

What Can Law Do For Revelation

Robert W. Bertram

[Printed in "Colloquy on Law and Theology: Papers presented at Valparaiso University, October, 1960" by The Lutheran Academy for Scholarship, St. Louis, MO]

The subject of this panel discussion is "Law and Revelation." This general subject, in turn, has been subdivided four ways. Mr. Duesenberg's question was, What can revelation do for law? Mr. Kauper's question was, What can revelation not do for law? Mr. Piepkorn's question was, What can law not do for revelation? This quite reasonably leaves a fourth question, What can law do for revelation?

I.

Not only can law do something for revelation; law is itself a vehicle of divine revelation. In fact the very term "Law" is used by Christians, Lutheran Christians especially, to refer to one of those phases of God's two-phase revelation: "Law and Gospel."

To be sure, when theologians speak of God's revelation through "the Law," they usually mean by Law something more than we here in this conference have meant by law. Here we have been distinguishing between divine law (or "natural law") on the one hand, and on the other hand, man-made, positive law --the law of the land.

That, of course, is a valid and useful distinction. For the purpose of this present discussion, however, I should prefer to stress that these two kinds of law are continuous. Human legal systems, insofar as they function as a vehicle of divine revelation, are part of the divine law.

So not only can law do something for revelation. All law, also human law, is itself a vehicle of divine revelation.

II.

The essence of all law, whether divine or human, is retribution: Suum cuique tribuere, rendering unto everyone his due, giving men what they have coming to them, whether reward or punishment, commendation or blame.

"Retribution" is, of course, not used here in opposition to distribution. Distributive justice, too, can be understood as retribution. When the state "distributes" certain governmental benefits to me (police protection, school facilities, the services of the legislature, etc.), this too is retributive: I am being assigned what is rightfully my due.

Retribution is of course not confined to the laws of government. It is a basic law of life - as essential to human survival as the law of gravitation. When parents discipline youngsters, or when they commend and cherish them; when instructors assign grades to student's term papers, whether A's or F's; for that matter, when this chairman holds the panelists' presentation to twenty minutes the way he does -- then the law of retribution is at work. If it were not, all of human life would disintegrate, and not only that sector of life which is controlled by political law.

However, political law does illustrate the universal law of retribution perhaps more pointedly than do other institutions in our common life. No other institution (not marriage, not the family, not the school, not the business firm) has the sort of dramatic power which the state has for enforcing the law of retribution. Furthermore, the retribution exercised in families, marriages, corporations, etc., is reinforced, backed up, by the state.

So the essence of all law, whether divine or human, is retribution. And the retributive character of all law is pointedly illustrated in the laws of government.

III.

Retribution against a man calls for an evaluation of him. Whether to reward him or punish him raises the more basic question: what does he deserve? Is he good or bad? Retribution implies judgment. The retributive character of existence is the judicial character of existence.

The point here is not that some human behavior gets evaluated as good and other human behavior gets evaluated as bad. The point is rather that all human behavior, both bad and good, does get evaluated.

Suppose that what a man gets is cancer. He may conclude that it is something he deserves or he may conclude that the cancer is something he does not deserve. In either case, his cancer raises the evaluative question of his deservedness. Or suppose that what a man gets is an increase in salary. This may, as we say, make the man feel "good." It may heighten the sense of his own worth. On the other hand, he may feel unworthy of the salary increase. No matter. One way or the other, the increase calls him to an assessment of his worth. Whatever the retributive turn of events in a man's life, they turn him back, reflexively, upon an evaluation of his life.

So retribution implies judgment. The retributive character of existence is the judicial character of existence.

IV.

The law of retribution in life, when it functions judicially, reveals the attitude of the divine Judge toward His human creatures: He is a God who, through the retributive turn of events, compels them to give account of themselves. Through the reward-and-

punishment character of existence. He demands that they justify their existence before Him.

