

Brunner's view of law entailed in his work: "The Divine Imperative"¹

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Introductory remark: the basic religious problem

In order to avoid any misunderstanding regarding the implication of my argumentation when I address you on the announced topic, I have to get a preliminary remark off my heart.

Although I consider it to be necessary to provide a theoretical analysis of the fairly mixed motives operative in his thought with regard to the *historical background* of his stance in respect of God's command and the worldly ordinances, in order to arrive at a critical assessment of conception of law, it is far removed from me to suggest that through such a theoretical dissection we are done with Brunner and the only task is to provide a refutation of his thought in a scientific approach.

If one believes to have fixed his standpoint through a stringent theoretical analysis and believes to have given an equally rigorous refutation of his thought, it may happen that within in the progress of the argumentation the deeper religious motive power underlying the problem with which Brunner wrestled takes hold of you such that the entire configuration of your argumentation would collapse under the pressure of a deeper doubt which is inaccessible to theoretical arguments alone.

For indeed, behind the really objectionable theoretical conceptions of Brunner a deeper problem appears that directly touches the heart of our existence as Christians. Before one can seriously take issue with Brunner in a theoretical argumentation one has to take position in respect of this deeper problem. While touching the religious root of the Christian life within the temporal ordinances this problem demands from us, as children of the Calvinistic Reformation, an honest heart confession as answer to the central question: Is it the case that the creational order, within which God's will positioned us, maintains a certain independence in relation to Christ as Head of reborn humanity, or is it rather the case that in Him the only Root of the entire reborn cosmos in all its dimensions is found? Or, expressed in a different way: Is the tremendous tension which each

¹ This is a slightly expanded version of a paper presented to the 18th Student Congress held at Lunteren. The article appeared in *Anti-Revolutionaire Staatskunde*, Three Monthly Organ, 1935, pp.334-374.

true Christian experiences in the deepest core of his or her being only to be seen as a struggle between *sin* and *grace*, or is there something left in God's creation order which manifests autonomy in opposition to God's grace in Christ?

This is the religious basic problem with which Christendom struggled for centuries. Merely its *formulation* already reveals a certain *choice of position*.

As soon as the biblical opposition between *sin* and *redemption* transforms itself within the Christian world-and-life-view into the supposed tension between "nature" and "grace" the plea within the Christian consciousness was already decided for the acknowledgement of ascertain autonomy and self-sufficiency of the natural creation order in opposition to a life out of grace in Christ Jesus.

The kingdom of God acquires a counter party not only in the realm of darkness but in a certain sense also within created "nature", which as such is not recognized in Christ as its religious root!

This conception is rooted in a position taken in the heart of a Christian. From this root of life it finds its way into theoretical articulations.

When I therefore analyze and criticize Bruner's line thought with you, then my final intention is to reveal this religious basic problem as the central motive behind his entire view. Thus you are directly confronted with a religious choice which ought to touch the *heart*, the *religious root* of your entire existence. Therefore it cannot be side-stepped in merely theoretical views! It is only when we as Calvinists take such a genuine position that we acquire the right to exercise a sharp against Brunner, albeit with a grateful acknowledgement of the bond of faith which continues to connect us in spite of everything else.

The dialectical ground-motive in Swiss theology

An exposition of Brunner's understanding of law ought to be preceded by a brief characterization of the theological trend from which it developed. This is necessary not because his view of law would have a significance merely for theology as discipline, but because in the first place he is a theologian who developed his ideas as such within his "theology." These ideas may be seen as characteristic for his whole view of the relation of the Christian religion to the temporal world order. In this characterization of Brunner's theological location I intend to restrict myself to those points which are necessary for an understanding of his view of law. And the theologians may forgive me for entering their scientific domain with modesty!

It is common knowledge that Brunner is one of the main figures of the group of dialectical theologians which, under the guidance of Karl Barth, from Switzerland¹ launched a fierce battle against the dominant subjectivist trends in modern theology.

¹ This explains the reference to "Swiss theology" as a designation of trend of Barth and Brunner. Barth wrote his epoch-making theological treatise, the *Römerbrief*, while he was still a pastor in

With a sincere prophetic dedication Barth and Brunner call theology which searched its starting-point in apostate human subjectivity back to “God’s Word.” Their message struck like a spiritual thunder in a world stamped by humanistic-theological ideas which no longer understood the word of Ecclesiastes: “God is in heaven, you are on the earth.”¹

In stead of viewing God’s revelation and the activity of faith in terms of apostate human subjectivity, this trend once again posits, in elevation above all finite human measure, the sole activity of God in the revelation of his Word to the sinner as the absolute center of a truly Christian theology. With an initial radicalism the boundary between God and creature is made valid. The judgment [gericht] over all the efforts and the entire existence of apostate humankind is preached with great clarity. Swiss theology operated as “crisis theology.” Justification through faith alone, as through an act of God and not through the work of a human being, in the crisis of God’s judgment over the entire sinful world – that was the message in respect of which they did not get tired to proclaim as *living* gospel.

However much we share the common bastion against the subjectivist theology, in which we acknowledge an inner bond with the “Swiss” theologians, as children of the Calvinistic Reformation we still have to raise in all sharpness right from the beginning our fundamental objections against “dialectical theology.” In spite of the fact that this theology, in taking its starting-point in the “Word of God,” opposes every speculation within theological thought, it in the final analysis did not succeed in escaping from this rejected mode of thought. The non-transgressable boundary between God and creature, which Barth and Brunner justifiably maintain against theological speculation, from the very beginning acquired a speculative twist in their thought.

Where the *full* and *radical* meaning of the biblical word: “The Word became flesh” is not accepted, the scriptural *boundary* between *God* and *creature* is changed into an un-Biblical *separation* and an absolute contradiction between *eternity* and *time*.

Already in this context I have to point out that this dialectical ground-motive, this absolute break and contradiction between eternity and time, which does not find any point of “connection” between the two but only allows for a “jump” from the one to the other, directly derives from the dialectical philosophy of existence of the Danish philosopher and theologian, Søren Kierkegaard, one of the prominent predecessors of the currently dominating irrationalistic philosophy of life who also exerted a large influence on Martin Heidegger.

the Swiss village Safenwil. For a more extensive overview, next to the dissertation of Schilder referred to below, I may mention the excellent dissertation of .C. Berkouwer, *Geloof en Openbaring in de Nieuwere Deutsche Theologie* (Free University, 1932).

¹ This may well be seen as Barth’s slogan.

The “message of dialectical theology” from the beginning clearly echoed the philosophical undertone of the “message of Kierkegaard.”¹ In spite of all later attempts to renounce Kierkegaard’s existential philosophy the philosophical connection in this dialectical ground-motive between him and the Swiss theologians never collapsed. Proceeding from the absolute dialectical tension between eternity and time, dialectical theology in addition also introduces an opposition between the “Holy Scripture” according to its *temporary form* and the “Word of God” as its *eternal content*, between Christ as “Word made flesh” and the historical “Jesus-figure.” According to Barth the latter is even “indifferent.” The divide between God and creature along these lines was turned into a speculative “death-line” (“Todeslinie”).

Faith and revelation (at least in the thought of Barth), entirely *separated* from created human nature, are referred to the “Jenseits”² of the natural existence of humankind. The “image of God” in the human person is according to Barth not merely darkened, because it actually is totally *annihilated*. As a consequence the natural existence of the human being does not any longer have a transcendent religious root. Rather, as Heidegger teaches, the human person merely has a *historical being* (“geschichtliches Dasein”), which in the anxiety for death and the guilt-awareness of its fallen condition in its surrendering to the “nothing,” itself reveals an inner antinomy.³

This entire “dialectical opposition” explains how Swiss theology had to oppose with sharp animosity “reformed orthodoxy” which refused to accept the separation between the “Bible in its temporal manifestation” and the “Word of God.” According to Barth and his followers this orthodoxy held the conviction that God left His revelation to the disposal of humankind and that according to it “Revelation” in truth is “being revealed” (“Offenbarkeit”). The reformed people are accused of a fall from the true spirit of Reformation!

In its dialectical ground-motive the “crisis theology” turns into a “theology of the paradox,” into a theology of the absolute contradiction between time and eternity, a theology which at once *affirms* and *denies*.

In his *Kirchliche Dogmatik* (1932, p.172) Barth posits the “Word of God” as the “original paradox,” namely as the absolute, irreconcilable antinomy between the *eternal content*, which can never enter into time, and the *temporal form* which God’s revelation chooses to make serviceable to itself.⁴

1 Emil Brunner wrote a separate treatise using this phrase as its title.

2 *Translator’s note*: The German word “Diesseits” and “Jenseits” refer to the distinction between “this world” and the “other world.”

