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FOR JACK, MASTER OF JURISPRUDENCE AND CHARITABLE COMPANION

Gottfried Krodel*

When I first arrived at Valparaiso University in 1965, one of the first persons to welcome me to the campus was Jack Hiller. In Germany, a proper introduction can be so intricate and formal that it might be postponed until it is just right. Thankfully, Jack needed no such formality, and didn't wait for a third party to introduce us. He came to my office on one of my first days on the job, and said something like this: "I'm Jack Hiller from the law school and I teach jurisprudence. I'm glad you're here now because I think the summaries I have read about Martin Luther on law are distortions." Then he got right down to business, showing me several instances of characterizations of Luther in various law books that—to put it charitably—were indeed misunderstandings. (I will return at the end to the importance of being charitable).

To my utter amazement, Jack then spoke of a volume that he thought "might do a lot of good if we get it translated into English." He was referring to Johannes Heckel's magisterial tome, *Lex Charitatis: Eine juristische Untersuchung über das Recht in der Theologie Martin Luthers*. Heckel (1889–1963) was a distinguished member of the philosophical-historical branch of the Bavarian Academy of Sciences, and was involved in the legal affairs of the evangelical churches in Germany for decades. In 1951, he presented to the Academy the volume mentioned above, the culmination of four decades of careful research in legal history, especially ecclesiastical law and more particularly in the thought of Martin Luther. When the book was published two years later, it book became an instant sensation. Some found bones to pick, but most acknowledged the work as a breathtaking achievement. For example, the eminent Luther scholar Franz Lau wrote of Heckel: "Only with the highest admiration can one observe how a 'layman' has penetrated Luther's way of thinking . . ., and has done it in a way which many other Luther scholars were unable to accomplish, and this includes theologians." "Every theologian . . . can approach Heckel's book only with feelings of inferiority unless he has mastered jurisprudence, as the jurist Heckel has."

I confess that I was a little bit surprised that a "layman" like Jack—an American law professor with training in legal history, but not in theology or church history—could have achieved not only such a fine diagnosis of what is missing in many efforts to construct a comprehensive jurisprudence, but also had arrived at the prognosis that

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a more profound understanding of Luther might help move the discussion in a more fruitful direction. In that first encounter I was filled with an admiration for Jack (similar in some ways to the theologian Lau's admiration for the "layman" Heckel), and my admiration for Jack only grew as I got to know him better over several decades.

I knew Heckel's work since my student days, and I had learned from it for my work on church and state, and on Luther and law. I was also aware that the concept, reality, and study of "ecclesiastical law" were alien to the Lutheran churches in the United States and that an English edition could be helpful to its Lutheran churches. I promised Jack to help translate Heckel's *Lex Charitatis* into English. There and then I became a companion of an extraordinary professor of law who persistently strove to get right the big picture on the purpose of law in the universe.

At each turn of a road that proved to be a long one, Jack was not a detached observer of the process of translating this book, but a deeply engaged participant. He conceived of the project as a team effort. He secured the participation of our colleague Henning Falkenstein (Professor of German). Henning and I prepared an English version of the text only, and then we merged both versions into a single first draft. Then, Jack went over the entire manuscript section by section correcting infelicities in terms of legal terminology in English. When Henning Falkenstein unexpectedly died in September of 2002, we had a tentative version of the text (132 pages in the English translation). In the meantime, I had started the work on the notes (272 pages in the English translation). As the work slowly progressed, our tentative version was revised in light of the materials in the notes and through Hiller's careful scrutiny of the text. This work resulted in a new draft. In consultation with the author's son Martin Heckel (Professor of Law at Tübingen) and under Jack's watchful eye, I developed this draft into the final version.

With invincible optimism Jack encouraged me when I despaired of ever finishing the task, or when illness, surgeries, or deaths interrupted the work; he established the contacts with bilingual jurists in Europe; he read our texts over and over again; he never tired of arguing with me the subtleties of the text, and he patiently listened to whatever argument I presented to him. I am delighted to report in this tribute to Jack Hiller that the volume has now been published by Eerdmans under the title *Lex Charitatis: A Juristic Disquisition on Law in the Theology of Martin Luther*. It never would have happened without Jack's creative energy, persistence, and patience.

The theology of the cross – the claim that the nonviolent surrender of life by Jesus has global and even universal significance – is at the very

core of Lutheran theology. It is not one of the things that matter in Luther's worldview; it is the central thing that begets all the other doctrines, such as justification, or getting right with God not by proving how meritorious we are, but simply by accepting with deep trust the love of God poured out abundantly for us as pure gift.

This does not mean that Christians are free to be unloving and nasty and brutish. On the contrary, as Heckel noted in *Lex Charitatis*, "[i]nstead of the egoism of the children of the world, Christian brotherly love rules among the citizens of Christ's kingdom as the noblest guideline of the responsibility for each other."

The Apostle Paul once described charity as the central and lasting reality of life itself. Even faith in all its fullness without love is "nothing at all" (1 Cor. 13:2). Faith, hope, and love are three things that last, says Paul, but "the greatest of these is love" (1 Cor. 13:13). Paul describes the kind of love he has in mind. It is patient and kind, never jealous, boastful or conceited, rude or selfish, taking offense or resentful. Love takes no pleasure in others' sins, but delights in the truth; it is ready to excuse, to trust, to hope, and endure whatever comes (1 Cor. 13:4-6).

Jack was not perfect. Who of us is? But he was charitable in the Pauline sense, for when he failed against one of the Apostle's descriptions of real love, he didn't remain stuck in repeating the same old mistake. Thus, he recognized that resentment is pretty useless baggage to carry around. But this evaluation of Jack's charity is too minimalist. The truth is that Jack strove above all else to be charitable. I have already described decades of the patience he displayed during the very long process of shepherding the *Lex Charitatis* project. He was also repeatedly, habitually, frequently kind to my wife when she first fell ill with cancer, when she was in remission, and when she was in her final illness. And he was equally generous with loving concern when my wife died and later when I became ill. In short, Jack was constitutively kind.

His kindness did not entail naiveté or turning off his fine, sharp mind. On the contrary, he delighted in truth and did not equate it with falsehood. But he took no pleasure in his own failings or those of others. That left wriggle room in his generous heart to move from his experience of needing slack (at least once in a while) to becoming habitually ready to understand that others might fail too from time to time, and to trust and hope that eventually they would get it about right. His way of being loving was not always sweet and certainly not always sentimental. For example, he persisted in writing letters to dictators around the world who jailed his fellow lawyers for daring to stand up to their brutality and cruelty. He did not just curse those who abused their power in this way;

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he kept arguing with them over and over again, persistently. That is the hope that supported his charity.

The Spanish mystic St. John of the Cross once wrote, “[i]n the evening of life, we will be judged on love.” Anyone who knew Jack – not just an all-merciful God – would agree that Jack passed his final exam because he tried to live charitably, not just on the day he died but throughout his long life on this earth. So we need not enlarge Jack in death beyond what he was in life: a good and decent person who understood as a thoughtful lawyer and as a generous person that the ultimate law of the universe is not power, but love. I am grateful to claim him as a charitable companion in my life.