Again, the question is not whether God's retributive turn of events sometimes evaluates men positively, sometimes negatively. The point is that, by treating them retributively at all, He summons them to a constant evaluation of themselves. The question is not, Does the Judge say "guilty" or "innocent"? The point is that He does say, "Take the stand." If it were a question of punishment versus reward, we would have to say that the last thing in every man's life -- namely, death -- is a punishment. But death itself raises the prior question: show cause, if you can, why you should not die. God is always the Judge and we are always the defendants. In all the ups and downs of life, He is asking, what do you have to show for yourselves?

As Christians confess, God's demanding an account from us is not merely some private "voice of conscience." Some people hear voices, others don't. Some morbid souls are scrupulously preoccupied with their self-evaluations. Others who are more stoical are repelled by this scrupulosity as being unworthy of a man and, like the U.S. marshal on the typical T.V. western, maintain their self-esteem with a stiff upper lip -- an equally comical preoccupation with one's own worth. No, human existence is judicial not merely because some people may happen to feel judged but rather (the naturalists' protests notwithstanding) because God's own summons is built into the retributive order of things which environ us. If this "natural" summons must be spelled out through special revelations, in the Decalogue and the Sermon on the Mount and Golgotha and Christian sermons, that is only a further reflection on men who will not see what is everywhere to be seen.

The divine Judge may summon man to the witness stand by walking down the garden path of his life in the cool of the evening and calling out, "Adam, where art thou?" Then, whether man hides or disguises himself with clothes or blames his wife, he nevertheless admits thereby that God is the Judge and he is the defendant. Even the Gentiles who are without the Torah betray the same truth, whether by accusing themselves or by excusing themselves.

The same truth may be illustrated by a play on those medieval theological words which have often troubled modern theology -- Luther's terms Beruf and Stand: A man's "calling" in life and his "stand" in life. My Stand -- say, as a professor or a father or an American -- defines the place where I stand within God's creation. But that also defines the place I occupy within God's judiciary. It is my witness "stand," and the divine Judge "calls" me to this stand to give an account of my stewardship, as professor or father or American.

Whether a specific turn of events should reward us or punish us, the simple fact that they are retributive events at all and that they compel us to give account of ourselves, already betrays something fearfully negative in our relationship to God. If nothing else, it betrays that He is related to us as a Judge is related to a defendant and that the burden of proof rests upon us. Even if we could somehow marshal the sort of proof that would eventually

vindicate us (and Christians know the answer to that), the initial truth that God faces us as a Judge is already more truth than man can bear. It is only when they know that elsewhere God Himself has borne this truth as One of them, and for them, that they can bear to say about the law of retribution -- that basic law of existence -- that it is always judicial and that it always accuses. As we confess in the Apology, Lex semper accusat.

V.

What then can law, the law of the land, do for God's revelation? The law of the land operates, even more explicitly than most of life does, with the law of retribution, the principle of recompense. Moreover, because it is retributive, the law of the land is judgmental; it evaluates human behavior. Thus it reveals how God, through the very order of human existence, calls man to account the way a judge summons a defendant.

Before we illustrate this in the case of man-made law, perhaps we ought to cite the more obvious case of a legislation which been especially revealed. Take the Sixth Commandment. How does it reveal that God is the Judge and we are the accused defendants? Well, I suppose that even if there were no order of reward and punishment at all, the Sixth Commandment, simply as commandment and without any regard to its retributive consequences, would already express a judgment upon me. The simple fact that I, who have been entrusted by the Creator with the gift of a wife, do nevertheless need to be warned against adultery is already a sad reflection upon my treatment of the Creator and His gifts. The very presence of the commandment as commandment, with no regard to its rewards and punishments, compels an evaluation of myself as if before a divine Judge.