3 A similar position is taken by Brunner in his “Das Gebot und die Ordnungen” (1932, pp.1377 ff.).

4 According to Schilder (*Zur Begriffsgeschichte des “Paradoxon”, 1933, pp.338 ff.*) already this conception of the paradox represents a shift with regard to its original meaning within the *Römerbrief*.

This temporal form in which the “Word” as “Scripture” operates is according to him an “unsuitable means” for the self-revelation of God, a *camouflaging* of its true contents. It does not conform to but contradicts it!

While reformed theology in a Scriptural sense continues to speak about the “transparency” and “clarity” of the Bible, this dialectical conception exactly *turns it upside down*. The “Bible” as such is not clear and lucid but much rather the darkening, camouflaging and masquerading of the genuine “Word of God.”

Only from moment to moment God’s spirit is capable to reveal to us from its mortal cleavage the “Word” through its temporal shape. The Word of God is not given to the Christian as an “objective property,” but is itself a purely *subjective actuality*, a subjective activity of God. At no moment the believer can claim a certain possession of “God’s Word.” The latter in no part is “at the disposal” of humankind.

Along these lines the “Holy Scripture” as “temporal form of God’s revelation” is handed over to “historical critique.” According to dialectical theology the doctrine of the “infallibility of the Holy Scripture” represents a rudiment of the Roman dogma of infallibility, an “all too human” understanding of the “Word of God.”

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The preceding brief exposition intentionally abstained to comment on the immanent development of dialectical theology as it occurred both in the thought of its founder Barth and his followers and in particular that Brunner and Gogarten at the moment not only sharply opposes their teacher but also have their mutual differences with regard to their respective conceptions of the relationship between the “Word of God” as revelation of His grace and “human nature.”

The bone of contention between Brunner and his teacher on the one hand and between Brunner and Gogarten on the other, is captured by Brunner in the following way: according to him Barth does not do justice to *creation* as opposed to *redemption* whereas Gogarten does not do justice to *redemption* in opposition to *creation*.

In this context it will suffice to say that although Brunner to a certain extent has weakened the initial radical tension between eternity and time by once again acknowledging for the “hearing of God’s Word” a point of connection within human nature. In this context he also once more provided a certain justification for a “*theologia naturalis*,” a natural knowledge of God based upon human nature. However, Barth considered this move to constitute an absolute break with himself.

Without any justification some thought to have discovered at this point an approximation to the reformed conception.

As I have said, I leave this issue here because the introduction of my exposition of Brunner’s conception of law merely intended to highlight the dialectical ground-motive of this entire trend. For this ground-motive, in spite of a weaken-

ing of its initial radical tension, continues to govern Brunner's understanding of law.

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The conception of law is not merely of a philosophical theoretical interest. Rather it determines Brunner's entire standpoint regarding the temporal life ordinances in which God has positioned every human being. It explains his whole practical position with regard to the temporal life ordinances in which God's sovereign creative will has placed humankind. It also explains his negative attitude regarding the basic conception of Christian scholarship and Christian politics and it explains his entire rejection of the Christian view of culture as it is developed by Dutch Calvinism in the footsteps of A. Kuyper.

Brunner explained his position with respect to the law in its broad sense as ordinance for creaturely existence extensively in his well-known [mentioned] work *The Divine Imperative* (1932).

By looking at the multiplicity and meaning-diversity of the law-spheres in which temporal existence is placed, of necessity the question arises: Is it not the case that all these ordinances have a deeper root, in which the full meaning of the law is contained, and: Who is the Origin of the law according to its deeper unity and temporal diversity?

For the Christian this question arises with a greater prominence than for those who proceed from the "sovereignty of reason."

The sovereign Creator of heaven and earth did not subject the human being to a disconnected and mutually contradictory multiplicity of temporal ordinances, which have no deeper root.

God's will for creation, as it is embodied in the law, in its deepest religious sense is a *unity*, as it is also taught to us by Christ. The Christian thinker has to face the question whether or not this basic perspective ought to be taken seriously, namely that regarding the relation between the root-unity of all instances of law and the temporal diversity of life ordinances.

An encompassing view of law in the above-intended sense therefore necessarily proceeds from a cosmonomic idea that is an idea regarding the *Origin, the deeper religious unity* and the *mutual coherence of all spheres of temporal ordinances* which embrace every creature within our cosmos.

Such a cosmonomic idea may be the embodiment of a scripturally Christian or of an un-biblical non-Christian conception. It can also attempt to establish a synthesis, a compromise, between the Christian and the non-Christian starting-point.

Also Brunner's book is oriented to a cosmonomic idea. This we carefully have to uncover in order to obtain the key to the understanding of his attitude concerning the temporal ordinances.

In the center of the theological-ethical views which we encounter in his "The Divine Imperative" we find the radical opposition between what Brunner calls the "command of God" and "the law."

The “command of God” contains the *unity* and *fullness of meaning* of God’s will for human action. The law, by contrast, reveals itself in time in a multiplicity, a diversity of ordinances.

There is but one “command of God,” namely the love commandment: love of God and the neighbor. God does not ask a “cultus,” no loving service for *Himself* in separation, but asks from us that we shall serve Him in the full concrete and personal relationships between me and you, i.e., in the concrete love community with thy *neighbor*.

The one love commandment, containing the *religious fullness* and *unity* of God’s will for Christian action, as far as its *contents* is concerned, can never be determined in for everyone in the same *general* way. For Brunner “love” signifies that the Christian is “liberated” from all *legal* anticipation about what one ought to do. “God’s command” does not ordain in a *general* sense, but in the full concreteness of *this moment* and *this place*. It confronts us with the full responsibility of the “decision,” it is the “command of the hour,” the “command of the present.” It is therefore not, as it was made by Roman scholasticism, an “objective law” from which one can deduce in concrete cases a detailed casuistry. The “command of God” participates in the divine subjective actuality which is peculiar to the “Word of God.”

It is also the case that the “command” is not at our “disposal,” it is not embodied in a static law. Love as the “last eschatological possibility,” in its operation is “opportunistic” and “non-principled.”

The law as such is the radical antithesis of the “command.

Law as “general norm,” as “rule of conduct,” according to Brunner always distracts attention from God who ordained it and directs it towards *what* ought to be done in terms of the law. As soon as the commandment of love is understood as law it leads one to the point of acting at will, the stand-point of the Pharisaical *self-righteousness*. But in this case the responsibility of the personal decision in the moment is jeopardized because one then attempts to deduce from the general rule the decision for the concrete case.

“When the command is conceived as law, then its meaning can only be given in a casuistic explanation which follows from a logical-juridical subsumption process through which more particular and ultimately the most particular “case” is derived from the general law. This is the Catholic understanding of ethics, which consistently follows from the Catholic conception of the command as law. Moral life in its totality is then predictable, for every incident one can consult the “law-book,” which sufficiently contains the specially explained moral doctrine, in order to decide what ought and ought not to be done in this instance. This provides Catholic morality up to the present day – up to the papal “Encyklika Casti connubii” – its impressive closure and certainty. But this certainty is bought at an expensive price: through an equally consistent and thorough

falsification of the relationship intended in the Gospel between God and myself, and my neighbor and myself" (1932, pp.121-122).

But it is precisely the intention of God to use the *law* in its specific form as "moral law" in order to drive the human being in its fatal anxiety and doubt to Christ. For the "full meaning of the law" is the "unconditional love towards God and one's neighbor." No sinful creature can achieve this, and thus the law turns into a judgment. In the knowledge of the grace of God – which is impossible without the knowledge of the law – we discover sin precisely in understanding God's will as *law*. Sin is then understood as the attempt to live by oneself, which amounts to a radically *not*-knowing of God.

According to Brunner this constitutes what is "dialectical" of the law, something so well comprehended by Luther when he referred to the law as the "dialectics of the Gospel."¹ The law brings us to the border of the true knowledge of God. At the moment in which this threshold is crossed through God's grace, we recognize the law as the proper enemy of knowledge of God, as the source of a merely legal obedience in the Kantian sense, that refuses to surrender the full personality to God.

From within one has to *break through* the law by a life flowing from grace. In such a life we are in an inner sense no longer subject to the law, for then we live according to the love command of the moment. Yet, in a life lived through grace the law still maintains a certain pedagogical, direction-giving significance insofar as it helps us to prepare ourselves for the decision of the *moment*. But nonetheless as a Christian person we are never *subject* to the law.

The love commandment of the moment always transcends every norm of the law and in particular circumstances it may require setting aside its demands (for example breaking the bond of marriage apart from all evangelical legal grounds, may be even lying out of necessity).

In terms of this basic orientation regarding the relationship between the "command of God" and the "law" Brunner now draws the consequences in respect of the Christian's approach to the *ordinances* of temporal life.

The *law*, the *lex*, does not merely reveal itself in the specific shape of the ethical law, but in a whole complex of regularities which are partially *natural laws* – such as the mechanical laws for organic life, and partially are norms for action – such as the "social customs, mores and practices," the legal norms and the moral norms.

