

# THE TRIAL OF CHRIST

*by Alexander Taylor Innes*

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*by Frank John Powell*

**Prophecy Insights Ministries**  
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## FOREWORD

The two works reprinted here in a single volume were written by a Scot and an Englishman respectively. Both were barristers, and both felt that a need existed to explain the facts surrounding the trial of Christ. Their treatises (complimentary in nature in that they deal with the same factual data from different points of view) ably blend biblical and historical evidence with an astute knowledge of Jewish jurisprudence. Both works also vindicate the evangelical belief in the uniqueness of the person of Jesus Christ and His atoning death from the culminous attacks of those who have propounded contrary theories.

These books together comprise a work of extraordinary value which no serious student of the Scriptures can afford to be without!

Alexander Taylor Innes (1833-1912) earned justifiable fame for his brilliance as an advocate and skill as a church historian. He authored the widely acclaimed *Church and State* as well as his *Trial of Jesus Christ: A Legal Monograph*. This latter work first appeared in 1899 and, while it is frequently quoted by scholars in footnotes, has become extremely rare.

Following a brief introduction, Mr. Innes treats with consummate skill the Hebrew and Roman trials of Christ. He demonstrates from biblical and historical data the many irregularities and illegalities of both trials, and shows how the evil inclinations of men (supposedly committed to upholding the law) led them to manipulate different aspects of the proceedings in order to gain the verdict they desired. No one can read this resume and remain unmoved by what transpired in Jerusalem on the eve of the crucifixion.

Frank John Powell, author of *The Trial of Jesus Christ*, was born in 1901. In the course of his illustrious career he was elevated to the position of Metropolitan Magistrate and became a member of the Middle Temple, London. In this able apologetic, Mr. Powell begins by setting the stage for his readers. He writes:

The story of the double “trial.” *i.e.* the proceedings before the Jewish court and the Roman trial before Pilate, as related in the Gospels, is one which can be read in a few minutes; but to appreciate the significance of the incidents which occurred, the clash of personalities, the attitude of Jesus to His accusers and their accusations, and, above all, the reasons for His rejection by Israel, it is necessary to consider the historical background, the state of national opinion in Palestine, the laws by which the Jewish and Roman courts, respectively, were bound and the personal history of the chief characters concerned.

Mr. Powell then recreates the events leading up to the seizure of Jesus of Nazareth and, as in the monograph by Mr. Innes, reviews the events of both Hebrew and Roman trials. Of value to readers is Frank Powell’s culling of relevant information from *The Mishnah* as well as citations from sources published after the printing of Taylor Innes’ work.

The result to the reader of these learned and impartial digests — works without a parallel in English literature — is a firmer grasp and a clearer understanding of “the grace of God [which] has appeared, bringing salvation to all men” (Titus 2:11).

No committed Christian can afford to be ignorant of these facts supporting the rejection of Christ and His substitutionary death. We are most grateful, therefore, that the publisher has seen fit to reproduce these works in this present volume.

*C. J. Barber*

# THE TRIAL OF CHRIST

BY

ALEXANDER TAYLOR INNES

# THE TRIAL OF JESUS CHRIST

MEN have too much forgotten that the central event in history assumed the form of a judicial trial.

The prodigious influence of the life and personality of Jesus of Nazareth is admitted by all. But His tragical death, early and passionately accepted by Christianity as the significant fact of His career, has become more than any other incident the starting-point of modern history — His tomb, as Lamartine put it, was the grave of the old world and the cradle of the new. Yet that memorable transaction was the execution of a capital sentence, proceeding upon a twofold criminal trial — upon one process conducted under Hebrew and one under Roman law.