But the Sixth Commandment is not only a commandment, not only legislation. It is also recompense. The sentence. Thou shalt not commit adultery, is but a kind of verbal abbreviation for a whole retributive activity which God conducts, factually and concretely within our natural existence. When a man commits adultery, it is a fact of life that punishment follows: He may have to suffer an uneasy conscience or the loss of his wife's affection. Even if he should be spared these penalties, there is one penalty which neither he nor anyone, not even his wife, can spare him: his adultery destroys his marriage. What God has joined together has now, physically and factually, been torn asunder. That is retribution.

This retributive process, built into the very physical facts of life, illustrates the revealed truth that men, also as husbands, are constantly before a divine tribunal, are under accusation.

Of course, respectable husbands, because they are not adulterous -- at least not overtly -- do not have to suffer the overt penalties which recompense adultery. But even respectable husbands live in a world in which adultery does get recompensed, so they too experience the penalties, at second hand at least, as reminders and warnings and threats. These reminders are forceful enough to keep even a respectable husband mindful of his conduct. The retributive threats remind him that the divine Judge is constantly saying to him, What

kind of a husband are you anyway? In the face of such a summons, no Christian husband would be fool enough (if I may use the language of the New Testament) to clear himself by citing his own respectability. He has an altogether different, and far better defense than that. The point is, though, that even the respectable husband, because he too lives in a retributive world, constantly stands as a defendant before the divine Judge. And God as Judge is not God as forgiving Father.

VI.

That retribution expresses judgment may be clear enough in the case of such revealed legislation as the Sixth Commandment. Is this at all the case with such lesser legislation as that which you and I and other human beings create -- the law of the land, criminal and civil law, public and private law? I believe so.

The moment we shift from God-made laws to man-made laws, the question arises, But are the man-made laws just and right? Do they express the will of God? If not, do they have authority to recompense us and, hence, to call us to account? That is of course a valid and important ethical question. Yet for our present purpose this question may be disregarded. The one question we face right now is this. Does the law of the land -- whether it is God-made or man-made, whether it is right or wrong -- illustrate the revealed truth that we men stand before God as defendants before a Judge, as stewards who must give account? The answer, I submit, is Yes.

Take such a relatively trivial law of the land as a speed limit law (trivial in the sense that it seems to lack the cosmic significance, say, of the Decalogue). Suppose that as you drove down Highway 30 you noticed in your rear-view mirror, that the driver behind you was a state trooper. It would be altogether "natural" -- as natural as any natural law -- for your eyes to drop from your rear-view mirror to your speedometer. You don't pause to ask, Is the speed-limit on Indiana highways divinely ordained, Is it right absolutely? What you do, instantaneously, is check your speed, take account of yourself. The question, moreover, is not whether your speedometer proves you to be legal or illegal. The point is that the blue patrol car behind you symbolizes a fact of life, the fact of retribution, and this is God-made. Retribution, in turn, presupposes evaluation -- the way a Judge evaluates a defendant.

Perhaps an equally modest man-made law of the land is the law of contracts which controls my monthly payments on my mortgaged home. The law which binds my lender and me contains very definite provisions for retribution, both privileges and penalties. These retributions may be overly severe or overly lax, godly or ungodly. In any case, they do force my wife and me to ask, at the beginning of each thirty-day spending cycle, How are we doing? Will we make it this month? How do we stand? The law of contracts with its promise of rewards and punishments, compels an accounting from us. This sort of soul-searching was of course not intended by the Indiana legislators who provided the law with retributive sanctions. By these sanctions they meant only to encourage people to honor contracts and to pay debts. Socially, this is purpose enough. But for purposes of divine revelation, the retribution in this law of contracts serves another function: It puts

us on the defensive. We are moral agents who, as the saying goes, don't want to jeopardize our "credit." We want our economic behavior to be a "credit to us" -- almost as though we were called upon to justify ourselves to Someone, as of course we are. But this Someone is not the heavenly Father who in the Cross reveals His merciful forgiveness.

So lex-- even lex civilis -- semper accusat. In fact, the law of the land, because of its concreteness and life-relatedness, sometimes achieves more accusatory power than a whole month of Law-preaching.