Within this entire complex of regularities the human person, also the believing [Christian], since birth finds herself bound

Since its birth the human being, also the believing Christian is bound within this entire complex of regularities. Without the law in the sense as ordering life would not be possible. Here the law reveals outside its *usus paedagogicus* what of old is called its *usus politicus*, its ordering function in civil society.

¹ Luther, *Letters, The Laws*, 4, 46.

In this sense, in its multiple revelations, the law is nothing but a *broad ordering of natural temporal life as it is infected by sin*. Although it is the order through which God wants to uphold the world, as such it is not the authentic will of God. As complex of norms for human action the law merely constitutes a *rough rule, combined with force* in the most diverse forms. Through ordinances we are forced to life in community, are we compelled to let go of our selfish isolation.

As such we need these rough ordinances as a “framework for every finer, spiritual and God obedient life.”¹The deeper ground why the believing person has to settle for living within this rough coercing framework, which in itself *contradicts* the love commandment in all dimensions, is finally *this love commandment itself*.

For the sake of love, while for the sake of life, this rough *lex* is necessary and with it the obedience form of *legality*, the merely *external, formal subjection*.

If we come to a closer look at this whole complex of norms, then, according to Brunner, we see them partially as creational norms, as such implanted within human nature and knowable through natural reason, partially also, like the institution of state and law, as pure *ordinances for the sake of sin*.²

Through the creational ordinances God as Creator *ab initio* made humans dependent upon communal life with fellow human beings. To this, for example, belongs the institution of marriage, the relation between the young and the old, child and parents, leader and followers, producers and consumers.

In so far as it applies in a more strict sense to human society, they are only given in their basic structures, but they develop historically into specific societal forms of life in which every person is bound from cradle to grave. But also those ordinances which are ordained merely for the sake of sin, such as state and law in a jural sense (!), are only designed by God according to their basic structure. Their positive development, however, is variable and historical in character.

With regard to this whole complex of “ordinances” the Christian, according to Brunner, finds herself in a peculiar twofold dialectical and internally contradictory position. As *Creator* God after all demands that we commence by fitting ourselves within all these ordinances, as the “rough frame” within which we have to bring into practice the love-service of our faith life in respect of our fellow human beings. God as *Redeemer* concurrently demands in the second place that we do *not acknowledge* these given ordinances. These latter, after all, are simultaneously revelations of sin, instruments of an evil, violent group egoism, in-

¹ *Op.cit.*, p.125.

² I may remark here that Brunner nowhere appears to have an eye for the fundamental difference between *law-spheres*, which, such as the economic, jural, moral, and so on, merely brings to expression the *modal* meaning of a domain of laws, and the inner *structural laws* of concrete societal collectivities, such as the state, the family and etc. which can never be exhausted by a particular law-sphere.

struments of tyranny, through which the weaker are enslaved and are exploited as a means in service of the group egoism.

That we, as believers, commence to subject ourselves in *mere legality* to these given ordinances entails the communal sharing of the guilt of humankind. God took over from His children the responsibility for initially accepting this sinful predicament. But for the Christian also these ordinances remain within the grip of the love commandment. Consequently, God's will does merely say: "accept and fit yourself in"; but at once: "resist, protest", do not conform to the world. The legal obedience of the Christian always entails *an inner reservation*."

Within the temporal ordinances the Christian on a par with the worldly person has to observe the complete "civil justice." According to Brunner the latter is indeed a *virtue* in the Aristotelian sense of a "habitus," a quality one can possess.¹ This is not at all the case with the evangelical perfection.

The absolute law (the love commandment understood as "lex") does demand from us a radicalization of this civil virtue, but no sinful human can achieve this.

But for the believer, who is aware of this "predicament," God commands something relative that can indeed be achieved, namely striving towards a *better justice* also within the temporal ordinances. Although the "idea of justice" indeed refers to the absolute and infinite, yet for the Christian behind this law there is still the "command of the moment," the love command to which also the temporal ordinances are subject. This command is a concrete "imperative of becoming". Within the concrete given situation inside the ordinances it demands from us always to strive towards the "better justice", even though this Christian ideal is never achieved on earth.

In addition Brunner requires us to acknowledge that there are certain life ordinances, such as for example the contemporary capitalistic organization of economic life,² which cannot even serve a *framework* for a life in the loving service of God's command.³

It is ripe to be challenged and in order to overthrow it the Christian must take on the battle against capitalism and if required also do that in cooperation with everyone, the unbelievers included, who fight against capitalism.

In the mean time the Christian believer has to consider that in their historical, supra-personal development, the natural life ordinances display an inner rigidity and overpowering effect, through which both the free space for genuine faith life and the striving towards a better justice" are restricted within firm boundaries. The believer has to consider the autonomy of natural life for which it can only have a *regulative*, but never a constitutive, creative factor.

¹ *Op.cit.*, p.168.

² Brunner's sketch of this capitalistic ordering does not impress as serious scholarly work. He simply imitates what Werner Sombart wrote without showing any signs of original research.

³ *Op.cit.*, p.168.

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The autonomy of the ordinances. The autonomy of natural life in opposition to the faith in Jesus Christ

At this point we arrive at a very important point in Brunner's conception of law which is explained in the 25th Chapter under the title: "Autonomy, Natural Law and Love." Within the domain of the natural ordinances Brunner particularly focuses on human society. According to him the latter exists completely independent of faith, of the love commandment, and therefore also independent of Christ as the Head and root of reborn humankind. Its being and validity flow from its bodily spiritual *nature*. Therefore its essence and validity is not known through faith but through natural reason, "through the purely natural capacity to know, which is given to everyone insofar as that person is a human being."¹

Precisely because human nature and the structure of the entire temporal cosmos have this meaning Brunner denies the possibility of "Christian scholarship," "Christian politics," "Christian economics or art," and a "Christian culture."

The Christian scholar therefore does have to pursue the unattainable ideal of Christian scholarship, but simply has to ensure that science, as part of the domain of natural reason,

is practiced properly and in a scientific manner.² The Christian politician does not have to perform *Christian* politics but merely has ascertain that political matters, as belonging to the autonomous domain of natural reason, are taken care of in an *appropriate* and *beneficial* manner. That is to say: the commandment of God heard through faith points at nothing else but the requirement to act in accordance with the nature of the issue. The love-commandment here receives a closer determination by the natural norm "acting in accordance with the nature of the case." The significance of the Christian religion for "natural" life is not *constitutive* but merely *regulative*.

Within the context of this presentation I cannot enter into a detailed discussion of the practical application which Brunner gave to his conception of the love commandment, the ordinances, the search after a "better justice" and the autonomy of the natural domain of human existence within the sphere of the distinct societal orderings.

¹ *Op.cit.*, p.319.

² In Chapter 39 it merely appears as if this radical rejection of the idea of Christian scholarship is relativized by the statement: "The further the subject-matter of science is distanced from personal involvement, the greater the autonomy of science is and the more legitimate its abstract lawfulness; the closer it is, the more it is required to acknowledge the real human being and then faith acquires not merely a regulative, but a constitutive significance" (*op.cit.*, p.483). Indeed it is not the intention of this statement to restrict the autonomy of science within the domain of natural knowledge itself. Its only intention is to highlight the boundaries between science and the knowledge of the human personality. Also here faith does not inherently permeate thinking.

Therefore I merely want to make a general remark and give a particular illustration of the method by means of which Brunner applies his conception of law.

First a general remark:

Our author increasingly attacks the attitude of “orthodoxy,” which, according to him, understands the Scriptures in a “legal” (“gesetzlich”). The effect of this attitude is that one wants to govern one’s practical life-orientation by *principles* derived from God’s Word. For example, he calls it the zenith of a pharisaic attitude and life-estrangement that the Church wants to deduce from the Gospel “grounds for divorce” which one even wants to pass on to the state legislator.

If the known answer of Christ to the Pharisees in connection with the issue of divorce is mentioned against Brunner, he responds without hesitation by arguing that the ground mentioned there for leaving one’s wife apparently was interpolated by the Christian congregation, which adhered for their faith life to the perspective of law.¹

What should be acknowledged is that in his treatment of different vital ethical issues Brunner shows sensitivity for the real needs and that he approaches the problems with an open mind. This is largely the secret responsible for the adoration generated by his work. But in spite of all of this the way in which he formulates his problem remains determined by his fundamental conception of law.

Brunner’s view of the state and the jural

A particular illustration of the application of this conception of law to the special “life ordinances” I only want to mention Brunner’s attitude towards state and law in a jural sense.

Brunner considers it to be a necessary implication of the essential difference between Roman Catholicism and Protestantism that there is a catholic, but no truly Protestant legal and political philosophy.

