmael, Yer. Kidd. 61b, ll. 18 ff., Babli 31b. The honor due to parents is equal to the honor due to God, Sifra to Lev. 19:3; B. Mets. 32a; Kidd. 30b. Even a pauper who begs from house to house has to support his parents, R. Sim. b. Johai in Yer. Kidd. 61b, l. 63, Pesikhta Rabbati, ed. Friedmann, 122b. It is true most of these statements were made by scholars who lived after 70 A.D., but there is no reason for assuming that in this respect a scribe before 70 A.D. held less exalted views about the respect due to one's parents. R. Tarfon, it is known, did active service in the temple as a priest (cf. Bacher, Ag. d. Tann., I², 342).

Nazir 62a; cf. Tos. Ḥag. 1:9).¹ Yet seeing the great necessity of this device for the welfare of the people, the scribes of the Pharisees clung to the innovation and helped to make it the accepted opinion and practice. We find **היתר נדרים** made use of already by Simon b. Shetaḥ on the famous occasion when three hundred Nazirites came to Jerusalem to fulfil the rites due at the expiry of their term of Nazirite (cf. Num. 6:13 ff.). As these men could not afford the expense of the offerings, Simon b. Shetaḥ induced Alexander Jannaeus to pay for the half of these Nazirites, while he, himself, was to pay for the other half. In fact, however, the famous scribe annulled the vows of the Nazirites of the hundred and fifty people allotted to him, exempting them in this way from bringing any sacrifice (**מִצְוַת לֶהֱקִיף פֶּתַח**). This procedure of Simon b. Shetaḥ was one of the causes of Alexander Jannaeus falling foul of the Pharisees and taking the side of the Sadducees (cf. Yer. Ber. 7:2, 11b, l. 40 ff.; Nazir 5:3, 34b, l. 2 ff.; Gen. R. 91, 3 and see especially Leszynsky, *Die Sadduzäer*, pp. 48–51 and 113).²

Returning to the case mentioned in the Gospels, we may safely assume that the scribes would have given every facility to such a son for annulling his vow. The Mishnah Nedarim 9:1, which is so often misconstrued, makes this quite clear. As it is well expounded by Montefiore, *The Synoptic Gospels*, I, Mark, *ad loc.*, it need not be fully cited here. It establishes the fact that if the vow of the

¹ This is an old Mishnah, since already R. Eliezer and R. Joshua comment on it that **היתר נדרים** has a basis in the Bible (**יש להם על מה שיסמיכר**). In their time the hermeneutics of the Halakhic Midrash was already fully developed, so that there was no longer any difficulty in finding some biblical indication for this innovation.

² About the annulling of vows cf. further Yer. Aboda Zara I, 40a, l. 62; Erubin 64b; Tos. Pes. 2:28. Gamaliel (II) is asked to annul a vow while on his way from Akzib to Tyre. See also Tos. Sanhedrin 6:2 and the legends in Lam. R. c. 2. Philo also seems to have known this custom. He insists that vows, if once made, should be scrupulously carried out, "especially if *neither implacable anger or frenzied love, or unrestrained appetites agitate the mind, so that it does not know what is said or done, but if the oath has been taken with sober reason and deliberate purpose*" (*De spec. leg.* iii). Now such reasons to invalidate the vow would usually be given by a man who asks the scribe to annul his vow. There are other details in Philo which show his agreement with the Palestinian Halakha about vows; but these cannot be discussed here. Suffice it to say that Ritter's (*Philo u. die Halakha*) remark (p. 45, n. 2) that "about vows in general Philo has an entirely different view from the Halakha," is subject to much modification.

son affects the parents in a way detrimental to their material well-being, as in the case mentioned in the Gospels, all scholars of the first century, whose opinions on this matter are quoted in the talmudic writings, agreed that the rabbi who dealt with the vow should simply prompt the son with reasons conducive to the annulling of the vow (ומוודים בדבר שבינו ואביו ואמו שפותחין לו) (בכבוד ואמו).¹ Thus, in spite of the tradition attacked in the Gospels, every facility was given to a son, who in his anger deprived his parents by means of a vow from benefiting from him, to annul his vow and carry out his filial duties. As for a really bad son, vow or no vow would make no difference.² It was this consideration that left the genuinely pious scribes of the Pharisees quite unconcerned by the attack of the Gospels against their tradition.

Jesus must have had some peculiar conditions in Galilee in mind when pointing out that vows lead to disgraceful treatment of parents. A remarkable Baraita informs us that the Galileans were much addicted to forswearing mutual benefit from each other. R. Yehuda (b. Ilai) says, "The Galileans were quarrelsome and used to interdict by vows the enjoyment of benefits from one another. Their forefathers therefore bequeathed their portion (in the common civic property) to the prince (לנשיא)," in order that all the inhabitants should be able to benefit from it (Nedarim 48a; cf. Mishnah 5:5). R. Yehuda settled in Tiberias after 135 A.D., and as he speaks here of the forefathers of his countrymen, the Galileans, this may well reflect the conditions in the time of Jesus.³

¹ This is the proper meaning of the Mishnah, according to Rashi and all commentators. A proof for the meaning of בכבוד אביו ואמו is the first half of the Mishnah in Ned. 9:1 (כבוד עצמו וכבוד בניו) אלו הוית יודע [sc. והחכם] ואומר לו [החכם] שלמחר יהו אומרין עליך כך הוא וסתו של פלוני מגרש נשיו ועל בנוחיד יהו אומרין בנות גרושה הן וכו' ואמר [הנודר] אלו הוית יודע וכו'. We see then that the reasons for the annulling of a vow were simply made ready for use for the man concerned in cases affecting the welfare of a family. Edersheim's (*Life and Times of Jesus*, II¹, 21) way of translating and quoting the beginning of Ned. 9:1 is simply a falsification. Nor does Schürer (II⁴, 577) convey the full meaning of the Mishnah.

² It is only in the first half of the third century that some scholars were of the opinion that a son be compelled by the ecclesiastical authorities to maintain his parents, Yer. Pea 15d, ll. 28-35, and Pesikta R., c. 23-24 (ed. Friedmann 122b).

³ Cf. Dr. Büchler, *Synhedrion*, p. 167, n. 141, who points out that by נשיא the Tetrarch of Galilee, Herod Antipas, 4 B.C.-31 A.D., could be meant.

With so much vowing out of spite and vindictiveness there must have arisen cases of hardship both for parents and for whole families. How far Galilee has been influenced by the pharisaic scribes of Jerusalem in the matter of annulling of vows, in face of the very probable opposition of the Sadducees (cf. above, pp. 17-18) is difficult to ascertain. Anyhow the attack of Jesus on this kind of vowing, as being conducive to disobedience of parents, *by itself* could be quite well understood. What is incomprehensible is the pointed tendency of this saying of Jesus as an onslaught on the scribes and the Pharisees, the very people who would give all possible inducement to a son to annul his scandalous vow. But this tendency may in reality be ascribed to the authors of the Gospels rather than to Jesus himself.





UNIVERSITY OF CALIFORNIA LIBRARY

Los Angeles

This book is DUE on the last date stamped below.

41584

SOUTHERN REGIONAL LIBRARY FACILITY



AA 000 618 579 7