VII.

We might pause briefly at this point for a reminder. If the law of the land can reveal divine judgment, it reveals it not only against individuals but against whole communities as well. And by a community, I mean not an aggregation of individuals but an organized whole, not a sum total but a one total.

For example, suppose we lived in a town (as some of us do) where the treatment of colored people is virtually in violation of a decision by the United States Supreme Court. And suppose that this trouble should proceed to the point where it required explicit legal retribution, say expensive and embarrassing litigation or the presence of federal troops.

Under these circumstances it might be tempting for the rest of us to disavow all personal responsibility and to suppose the retribution is a judgment only upon those citizens who have been overt segregationists. Or, even worse, we might suppose that the retribution applies not to the general citizenry but only to our public officials, out elected representatives, who must appear in court in behalf of the community. And, for all I know about law, that might be the direction which the legal action would take. Still, I submit, it would not take much ethical imagination to see this retribution as a reflection, a godly condemnation, upon the community as a whole, which -- the integrationists in its midst notwithstanding -- has in fact segregated its Negro neighbors from its midst. Just as I share the premises with the rest of this community, share its good fortune and its bad fortune, share its company, I thereby also share its responsibility, its praise, and its blame. The retribution, rightfully, applies to the whole community. And so it is the whole community who is summoned for judgment.

But at this point -- at the point of retribution, if not before -- the community might be tempted to raise the question, Is the Supreme Court's decision a genuine mandate from God, like the Sixth Commandment, or merely a mandate from those human justices who sit on the bench in Washington? This is at any time a pertinent ethical question, no doubt. Still, that question would miss the point, the theological point, which we are presently raising about law as a revealer of the divine verdict.

Our question is not about the federal law's ultimate origin or even about its intrinsic rightness. Our question, rather, is this: does the federal law, if by nothing else than by its retributive force, call the community to account before God, to justify itself before Him?

And if the law does this, then -- whether the community subsequently accuses or excuses itself before God -- the law has effectively revealed something about the community. What sort of relationship does it enjoy really with a God who, like a Judge, demands a reckoning? This is not the God of grace and mercy.

The law of the land, therefore, even though this is not its human intent, can by its sheer retributive machinery place an entire community in the position of defendant before God. This too can be divine revelation.

VIII.

So the law, also the human law of the land, can do something for revelation. Because it is always a law of recompense, it reveals that we stand as defendants before a divine Judge. Saying this much, though, does not necessarily tell us that the defendant is guilty. At least it does not tell us that he is mortally guilty. So far we have only hinted that he is. The reason we have only hinted is that that may be all that the Law itself can do. If we ask, How badly off really is the defendant, the law by itself cannot fully answer that question. Not by itself it cannot, not without Jesus Christ.

With Jesus Christ, however, the law does reveal all that it has to reveal about the plight of the defendant. Without Jesus Christ the law, like the face of Moses the lawgiver, is veiled. With Jesus Christ, however, the veil disappears. "The law comes by Moses, but grace and truth (also the truth of the law) came by Jesus Christ." He fulfilled the law, the law also as revealer of human guilt.

In saying this I may seem to be poaching on the preserve of my predecessor, Mr. Piepkorn. He showed, far better than I could hope to, what the law cannot do for revelation. It would be presumptuous of me to repeat that. But thanks to him we are now in a position to add one more project which the law can do for revelation: It reveals what it cannot do for revelation, and this is itself a revelation, a revelation of the law. (I would apologize for this paradox but, since I did not invent it, I am not authorized to make the apology.) We are not saying now that the law cannot reveal the Gospel; that of course is not the law's prerogative. We are saying that the law, by itself and without Jesus Christ, cannot even do its own job. Not only does the law not reveal God in His forgiving mercy but, because it does not do that, it does not even reveal the full depth of God's condemnation -- not until it imposes that condemnation upon Jesus Christ.