Where Protestantism attempted to come up with a “Christian” legal and political philosophy it was already intrinsically affected by the Roman Catholic leavening. According to Brunner the “Dutch Reformed Orthodoxy” with its “antirevolutionary political theory” does not derive from Calvin but via Groen van Prinsterer it is rather inspired by Stahl’s romantic idealism.²

After all, state and law indeed belongs to the “sinful nature” with its own autonomy in opposition to the “Kingdom of God”!

What then is Brunner’s view of the state within the complex of societal life ordinances? To him the state is a typical *dialectical* institute that harbors an inner antinomy. Christian theology (!) does not have the to reconcile this antinomy

¹ See *op.cit.*, page 624, note 346.

² *Op.cit.*, pp.649-650.

within a “Christian theory of the state.”¹ Rather it must *openly bring it to the fore-ground*.

The state is according to him a “divinely given ordering of sinful reality.”² It displays a twofold image, that of a “structure of human sin in a grand style” and that of a blessed spiritual ordering meant to preserve communal life and culture, and the maintenance of justice,

Brunner holds that within every true state three factors could be distinguished; (i) an element of the creational order, insofar it is indeed, albeit a broken form of community; (ii) a *coercive legal* order aimed at the countering of sin; and (iii) a simply factual half-demonic power-being, unjust with a hunger for power – a being not to be justified by anything (p.432).

These three factors are openly in conflict with each other. In their coherence they constitute the “riddle of the state.”

The fundamental essence of the state does lie in what is just, but in power. In a despotic state the jural is *completely* secondary, a mere reflex of factual *relationships of power*. Without power the state cannot perform its function in the ordering of legal life and its communal function. Though this power is given to the state “by God,” on the other side it is the irrational factor controlled by the “state raison”, which in practice turns the state into the “playground of what is satanic.”

Brunner does not know anything about the inner structural law of the state which expresses itself both in its historical power-function and in its intrinsic juridical function as an organized coercive legal community.³ He only sees “dialectical tensions” and speaks about law in a formalistic sense through which all structural differences between constitutional law and the law of non-political organized communities are *eliminated*.

Brunner asks the question: “What is the jural?” His answer in the first place breathes the spirit of positivism: “Law is primarily nothing else but the factual, dynamic, relational, constant and relatively known ordering of human communal relationships as they proceed from the state”⁴ In all of this Brunner unambiguously opts for the positivistic dogma that assigns to the state an absolutistic competence in the formation of law.⁵ Within the legal domain this view denies in principle the sphere-sovereignty of all those societal collectivities distinct from the state, such as the church, the firm, school, nuclear family and so on. Brunner observes in this position a consequence of the religious basic conviction of the Protestant “world-and-life-view” as opposed to that of Roman Catholicism!

1 As if Christian theology ought to have given a Christian legal and political theory!

2 *Op.cit.*, p.430.

3 See in this connection my work: “Crisis in de Humanistische Staatsleer” (1931), Chapter 2.

4 *Op.cit.*, page 435.

5 As I have shown in my study series “The sources of positive law (which also appeared in this Journal), this view is contradicted by the meaning of law itself.

Since the latter – and that in opposition to Brunner – defends a “natural law” and an own *ecclesiastical law* it must deny the identification of all temporal law with what proceeds from the state.¹

Brunner believes that the rejection of natural law, the acceptance of which according to him contradicts the religious basic conviction of the Reformation, necessarily must lead to the said identification of positive law with *state law*.

The question is why, according to Brunner, the acceptance of a “natural law,” such as the Stoic, the Aristotelian or that of modern humanism since Grotius, would be in conflict with the religious basic conception of the Reformation?

The answer is that the idea of a “natural law” essentially is pagan in origin. It proceeds from the legalistic conception of human existence and for that reason find its highest guideline in the “idea of perfect justice.”²

However, as soon as the highest norm is found, not in a law, but – as it is the case within the Christian faith – in the free divine love which is elevated above the law, then *justice* is brought back to its *relative* and *relational* worth. Brunner holds that the Christian cannot imagine what a “perfect” or “absolute justice” would be, except when it is conceived in a Stoic or Aristotelian way. It is only in the case of a legalistic conception of the Christian faith, such as the Roman, it is possible to accept a “natural law” and a “perfect justice.”

Justice according to the Christian understanding is for Brunner as such *imperfect*: “The idea of a perfect justice is internally antinomic, for what is perfect cannot be justice” (op.cit., p.436).

“Justice” simply intends to delineate spheres of power and maintaining their boundaries. Justice is general, legal, knowing-in-advance, impersonal, case-orientated, abstract, and rational (!). In this regard it is strictly *lower* when compared to *love*. The latter is concrete, personal, not known-in-advance, non-general, and not legal. In its proper sense it is inadmissible to speak about a perfect divine justice.

The idea of “Divine justice,” to the mind of Brunner, does not bring to expression anything material – just as little as justice within temporal life does reveal its own content. Rather it only displays the “formal qualities of adequacy, reliability and the constancy of the Divine actions” (op.cit., p.437). Thus Brunner therefore accepts within the divine essence *higher* and *lower* “properties”.³ Yet love had to pass through justice for otherwise it would turn into something arbi-

¹ See Remark 17 to Chapter 3.

² Op.cit., p.253, cf. p.436. Although I fully accept this remark, I do not infer the consequences flowing from Brunner’s understanding of law!

³ Brunner indeed argues against Ritschl that the holiness of God is not exhausted by his love, because it also demands revenge on what is evil. But this retributive justice, as a merely formal property, is explicitly understood by Brunner in the formula of the neo-Kantian concept of law of Rudolf Stammler! It is merely the “inviolability of God’s autonomous will.” Across the board it is subordinate to the Divine love. In my work “De Wijsbegeerte der Wetsidee” (Book I, Part III, p.489 [give English reference!]) I have sharply qualified this as a “humanization of the Divine love.”

trary, not case-specific and sentimental. But as absolute love it certainly transcends justice.

Also the *idea of law* [*rechtsidee*], as guideline in the search for a “better justice” in temporal life, ought to be understood in a purely formal sense – once again conforming to the radical criticistic line of thought of the neo-Kantians.

This “critical law-idea,” as experience teaches, is only well understood by those jurists who stand in the faith tradition of the Reformation (Stammler, Burckhardt).

Thus from a Christian orientation the synthesis with the neo-Kantian line of argumentation is accomplished. It is done in a way that even surpasses the formalism of Stammler, insofar as Brunner rejects every “material determination of the law-idea.”

What then. According to Brunner, ought to be the practical attitude of the Christian towards the state?

In the first place the Christian must start to accept the *power factor* within the state more or less as a fact of nature and to acknowledge its inner existential law, the “state-raison,” within certain limits. As opposed to this “power” not only love but also justice can merely serve as a “regulative” principle which can never be *constitutive*.

Thus the ethical problem of the “state-raison” is formulated and at once recognized as unsolvable. Primarily the state is no moral institute but an “irrational product of history”; “there was never and the will never be a Christian state.” In faith we can only “understand” the state by contemplating the “concealed God” which is present in all history. The Christian politician must acknowledge the state as an institute of power with its own lawfulness.

On the one hand, the state remains subject to God’s command, such that every Christian who occupies a governmental office constantly has to search for “God’s will for the moment.” On the other hand, the “state-raison” is externally delimited because it has to take into account the well-being of humankind. “Brutal will-power is bad state-raison.” Therefore the Christian politician has to choose pertinently against the natural imperialistic tendencies of the state.

Furthermore, – *while fully acknowledging the power basis of the state* – the Christian is called to reject without reservation *modern warfare* as the last means in service of the resolution of international conflicts, because this entails – as opposed to wars of earlier times –the character of a strict meaningless suicide of peoples.

Therefore for Brunner it is not “political nonsense” for a people to explore the new political possibility of making a people “vulnerable” in military respect in order to prepare a new form of international security through the command of the moment. “Citizens with a responsible conscience and who are cool headed in their political thinking ought to refuse military service in the state. They should acknowledge this refusal as the “command of God” in the context of a concrete

political awareness of responsibility. This would be done in a sense totally different from those who plainly intend to make an appeal to the command “Thou shall not kill” (*op.cit.*, p.460).

But from this perspective even the possibility of a revolution against a government of the day as a “last necessity” should not be rejected as immoral.

In the light of the preceding it stands to reason that Brunner would not leave any room in his thought for Christian political parties. Political affairs are so heavily burdened by the “sinful autonomy of the fallen world” that it would inevitably amounts to a situation where the name of Christ is compromised by claiming it for a particular trend or group. Amidst the same faith and love political insight may pursue very different political roads. According to Brunner we have to acknowledge that as a Christian one can even be a *bolshevist* or a *fascist* on condition that one does not buy into their ideologies – which are rooted in an anti-Christian life view – and that one therefore restricts oneself to their concrete political aims (!).