In its forensic aspect, as in some others, it is peculiar — perhaps unique. There have been many judicial tragedies recorded in history. Capital trials, like those of Socrates, of Charles of England, and of Mary of Scotland, have always had a fascination for men. And this trial has impressed and attracted the world more than ally or all of these. But these pages recall to general readers — what scholars have long known — that it has in addition a purely legal interest which no one of them possesses. By common consent of lawyers, the most august of all jurisprudences is that of ancient Rome. But perhaps the most peculiar of all jurisprudences, and in the eyes of Christendom the most venerable as well as peculiar, is that of the Jewish Commonwealth. And whenever these two famous and diverse systems happen for a moment to intersect each other, the investigation, from a legal point of view, of the transaction in which they meet is necessarily interesting. But when the two systems meet in the most striking and influential event that has ever happened, its investigation at once becomes not only interesting, but important. It becomes, undoubtedly, the most interesting isolated problem which historical jurisprudence can present.

And the problem is not only interesting, but difficult. For questions such as the following are at once raised: — Were there two trials, or only one? Was the second a mere review of the first, or was the first a mere preliminary to the second?

Farther, were the forms, in the one case of Hebrew, in the other of Roman, law observed, or attempted to be observed? And was there in either case an attempt, with or without form, to attain substantial justice?

Again, were the charges preferred before the Hebrew and Roman tribunals the same, or nearly so? What was the crime for which the accused died.

Lastly, as to the decision. Was it in either case right in form, and attained by steps in conformity with the process which was binding (or was observed) at the time? And was it right in substance, *i.e.* was it, if not just, at least legal — in conformity with the Hebrew law, or the Roman law, as those laws then stood?

These questions of law proceed of course upon an assumed or ascertained history of fact. The history is abundantly familiar; and, fortunately, there is no special necessity that we should commence this inquiry by an examination of the sources. Men are not agreed how far back they can exactly trace the three Gospels on the one hand, or the Fourth Gospel of John on the other. But the detail, verisimilitude, and authoritative calm of all these documents, impress the reader with a sense of close proximity to the life narrated — proximity, at least, on the part of the original oral narrators. And they have no competitors. A few words in Tacitus, a disputed sentence or two in Josephus, occasional execrations scattered throughout the Talmud, — these and such as these are the outside references to a career which burned itself in detail into the hearts of a generation of surviving disciples, and thence into the imagination of the world. To some readers it will appear a singular advantage that, so far as the documents bear on this special legal question, there is no reference to miracle. In none of the four records of the trial is there (after the first arrest) any touch of the supernatural in *that* sense of the word. The whole narrative of external fact might have been told of any morning's work of the Sanhedrin, of any forenoon condemnation by the Procurator. We may not indeed stretch this too far. The judicial narrative, unbroken by actual portent or marvel, maintains in each Gospel the same tone of supernatural consciousness which in previous pages, apparently without surprise or break or sense of effort, passes into actual external miracle. Yet it remains true that in the fragment of fourfold history with which we at present deal, there is nothing which the most determined enemy of the supernatural

needs to question. In truth, the incidents of the trial are most natural and probable, and, in so far as the traditions agree, there seems no excuse for doubting the history.

Of course the four do not agree in all details, here or elsewhere. The variations in the utterances reported by different Gospels warn readers to expect a similar independence in narration of facts. And sometimes this cuts deep into the history, as in the matter of chronology. A doubt exists even as to the number of years during which the prophetic ministry lasted which this trial was now to close. A similar question has been raised as to the hours occupied by the tragic execution which followed on this very day. Neither of these points, however, directly concerns the legal side of the trial. We do not need to solve even the still more famous and ancient problem, whether the death took place on the 14th or the 15th day of Nisan — the day before, or the day after, the Passover. For, whatever day it was, no one doubts that such a death, proceeding upon a Roman sentence, actually took place on the Friday of that week. Nor is it doubted by anyone; or that the Roman sentence and execution followed upon an arrest which happened on the immediately preceding night — so that the Hebrew judicial proceedings, whatever these were, must have been interposed between the previous sunset and that morning session in the Praetorium. The chronological difficulties, even when they are outside of the actual trial, will no doubt ultimately affect the relative value of our sources. Yet it must be remembered that even if one of the Gospels were shown to be irreconcilable with the others, and with history — say, in a chronological matter contemporaneous with that of which we here treat — it does not by any means at once follow that its narrative of the trial itself may not have high historic value. Each tradition or narration, and each part of it, must be looked at upon its own merits; and when criticism has settled the weight of apostolic or contemporary authority which belongs to each, the resulting stereoscope (at present somewhat blurred in the superimposition) will finally take solid shape. Meantime a lawyer, who is not himself also a critic, may remark that the mere independence of two or more narratives by no means tends to suggest doubt as to the story they convey. And while their variations, in so far as these affect the legal question before us, will call for careful consideration, we shall find that the basis of fact is on the whole satisfactory.