When the law-minded people of Jerusalem lawfully executed Jesus Christ, they used that law as a weapon to attack God. In the name of the law they repudiated the Verdict God had handed down, the Verdict made flesh. According to the law of the land, they denied God's truth about them, the Truth personified. With God's own law of retribution they reversed His judgment upon them and thus, with the aid of His law, they attacked His veracity, His own Person. In that historic legal precedent, the law of retribution appeared as what it is always and everywhere: not only the Judge's summoning us to judgment but also the veil, the dodge, by which we evade and repeal His judgment. Not only is the law

a persuader for truth. It is also a resource for un-truth, an obstruction to its own revelation.

Precisely because the law obstructs its own revelation, it reveals something new about the defendant: the law fosters him in his self-deception. The law provides him with an argument against the Judge. The very law of retribution which demands of him, What do you have to show for yourself? also does something else. It incites him to rummage around in his life until he finds something he can show for himself. The law enables him not to incriminate himself. The law encourages his perjury. With an assist from the law, he compounds his guilt. Or, in apostolic language, the law intensifies his sin.

So not only is the defendant under the law's judgment. He is also (as I would not dare to say if the New Testament had not said it first) under the law's curse, under a spell of deceit. Always the law accuses, to be sure, but never so fiercely as when it hands a sinner the weapon to do what he has the will to do, accuse God.

IX.

The law may be a minister of sin, but it is a sinister minister. It guards its secret closely, under the cover of legality, under the form of religion and godliness. No wonder, for it is the law of God. So, pious, law-minded men would not dare to say the negative things against it which we have said -- that it is a curse, a magnifier of sin, a thing of wrath and death -- for fear, ironically, of opposing God. Or for fear, at least, of opposing common sense. See how closely, how ironically, the law guards its secret. So closely, in fact, that men, instead of unmasking the divine law (for which they have neither the power nor the authority), pay it the tribute of their lives. To them it seems to be not a curse but only a blessing (if they can just make its grade), not a magnifier of sin but of virtue (as long as it does not get too demanding), hardly a thing of wrath and of death (so long as God helps out or lets us live long enough). So ingenuously in fact, does the law preserve men -- decent, reasonable men -- in their culpable ignorance that it allows them to prize it as a law of life.

In one very real sense, the law, the law of retribution, is a law of life. It adjudges our lives, to be sure. But it also protects our lives and safeguards them. If there were no law of retribution to discourage adultery and to encourage fidelity, think of what would happen to the Creator's magnificent gift of marriage. If there were no speed limits and speedometers and state troopers, who would be safe on the highways? If mortgage loans were not enforced by laws of contract, lenders would lose their shirts and borrowers would be bled white. And so would segregated American Negroes. What would happen to children if parents did not correct them and commend them? Or to students whose work was never graded? Or to panel discussions without stopwatches and chairmen? The law of retribution, as we said at the outset, is as basic to life as the law of gravitation. If the usus proprius of this law is to accuse men before God, its usus politicus is to protect them within God's good creation. In its social function, as Luther said, the law of retribution is God's noblest and holiest gift upon earth. No individual and no community

could survive without it -- not the Jewish community under the Sanhedrin, nor the Judean procuratorship of Pontius Pilate.

Nevertheless, there it was — in the Sanhedrin and before Pontius Pilate and on the hill called the Skull — that the legalistic intrigue against God was exposed for what it was. The secret was out. The law of retribution as the law of the land had again, as ever, provided law-minded men with their godly weapon against God. But this time the duplicity was unmasked. God was attacked in person, in the flesh, the Truth Himself. He made a show of the law openly. The law of statutes and ordinances was nailed to the Cross. From this crucial event, men could now read backward and forward into all legal history. "All who rely on works of the law are under a curse." This the law could not do for revelation, not until now, not without Jesus Christ. But with Jesus Christ, this very limitation of the law is itself a revelation of the law: the law, after all, is against God and so are those who live by it.