Every policy and every political trend are subjected to the judgment of Christ Jesus and for every instance the Christian is in need of God’s forgiveness. If Christians would generally acknowledge this, then political struggles will loose their most poisonous stimulus.

What is here said with regard to a Christian political organization is according to Brunner equally applicable to a “Christian labor union.” The latter is also radically rejected by him.

The love commandment does not require from the Christian withdrawal from politics and social movements. But it does not provide the Christian with any “Christian principles” which can form the basis of a party political program. It rather points at the autonomy of these “natural spheres.”

* * *

The dialectical dualism in Brunner’s law-idea and the origin of this dualism

Where we now want to enter into a critical analysis of Brunner’s conception of law what is striking in the first place is that his conception – from bottom to top – is permeated by the same *radical dualism* which we have discovered as the *dialectical ground-motive* of “Swiss theology.”

Between the religious fullness and unity of God’s will for *life within the sphere of grace* on the one hand and the rigid self-empowered temporal ordinances for sinful *nature* on the other there is an unbridgeable divide, an opposition that cannot be reconciled. The “ordinances,” as *law*, as *lex*, acquire an independent and closed-off existence in opposition to the love commandment. In all respects these ordinances irreconcilably contradict the love commandment for they are entangled in an antinomy that cannot be resolved.

This dialectical tension between “command” and “ordinance” is not found – as one may suspect for a moment – in the in effect of sin on the latter. No, it built into the *basic character of the ordinance as such, also as creational ordinance!*

It is the character of the *general rule*, of the “lex,” the law which is known in advance and to which the individual subject is subjected, that it, according to Brunner, cannot be united with the religious fullness of the love commandment.

The autonomy and self-empowering character of natural life in opposition to the Christian religion is already concealed within the nature of the creation as such. Brunner emphatically states that creation is not known through *faith* but through *human reason*.

In this way Brunner’s cosmonomic idea is torn apart by the concealed dualism between *nature* and *grace*. As we have remarked at the beginning of this exposition this dualism in no way ought to be identified with the Scriptural opposition between *sin* and *grace*.

When we hear how Brunner saying that the deeper ground why Christians have to fit themselves within the “ordinances” in the final analysis is nothing else but the love commandment itself, then for a moment one may think that he wants to argue that the love commandment is the true root-unity of the temporal ordinances – but in truth that is not at all the case.

For if it was the case that according to Brunner’s conception the love commandment was indeed the root-unity of these ordinances, then the latter could never *as such, qua lex*, be in conflict with the former. Then these ordinances, according to the religious fullness of the love commandment, can never evince an *autonomous power* in opposition to a life out of grace in Christ.

In Brunner’s cosmonomic idea it is much rather the case that *command* and *law* are mutually separated by the deep abyss of *nature* and *grace*, *redemption* and *creation*. This dialectical tension is only deepened to the extreme through the fall into sin.

The “command” is opposed to the *law* in its plurality of “ordinances” like what is *higher* is opposed to what is *lower*. Faith life out of grace can only validate itself within the self-empowering frame of the ordinances. The inner violation of the law through the love commandment only relates to the life in grace and does not concern the autonomous ordinances themselves.

* * *

The scheme of nature and grace in Thomas’ conception of law

What is the deepest ground for this dialectical dualism? In tracing it one would have to follow the historical line of development of Christian thinking up to the rise of the opposition between *nature* and *grace*. In this context it will be sufficient merely to provide a succinct analysis of the significance this nature and grace scheme acquired in the traditional Roman Catholic conception since the high middle ages. This conception regarding the relation between these “realms”

of nature and grace found their best philosophical expression in the great champion of scholasticism during the 13th century, namely Thomas Aquinas.

This conception holds that the creation order in its mere *natural* existence forms the necessary basis for the *divine grace* which was already at the creation assigned to human beings as a *donum superadditum*, as a supernatural gift. Through the fall into sin this supernatural gift was lost. But the basic “human nature,” its so-called “rational-ethical nature” basically did not suffer from sin. After the fall into sin the human being can only once again acquire a share in supernatural grace through the sacramental mediation of the church.

“Nature” is therefore not cancelled through the newly acquired “grace” since it is only brought to a *higher perfection* (*gratia naturam non tollit, sed perficit*). In opposition to grace nature, however, maintains its autonomy.

The natural ordinances are not grounded in God’s sovereign creational will, but much rather have their origin in Divine reason, in which human natural reason participates. They find their root-unity in the so-called *lex aeterna* or the eternal law which of necessity flows from the *rational* essence of God. For that reason they can be *known* by human natural reason independent of every form of revelation.

In respect of all issues related to the “nature” of creation human reason is self-sufficient and autonomous, even though natural reason harbors within itself a concealed desire (*desiderium*) to the supernatural truths – though such an insight could only be acquired under the guidance of the Christian faith.

The “essential nature” of things is their inner essential law obtained through their creation. This *lex naturalis* causes everything in accordance with its own nature to strive towards its own perfection. This “essential law” or “substantial form” therefore finds its foundation in the metaphysical order of reason (the *lex aeterna*). It expresses the true *essence* of things in the stepwise ascent of natural perfections in which the realms of plants and animals are both subordinated to the higher essential nature of the human being.

The substantial essential form of the human being is its *rational-ethical nature* which participates in the *Divine* reason and which therefore – in contrast to the lower, sensory-bodily parts of nature – displays “incorruptibility.”¹ Because this “nature” is not essentially affected by sin, the human being – with the aid of “natural reason” – can arrive at a *natural knowledge of God*, as the lower preamble for the higher knowledge of God which is obtained through the grace-revelation. Thus natural theology (“*theologia naturalis*”) found assured an independent positive value.

In the Thomistic conception there is no unbridgeable divide between “nature” and “grace” as it is the case in the thought of Brunner. Much rather they are

¹ The Biblical conception regarding the relation between the “body” – as the *temporal existential form* of the human being – and the human “soul” – as the “heart,” the super temporal religious root of human existence – is thus twisted into absolutely pagan conception. The incorruptible soul is now understood as the “rational-moral soul-part.”

adapted to each other as *substructure* and *superstructure*. Grace is in need of nature as its *foundation* and lower *portal*. Apparently this Thomistic conception rests on a *compromise* between the Christian religion and pagan Aristotelian philosophy.

This entire view of “nature” comprised by a mortal and an immortal part, with its “*lex naturalis*,” its substantial form arranged according to their perfections, its rational origin in the “divine reason” is derived from Aristotle in all respects. The Christian doctrine of fall and redemption is simply added on top of it as the highest storey.

The cosmomic idea which lies at the foundation of this whole synthesis philosophy¹ is itself a compromise between Christian and pagan views of law.

Within the *domain of nature* law is understood in an Aristotelian sense, namely as a metaphysical essential order of being which finds its origin in deified reason such that God is also bound to it. Completely in line with Aristotle’s thought Thomas writes that (natural) good is not good because God ordained it, for God *had* to ordain the good because it is *good* (that is to say, because it has its foundation in the rational-ethical nature of humankind).

By subordinating in this conception nature as lower step under grace and by elevating the hierarchical church institution to become the authentic mediator between both realms, this perspective served as a philosophical justification of the relation between church and world.

The “church” as sacramental institute of grace is supposed to bring natural life in its totality to its supernatural final destination. Therefore the guidance of the church ought to be acknowledged in all those issues which affect the spiritual well-being of humans.

This conception “and law is rationalistic In so far as it attempts to find the essence of things in their general natural essential law which is founded in the *ratio*, in “reason.” In this natural conception of law the Thomistic doctrine of the natural moral law and natural law is rooted, against which, as we have seen, Brunner vehemently took position. Above this natural conception of law, which seeks to find the unity and origin of all temporal creational ordinances in reason, Thomas’s conception of law for the domain of grace elevates itself.

According to him the law for living within the domain of grace is exclusively grounded in God’s sovereign will and therefore, as having a super rational origin, could only be known from God’s revelation.

The deeper root of the *lex* for living within the domain of grace is the Christian love (*charitas*).

* * *

¹ In the series articles dealing with “The Struggle for a Christian Politics,” which appeared in the first year numbers of this journal, I have already explained this cosmomic idea.

The origin of the dualism between nature and grace. Late Scholastic nominalism and its irrationalistic conception of law

The speculative scheme of *nature* and *grace* is thus given in the elaborated philosophical conception of the Thomistic understanding of law. Yet, the radical dualism present between these two “realms” in the thinking of Brunner is totally absent in the traditional Roman conception. To Here the “*lex naturalis*” It does not contradict in any way the evangelical commandment of love as Brunner holds. Similarly, *natural reason* does not contradict Christian faith in the traditional Thomistic understanding. Rather they are apparently harmonized and adapted to each other as *substructure* and *superstructure*.

Where then do we have to look for the origin of the radical dualism between “nature” and “grace”?