I give on a following page the fourfold narrative of the Hebrew, as subsequently of the Roman, trial. And to allow readers closer access to the original, I take the English from the Revised Version.

## THE HEBREW TRIAL

*“Thou, if Thou wast He, who at midnight came  
By the star-light, naming a dubious name!  
And if, too heavy with sleep, too rash  
With fear — O Thou, if that martyr-gash  
Fell on Thee coming to take Thine own,  
And we gave the Cross, when we owed the Throne.”*

*Robert Browning’s “Holy-Cross Day.”*

### THE FOUR NARRATIVES.

MATTHEW	MARK	LUKE	JOHN
And while he yet spake, lo, Judas, one of the twelve, came, and with him a great multitude with swords and staves, from the chief priests and elders of the people. . . Then they came and laid hands on Jesus, and took him. . . In that hour said Jesus to the multitudes, Are ye come out as against a robber with swords and staves to seize me? I sat daily	And straightway, while he yet spake, cometh Judas, one of the twelve, and with him a multitude with swords and staves, from the chief priests and the scribes and the elders. . . And they laid hands on him, and took him. . . And Jesus answered and said unto them, Are ye come out, as against a robber, with swords and staves to seize me? I was daily with you in the	While he yet spake, behold, a multitude, and he that was called Judas, one of the twelve, went before them, and he drew near unto Jesus to kiss him. . . And Jesus said unto the chief priests, and captains of the temple, and elders, which were come against him, Are ye come out, as against a robber, with swords and staves? When I was daily with	Judas then, having received the band of soldiers, and officers from the chief priests and the Pharisees, cometh thither with lanterns and torches and weapons. . . So the band and the chief captain and the officers of the Jews, seized Jesus and bound him, and led him to Annas first; for he was father-in-law to Caiaphas, which was high priest that year. Now

teaching in the temple, and ye took me not. . . And they that had taken Jesus led *him* away to the house of Caiaphas the high priest, where the scribes and the elders were gathered together. . . Now the chief priests and the whole council sought false witness against Jesus, that they might put him to death; and they found it not, though many false witnesses came. But afterward came two, and said, This man said, I am able to destroy the temple of God, and to build it ill three days. And the high priest stood up, and said unto him,

temple teaching, and ye took me not: but this is *done* that the scriptures might be fulfilled. . . And they led Jesus away to the high priest: and there come together with him all the chief priests and the elders and the scribes. . . Now the chief priests and the whole council sought witness against Jesus to put him to death; and found it not. For many bare false witness against him, and their witness agreed not together. And there stood up certain, and bare false witness against him, saying, We heard him say, I will destroy this temple that is made with hands, and within three days I will build

you in the temple, ye stretched not forth your hands against me: but this is your hour, and the power of darkness. And they seized him, and led him away, and brought him into the high priest's house. . . And the men that held *Jesus* mocked him, and beat him. And they blindfolded him, and asked him, saying, Prophecy: who is it that struck thee? And many other things spake they against him, reviling him. And as soon as it was day, the assembly of the elders of the people was gathered together, both chief priests and

Caiaphas was he which gave counsel to the Jews, that it was expedient that one man should die for the people. And Simon Peter followed Jesus, and *so did* another disciple. Now that disciple was known unto the high priest, and entered in with Jesus into the court of the high priest. . . The high priest therefore asked Jesus of his disciples, and of his teaching. Jesus answered him, I have spoken openly to the world; I ever taught in synagogues, and in the temple, where all the Jews come together; and in secret spake I nothing. Why