X.

Because this enslaving secret which Christ challenged into the open had been a secret kept by God, Christ for His boldness had to suffer God's retribution. And he accepted the legal action against Him as just that, not merely as an act of a human court but as retribution from God. No one who is under the divine law of retribution can replace it with its opposite, with forgiveness, of sins without suffering the divinely imposed consequences. "There is no forgiveness of sins without the shedding of blood." "Which is easier to say 'Your sins are forgiven you' or to say 'Take up your bed and walk'? Easy, indeed! The authority of the Son of Man upon earth to forgive sins -- to discharge the law of retribution -- comes only as easily as crucifixion. "This is the new covenant in My blood for the forgiveness of sins. " Punishment by death, if anything is, is the law of retribution. And that law did not die without exacting a death in return. Not only did the Sanhedrin consent to that, but God did too, and so did His Son.

It might be tempting to suppose that the retribution which Christ bore was simply His private affair, not the responsibility of His entire community -- just as we might suppose retribution against the community of Valparaiso applies only to the community's elected representatives. Well, Jesus Christ is the representative of that community "Whom God Himself elected" and for whose election each believer's faith is an additional vote of confidence. The retributive judgment against him was a retributive judgment against the whole community whose premises He had occupied, whose good fortune and bad fortune He had shared, whose company He had kept. According to the law of retribution, the wages of sin is death. And Jesus was made to be sin by being born under that law, by becoming a Friend of sinners, by fraternizing with them. The guilt of our race is corporate, and He shared that guilt by joining our race. Though His reasons differed from those of the Sanhedrin, He was a willing party to their deed, "steadfastly . . . up to Jerusalem." They did not even know what they were doing. He did know. The sin he bore was race-wide, "He died for the sins of the world."

"He died." That is retribution. So it would seem that the law of retribution -- whether the law of the land or God's law -- speaks the final word after all. No, the other side of it is that He died -- "the Holy One of God," "the Beloved Son." Only He, by suffering the law's attack on His divine Sonship frontally, could expose the law of retribution for what it is: a godly device for men's enmity not only against one another, but against God. And the beloved Son trusted that the heavenly Judge, who Himself had employed the law as a device for enmity, would approve Christ's repeal of that law. Christ "trusted Him who judges justly." And he who judges justly did approve, conspicuously, by raising His Son from the dead to His own right hand. Christ was the death of death, a law to the law -- the end of the law. And He was that not for His own benefit, but for the whole fraternity of sinners with whom He fraternized, the beloved community.

What then can the law, also the law of the land, do for revelation? With Jesus Christ it can do this for revelation. It reveals that it can do nothing for revelation, finally. For the law is no longer the final word. Penultimately, yes. Ultimately, no. In the arrest, trial, and execution of Jesus, the law of that land revealed that neither it nor the law of any land nor the law behind all laws, the law of retribution, has any religious validity except a curse -- the curse of bad legal advice for an already bad defendant.

Not that the law is no longer in force. It is, of course. The Sixth Commandment is still there; so is the state trooper; so is the grade book, and the children's allowance, and the Supreme Court's decision, and the chairman with his stopwatch. All these retributive processes are still good and indispensable for life, they are still from God. They still summon us before the divine Judge. And no man -- not the tight-lipped marshal on the TV western, not even the Christian -- should be fool enough to deny that he still stands constantly before that Judge, under the law's accusation. All he has to do is look in his rear-view mirror. But what he does as he stands there -- .if I may make a pun -- is crucial. Either he invokes the Cross or he invokes the Law, either retribution or forgiveness. For the law-minded men in the community the law of retribution is still, sadly, the last word, still a slave-driver. For the Christ-minded men the law of retribution, though it is still a slave-driver, drives them to the Word beyond the last word — the Word made flesh — and back again into the community. Slave driver, beware. Caveat lex, for the Word is getting around.

Robert W. Bertram