Also in this regard the medieval period provides the point of connection. During the fourteenth century – in reaction to this Thomistic synthesis – a new spiritual trend emerged that became known as the *nominalism of late scholasticism*. Under the leadership of the British Franciscan of William of Ockham this movement would acquire world historical significance.

This nominalistic movement correctly realized that Thomas’s understanding of law, which ultimately proclaimed the deified human reason to be the speculative origin of all laws within created nature, had to end up in an irreconcilable clash with the Christian faith in the absolute sovereignty of God as Creator – in spite of all external attempts of accommodation.

In stead of advancing an essentially Christian, Scriptural view regarding creation and the laws implanted in it as an alternative to the speculative Aristotelian understanding of the “essential nature of things,” nominalism remained caught in the *radical breaking apart of the pagan and Christian lines of thought*. “Nature” and “grace,” the domains of *natural* and *supernatural* knowledge, *thinking* and *believing*, are separated by an absolute, unbridgeable abyss.

The view of the “nature” of creation remains as unscriptural as before and in addition it was infected by the nominalistic conception of law of late scholasticism. To this view the *general rule*, contained in the general concept of something, is not at all, as Thomas taught, based upon a “metaphysical essential nature,” since it is only an abstract concept, respectively a *name* through which we merely unite in our subjective thinking the similar properties of things.¹

In terms of this view *real existence* only applies to *individual* beings. General concepts do not have an objective existence *within* or *for* created entities, but merely an objective abstract existence in human thought.

Therefore the essence of things is now no longer sought – in line with the rationalistic approach – in what is *lawful* or *general*, but much rather in the strict *subjective individuality*, in the incomparable particularity of things. To this ex-

¹ This explains the name nominalism.

tent this late medieval nominalistic trend is *irrationalistic* in nature.¹ With a genuine *radicalism* this *irrationalistic conception* of law is applied both to the realm of grace and that of natural ethical life.

To Ockham the natural moral law does not find its origin in the absolutized reason, but in the completely unbounded *divine arbitrariness*. The “*postestas Dei absoluta*,” the “omni-power of God” is not only elevated above the law, since it is *exlex*, that it to say, *despotic arbitrariness*.

God just as well could have sanctioned an egoistic ethics in the moral law. Similarly he could have sent Christ Jesus in the shape of a stone or a donkey to this world. This nominalistic conception of the *Origin* of the law naturally signified the end of the old rationalistic metaphysical view of the “*lex naturalis*,” including the Thomistic doctrine of “natural law.”

For Ockham Christians have to subject themselves in a *positivistic legality* to the natural laws because, in faith, they recognize in them God’s ordered will (*postestas Dei ordinate*). But the law as such is already repressed to what is *lower*. To nominalism this law no longer finds its ground in a divine creative *reason*. It is an ordering which precludes access to all rational speculation because its *Origin* is completely *irrational*, namely the unbounded divine arbitrariness.

Within his positivistic attitude Ockham also accepts Scriptures, the dogma and the Church tradition as *law* in this irrationalistic sense. It is just the case that God wanted to bind us to this revelation and ecclesiastical authority and therefore as Christians we have to accept them without asking questions about their “rationality.” But the inner life of grace is elevated so completely above whatever is governed by law as is the omnipotence of God itself. The inner magnificence of life in grace is precisely found in its fully contingent character which cannot be calculated or be known in advance.

The “*theologia naturalis*,” the knowledge about God from rational nature, on this standpoint naturally loses every positive meaning. With Ockham it rather turns into a *negative critique* of reason which aims to highlight the improbability of the propositions advanced by Thomistic “natural theology” regarding the divine essence, creation, and so on.

For the acquisition of natural knowledge about creation the human being, according to Ockham, is not dependent upon *faith* and even less upon a speculative investigation of a concealed “essential nature” of things which is based upon reason. Rather it is directed towards *sensory experience* and *systematic scientific thinking*.

It is simply the case – compared to the high speculative assessment given to it by Thomas Aquinas – which natural knowledge is pushed down to a much lower level. It does not teach us anything about the metaphysical *essence* of creation.

¹ It was only in the thought of Descartes and Kant that modern humanistic nominalism once again acquired a rationalistic character in the absolutization of the *measure of the law* (“*wetmatige*”) as rooted in human thinking. See *A New Critique of Theoretical Thought*, Volume 1, Part II.

The “general concepts” with which it operates only have a subjective value for human consciousness and do not furnish us with any knowledge about the essence of things in themselves.

Finally this nominalistic trend of thought also provides us with a totally different view of state and law. Law in a jural sense – entirely in line with this positivism – is derived from the principle of *will* and it is understood as the *general will*¹ of all those who are united within the state.

It is precisely this fundamentally *positivistic* approach of nominalism that brought with it the view which derives all valid law from the will of the state as it was later on done by humanistic positivism, a position, as we have seen, also accepted by Brunner.

The distance between the religious basic conviction of the Reformation and this nominalistic positivism is just as big as that between it and the Aristotelian theory of the metaphysical “essential nature” with its “substantial forms.”

What is shared between this positivistic conception of law and the Reformation in a *negative sense* is that both had to enter into an irreconcilable struggle against the speculative rationalistic doctrine of the Aristotelian-Thomistic understanding of natural law.

Late medieval nominalism indeed vehemently resists the Thomistic view regarding the relationship between church and state. The state, which belongs to the domain of sinful nature, is not guided by the church as a sacramental institute of grace in “spiritual” affairs in order to attain a higher level of perfection.

Since all temporal law is derived from the will of the state as “general will,” the church is not acknowledged as an independent *legal* institute. Marsilius of Padua and John of Jandun, nominalistic companions of Ockham in the struggle against the primacy of the church over the worldly government, even absorbed the temporal church institution fully within the state. The consequence is that they – as Rousseau later also did – assigned absolute sovereignty to the state even with regard to internal ecclesiastical affairs.

The *sharp dualism* between *nature* and *grace* here leads also to a *radical separation* between the *church* as “*kingdom of God*” and the *temporal institute*.

The after-effect of nominalistic tendencies in Luther’s view of law. The dualism of law and gospel

Amongst the Reformers it was Luther who was educated within this nominalistic scholasticism through the mediation of one of Ockham’s pupils, Gabriel Biel. Luther declared: “Ich bin von Ockham’s Schule” (“I am from the school of Ockham). The nominalistic yeast indeed continued to affect Luther’s view of law – in which it caused a peculiar dualism and a typical *anti-law* (“anti-nomistic”) trait in the view of the Christian life out of grace.

¹ This is the starting-point for Rousseau’s concept of law as *volonté générale*.

The nominalistic dualism, as we have just explained it, reveals itself in Luther's thought clearly in his perspective on the relationship of the gospel to the worldly ordinances.

The Reformers Luther and Calvin were unanimous in their theological rejection of the philosophically articulated construction of Thomas Aquinas, namely that the "nature" (of creation) forms an independent basis and necessary steppingstone for "grace."

They were also unanimous in their break with the Roman conception of grace as "donum superadditum" (as a supernatural gift) by returning to the Scriptural view, also adhered to by Augustine that the true opposition is between *sin* and *redemption* in Christ Jesus. Through the fall into sin "nature" is corrupted in its religious root and grace is not a supernatural gift on top of created nature, but rather a "restoration," or, as Calvin puts it in a pregnant way, the "renewal" of nature.

This explains the shared protest of Luther and Calvin against the Roman conception of the natural freedom of the will, against its doctrine of the natural merit of good works. It also explains the special emphasis with which the Scriptural message of justification through faith alone was once again preached.

In principle this position *conquered* the nominalistic dualism between nature and grace as well as the barren positivistic conception of the Bible and the dogma, as we have met it in late Scholasticism.

The living Christian, Scriptural spirit, which revealed itself in the Reformation, its vibrant and living faith, indeed did not display a positive relation with the nominalistic attitude of late Scholasticism.

If Luther would have succeeded to carry through this Scriptural line in his thinking, then his life-and-world-view would never have left an opening for the peculiar dualism between "nature" and "grace" which worked itself out in his thinking in the new form of an absolute opposition between *law* and *gospel*.

Luther never succeeded to free himself from the irrationalistic, nominalistic view of law of late Scholasticism. The way in which he relates this view with the teaching of Paul regarding justification through faith alone, in opposition to the Pharisaic Jewish conception in respect of justification through the works of the law.

Already in the thought of Luther we encounter the false identification of the conception that also the Christian remains subject to the law in an inner sense with the Pharisaic self-justification that separates the law from the Divine Lord. At this point Brunner simply carries through the line of nominalism and of Luther.

"Law" is now merely acknowledged as the broad ordering for the domain of nature corrupted by sin. Through these "natural ordinances" God maintain the sinful world. According to Luther as long as they prevail in this earthly dispensa-

tion Christians have to fit themselves within these ordinances by merely obeying them in a legal sense.

But the grace in Christ Jesus signifies for Luther – and in this he is even more radical than Brunner – *a complete eradication of the law as norm for the inner faith life of the Christian person*. The “freedom of the Christian” in his view is living in evangelical love and out of that faith which is elevated *above* the law (as what is *lower* and *natural*).

The “natural ordinances” now become – just as in the case of Brunner – the “broad framework” within which faith life is called to an evangelical service of love to the neighbor though as “lex” it is essentially *in conflict* with the freedom of the Christian person. And these “ordinances” in their opposition to the Kingdom of God in Christ Jesus now become indeed an independent, arbitrary instance. *Law* and *grace* turned into *absolute opposites*.

This explains why Luther already once again placed the “natural ordinances,” such as the jural, within the domain of “natural reason.” They have an autonomy *vis-à-vis* the Christian faith and why Melancton soon once again attempted to bring about a synthesis between Luther’s Christian theology and the Stoic philosophy!

In the final analysis Luther did not find his way to the radical Scriptural view in respect of the relationship between our temporal world and the religious root of humankind in Adam as the first and in Christ as the second Head.

His radical theological rejection of created “nature” as arbitrary instance in opposition to grace once again finds its way into his life-and-world-view – as influenced by the nominalistic dualism.

Yet as a faith hero of the Reformation Luther is far removed from the unscriptural conception of modern dialectical theology which, on the basis of its dialectical ground-motive regarding the absolute *divide* between eternity and time also claims a *separation* between Christ as “Word incarnate” and the historical person Jesus, between the *temporal shape* and *the eternal content of the Word of God*.

* * *

The final motive in Brunner’s conception of law. The “actualism” of modern existentialist philosophy

In conclusion we have now reached the last motive operative in Brunner’s understanding of law. We still have to highlight its historical background. We have already discerned the roots of the scheme of nature and grace in the realistic rationalism of scholasticism. We have also identified late scholastic nominalism as the source of the dualistic separation of “nature” and “grace” and as the origin of the *irrationalism* in Brunner’s conception of law. Finally, we have seen how this dualism in Luther’s thought combined itself with the spirit of the Reformation and lead to the radical opposition between law and gospel as well as to the identification of “law” with the pharisaic view of it. A totally new motive in opposi-

tion to all of these earlier ones is the dialectical tension between time and eternity in Brunner's thought. The same applies to the actualistic, subjectivistic conception of the "Word of God" as a purely subjective, contingent activity of God, which is never at the disposal of the Christian and which the Christian can never claim "to own" with certainty.

We have briefly alluded to the background of this latter dialectical and actualistic ground-motive at the beginning of our discussion. It turned out to be that of the modern irrationalistic philosophy of existence (Kierkegaard, Heidegger), which reveals itself at this crucial point in the law conception of Barth and Brunner. It also clearly reveals *gnostic* traits.¹

This philosophical trend advanced a purely *actualistic* view of the human personality – in opposition to the earlier *substantial* view. The human personality, according to this view, is not a *rigid subject* but only the centre of conscious acts – an "I" which only lives in its irrational acts of conscious according to its diverse aspects. In all of this the "I" reveals a complete contingency and an individual totality which cannot be grasped in any concept of law.

Dialectical theology accepted this view both for the Divine as the human personality.² Here also the explanation of the *actualistic conception* – both of the divine love-commandment as of the "Word of God" in its temporal manifestation of the Scriptures.

It is certainly not possible to discern within this view of the "Commandment" as the "Commandment of the Hour" a biblical motive. Rather it is the modern humanistic philosophy of existence that impregnated its mark upon this understanding.

Of course this criticism does not touch the purely Scriptural idea that the "Word of God" could only be disclosed through the Holy Spirit. Therefore it ought not to be viewed as "something objective" at the disposal of the human being. It is certainly a remarkable misunderstanding to think that this is indeed the position taken by the reformed view of Scriptures!

* * *

Clearly, Brunner did not arrive at a clear understanding of the Scriptural view of the *heart* as the *religious root* of the entire human existence, the well-spring of the issues of life. This is apparent where he presents (in Chapter 15 of his book) under the title "The new person as God's work and demand" what is intended to be piece of "Christian anthropology". It is not only confused but also exhibits explanations strongly influenced by existential philosophy.

1 In particular in the theory regarding the inner antinomy within the natural human existence. In his *Christliche Dogmatik* (70, 71) Barth explicitly appeals to the gnostic Marcion.

2 See for example *Das Gebot und die Ordnungen*, p.146. "Precisely this 'Personality', forbids grasping it any substantial categories; only in the action of God, and in it understood in the action of the human being is it possible to understand fifth, can the *personhood* of someone be conceived."

The Chapter starts in a promising way with the remark that the Christian anthropology can pursue neither the way of the naturalistic nor that of an idealistic approach in the philosophical theory of the human person.

The difference between the human being and other creatures is not to be found in “reason.” “Reason” does not constitute the core of the human personality. What does distinguish the human person is that according to the plan of creation human beings are not merely created *through* the Word of God, similar to other creatures, but that they are created *in* the Word as an *I* addressed by God as “you” involving a responsibility to God. The human I therefore has no independence – its freedom consists in its religious responsibility and dependence upon God.

Thus far these views are excellent!

But according to Brunner sin in the mean time essentially changed the human being. For the essence of an I is – in distinction from every other existence – co-determined by self-knowledge and self-determination, by its *interpretation* of its own existence. This view is completely derived from Kierkegaard.

The fallen human being stands in tension with its created essence. Such a person suffers from an illness designated by Kierkegaard as “the illness to death.” This illness manifests itself in the feeling of doubt manifested in human consciousness.

This conscience, according to Brunner, is no rational or intellectual knowing. It is an “emotional “knowing,”¹ the almost unnoticeable groaning of a captive in prison, penetrating lucid consciousness only faintly and unclearly. It is nothing but the human being itself, as it emotionally experiencing itself as being torn apart in the center of its existence by *an inner contradiction*. In our conscience we feel that our “determination,” as Heidegger calls it, is at once our “real silence,” that our “possibility” is a “no more possible,” that our inner split is at the same time “guilt.” The *law* manifests itself here as “practical reason” written in the human heart; conscience presents the law to us as our lost possibility: “Conscience binds us to the law as the proper ordering of our lives, it portrays to us the law as our reiterated lost possibility; it is the way in which the human being, separated from God, in attempting to stand within its own possibilities independent of God, is made conscious of the unreality of this possibility” (*op.cit.*, pp.141-142).

According to Brunner *conscience* and *law* are inseparably connected. The conscience is not opposed to sin as that part of human nature not affected, but is itself entangled in sin. For both, conscience and law, properly drives the human being into loneliness away from God, separate the human person from God.

¹ It is known that the view of “emotional acts of feeling” as genuine *acts of knowing* derives from Dilthey. It is found in the irrationalistic wing of modern phenomenology. This wing stands in a radical opposition to the rationalism of Edmund Husserl.

Precisely for this reason within “conscience” there is not true knowledge of God possible. This is only possible where the blame is acknowledged as “sin” – and the *law* makes room for the “commandment of the moment, that is in *faith*.”

Through faith the personality, disintegrated by sin, is once again directed towards its center, “knowing oneself”, and is integrated through it. This center of existence is identified with the “heart.” In other words, the “heart” is “the self-knowledge of a human person.”

Is it possible that here Brunner indeed acknowledges the “heart” in its Scriptural sense as the *religious root* of our entire existence? Initially it looks like that. Yet, once we continue to read further Brunner takes us into a labyrinth of antinomic statements.

Faith is – so we are informed – a *personal act*. It is a pure actuality on the part of God but nonetheless at once an activity of the new human being. As such it is not a given habit, no new germ of life, but an *actus*. That is its *reality*. To Brunner this faith is not only knowledge of God and of us, not merely an *acknowledgement* and willing – the will not to live any longer out of oneself, but out of God – but also a *feeling*.

“Yes, only insofar faith *co-determines* feeling” (just before this it was said that faith *is* feeling), “*knowing* and *acknowledging* become “my” faith, or to speak with the Bible: faith of the heart.”

And then there follows a remarkable statement, providing us with food for thought:

“There is no knowledge of the “heart,” no willing of the “heart,” but there is a faith of the heart and only as such is it genuine. Faith is, if the argument follows the thought of Kierkegaard, *compassion, compassionate* interest, the strongest subjective involvement in the Word which is heard and acknowledged” (p.144). And he continues: “Faith is in the highest sense *objective*: solely oriented to the Word of truth: and it is in the highest sense *subjective*: as “existential thinking,” as decision, new self-consciousness, even self-feeling.”

Many questions arise: Is the kernel of “personality” identical with “faith” and is the “heart” as kernel of the personality indeed still conceived as the *root* of our *entire* existence?

But why then is it emphatically denied that there is a knowing and willing of the heart and why is it that particularly *feeling* is placed in such a close relation to the heart?

Just as initially the “conscience” (as core of the personality in the inner contradiction of apostasy) was identified with the “emotional knowing” of the inner contradiction the “heart” is here equated with our emotional knowing of our true “I.”

What is here cutting across Brunner's entire Christian orientation is the confusing language of the irrationalistic existential philosophy. Brunner did not realize that this existential philosophy with its actualistic and dialectical orientation in the merely functional side of human existence directly *contradicts* the Biblical understanding of the "heart."

Sometimes, in line with existential philosophy, the "heart" is nothing but the actual self-interpretation of our existence in emotional knowing acts, where, in the final analysis, the function of feeling plays the dominant role.

Surely, Brunner does elevate himself above Dilthey and Heidegger by holding on to the Christian insight that the "heart" essentially stands in a religious basic relationship to God and that true self-knowledge is only possible through regeneration.

But in an earlier context we have pointed out that in respect of God's essence Brunner does not benefit from the pure source of divine revelation but in a speculative manner transposes the dialectical tension between time and eternity onto God. Even that he finally speaks about "higher" and "lower" qualities within God by depreciating God's justice as opposed to God's love!

* * *

The Calvinistic standpoint as opposed to Brunner's view of law

we have now concluded the necessary analysis of the most important basic motives in Brunner's understanding of law.

But at this point I have to remind the reader with particular emphasis about the warning which I have formulated at the beginning against the self-misleading view that it is possible to walk the way with Brunner in a merely theoretical way.

The religious basic problem, with which Brunner wrestles, as we have seen, divided Christianity for centuries and kept it in a powerful tension. Yet it cannot be resolved in a merely theoretical way. It directly touches one's *heart*, the root of one's entire existence and therefore also one's temporal thinking. This is more than an issue of "existential thinking" in the sense of the newer philosophy of life. It is therefore also more than an emotional issue. It is all-decisive for one's basic religious relationship with God in Christ Jesus and for one's attitude towards the temporal ordinances of a depraved life.

The sole position to be chosen *vis-à-vis* Brunner's dialectical dualism that is justified in a genuinely Christian sense is to break radically with this dualism and to return whole-heartedly to the Scriptural basic conception the Scriptural basic conception regarding the relationship of creation, fall into sin and redemption, about law and grace.

This choice of orientation leads to the Calvinistic standpoint that does not allow any compromises, because it is nothing else but the *radical* point of view of Biblical Christendom throughout the centuries. It is not in any way dependent

upon the historical configuration of a sinful human being, such as the big reformer Calvin.

The “Word of God,” to commence, does not know a dialectical opposition between the “commandment” and the “law” in its purifier revelation in distinct spheres of ordinances. Not for the “sake of sin” but according to the divine plan of creation itself the law is set as the necessary ordinance and delimitation of creaturely subjectivity. Within this delimitation whatever that has been created is God’s *sujet*, subjected to Him. According to the explicit statement of St Paul law is identical to God’s commandment and is “holy, just, and good.” According to the plan of creation it is a “law for life” and only *sin* turned for us into death (Rom. 7:7-14).

In this sense of creational ordinance the law is indeed directly an expression of God’s sovereign creative will and not, as Brunner’s holds, in contradiction with what God “actually wills”!

Neither in a deified “reason” nor in a despotic nominalistic “potestas absoluta” [arbitrariness] does the law, in its multifaceted manifestation within the temporal ordinances, finds its origin, for it is only to be found in God’s holy creative will, which is in harmony with the entire holy essence of God, in the unbreakable *unity* and *fullness* of His love, justice, wisdom, omnipotence, beauty and holiness.

On the one the law constitutes a boundary between Creator and creation that cannot be transgressed, though on the other it cannot be separated from the religious relation of dependence in which each creature stands to the Creator.

Sinful is not to understand God’s commanding will as *law* but to separate the law from this basic religious relationship, from the Law-Giver.

It is now the law in this Scriptural sense that, above all temporal meaning-diffraction in the distinct spheres and ordinances, finds its *deeper root-unity* in the full religious meaning of the whole-hearted service to God.

But when this constitutes the true Christian understanding of the law, then one cannot speak about an arbitrariness of the temporal ordinances *as such* vis-à-vis their religious root-unity.

According to the Divine plan of creation all spheres and temporal ordinances are merely a co-equal *temporal expression* and a *temporal differentiation* of the full religious meaning of the law, which was *fulfilled* by Christ as the *Root of re-born creation*.

Neither the logical law of thought, nor the physical, biotical or psychical “natural laws,” nor the norms for economic life, legal life, moral life and faith life has according to the plan of creation a “high-handedness” with regard to the fullness and unity of God’s command.

It was *sin* and only *through sin alone* that disharmony and brokenness appeared in the temporal ordinances, as it affected the entire cosmos as to its root and temporal functions.

Rationalism and irrationalism both rejectionable on this standpoint

This radically Christian conception of law is not only intended to avoid an un-Biblical dualism between creation and redemption, law and gospel, “nature” and “grace,” since it also cuts off at the root both a *rationalistic* and an *irrationalistic* view of law.

Rationalism absolutizes the lawful, the “general rule” at the cost of the rich individuality at the subject-side of reality. Individual subjective events are turned into an “exemplary instance” of the “general rule.”

Within ethics this rationalistic understanding of law appears in terms of a casuistic subsuming procedure. We have seen that Brunner sharply and correctly reacted to this eccentric spiritual attitude which subsumes the concrete decision of the *casus*, the particular case, under the general law-rule, from which it assumes one can deduce it in a logical manner.

Irrationalism, by contrast, becomes a victim of the other extreme. It absolutizes the *individual subject-side* of reality at the cost of its *law-side*. Here the law becomes a dependent manifestation of the incalculable actual individuality. It is no longer the ordering and delimitation above the subject, that to which the subject is *sujet*, is subjected.

This irrationalistic conception was also encountered in Brunner’s view of the “commandment of God,” as “commandment of the moment,” which in its absolute divine subjectivity does not posit a real norm. In its eradication of the *boundary* character of the law this view at once essentially also eliminates the Biblical boundary between God and creature. The believer is then, just as God, elevated *above the law*.

The creaturely life of faith then essentially itself turns into *Divine actuality* which is not truly *sujet*, *subjected* and *delimited*. It becomes indeed, in following Brunner’s mode of speech, *prinzipienlos* (without any principle).

It is only the Scriptural conception that created reality according to both its law-side and its individual *subject-side*, subjected to the law that can prevent us from falling back into an all too human *rationalism* or *irrationalism*.

It is never the case that the law as “ordering” takes away from the acting human person its personal responsibility in the “concrete decision.” But equally less does God’s law allow itself to be reduced to the function of a serving “advisor” for the believer, which does not really above the believer, intimately *binding* the latter.

The law in this Brunnerian sense of “serviceable pointer” does not constitute a true *delimitation* of human subjectivity. The latter essentially is left with the op-

tion to pursue its *own* norms or rather what deviates from it in the “commandment of the moment.”

* * *

Naturally I have contrasted our Calvinistic view of law with that of Brunner only in some basic contours¹ - for the latter and not the former is actually here at stake.

Nonetheless enables the basic contours explained here us to take a position opposite to that Brunner across board. Also in the “brokenness by sin” do we see Christ in a radical sense as the *new Root of creation itself*? We should detract anything from this confession in terms of the false opposition between “commandment” and “ordering,” “grace” and “nature.” And if the nature of creation cannot claim any arbitrariness in relation to Christ, as it’s Root, then it must be the case that Brunner’s rejection of the idea of Christian scholarship, of Christian politics, etc. is *false* in a religious sense an *un-Biblical*.

The concentration of our entire reborn existence in *Christ*, as *Root*, does not leave any room for the idea that our normal thinking does not proceed from the *heart* or that our daily life would have its own root.

The radical Christian starting-point does not remain “enclosed” in the heart and also cannot be satisfied with the role of something merely *regulative* for actions within the “arbitrary ordinances of the natural world” because it must radically *redirect* our entire view of creaturely reality.

In spite of himself Brunner falls back onto the standpoint of a synthesis between the Christian religion and an un-Biblical philosophy. Through the centuries history judged this synthesis. It constantly leads to a weakening of Christendom because it does not sufficiently take serious the *root-position* of the Christian religion in respect of the temporal ordinances.

¹ *Translator’s note:* Dooyeweerd here refers the reader to the first two Volumes of his *Wijsbegeerte der Wetsidee* while mentioning that the third Volume will appear soon. This *magnus opus* of Dooyeweerd is currently available within the Collected Works of Herman Dooyeweerd, The Edwin Mellen Press, Series A, Volumes A1-A4.