Answerest thou nothing? what is it which these witness against thee? But Jesus held his peace. And the high priest said unto him, I adjure thee by the living God, that thou tell us whether thou be the Christ, the Son of God. Jesus saith unto him, Thou hast said: nevertheless I say unto you, Henceforth ye shall see the Son of man sitting at the right hand of power, and coming on the clouds of heaven. Then the high priest rent his garments, saying, He hath spoken blasphemy; what further need have we of witnesses? behold, now ye

another made without hands. And not even so did their witness agree together. And the high priest stood up in the midst, asked Jesus, saying, Answerest thou nothing? what is it which these witness against thee? But he held his peace, and answered nothing. Again the high priest asked him, and saith unto him, Art thou the Christ, the Son of the Blessed? And Jesus said, I am: and ye shall see the Son of man sitting at the right hand of power, and coming with the clouds of heaven. And the high priest rent his clothes, and saith, What further need have we of witnesses? Ye

scribes; and they led him away into their council, saying, If thou art the Christ, tell us. But he said unto them, If I tell ye, ye will not believe: and if I ask *you*, ye will not answer. But from henceforth shall the Son of man be seated at the right hand of the power of God. And they all said, Art thou then the Son of God? And he said unto them, Ye say that I am. And they said, What further need have we of witness? for we ourselves have heard from his own mouth. And the whole company of them rose up, and brought him before Pilate.

askest thou me? ask them that have heard me, what I spake unto them: behold, these know the things which I said. And when he had said this, one of the officers standing by struck Jesus with his hand, saying, Answerest thou the high priest so? Jesus answered him, If I have spoken evil, bear witness of the evil: but if well, why smitest thou me? Annas therefore sent him bound unto Caiaphas the high priest. . . They lead Jesus therefore from Caiaphas into the palace (Praetorium): and it was early.

have heard the blasphemy: what think ye? They answered and said, He is worthy of death. Then did they spit in his face and buffet him; and some smote him with the palms of their hands, saying, Prophecy unto us, thou Christ: who is he that struck thee? . . . Now when morning was come, all the chief priests and the elders of the people took counsel against Jesus to put him to death: and they bound him, and led him away, and delivered him up to Pilate the governor.

have heard the blasphemy: what think ye? And they all condemned him to be worthy of death. And some began to spit on him, and to cover his face, and to buffet him, and to say unto him, Prophecy: and the officers received him with blows of their hands. . . .And straightway in the morning the chief priests with the elders and scribes, and the whole council, held a consultation, and bound Jesus, and carried him away, and delivered him up to Pilate.

## HEBREW TRIAL

ALL modern readers know that the Hebrew commonwealth, and the institutions which regulated it, were pervaded by a deep sentiment of justice and law. But all are not aware of the extent to which that sentiment, and its characteristic maxim, “Thou shalt do no unrighteousness ill judgment,” were developed in the later history of the people. In the more ancient part of the traditions of the Fathers, we read, “When a judge decides not according to truth, he makes the majesty of God to depart from Israel. But if he judges according to truth, were it only for one hour, it is as if he established the whole world, for it is in judgment that the Divine presence in Israel has its habitation.” It was a few years ago pointed out to English readers that that whole vast later literature of the Jews which we call the Talmud is “emphatically a *Corpus Juris* — a cyclopaedia of all law,” which may best be judged by analogy and comparison with other legal codes, more especially with that of Rome and its commentaries. It contains many other things, but this is its basis. And what is more important for us to notice, is that this legal basis is the older part. The whole Talmud consists of forty folios — a mass of discussion, illustration, and commentary. But the central part of it, which is comprised in twelve volumes, is called the Mishna, *i.e.* the Tradition. And the Mishna is nearly wholly law.<sup>1</sup> The name was indeed of old translated as the second or oral law — the **δευτέρωσις** — a detailed traditional commentary on the written law of Moses, to which it professed complete subjection, while practically superseding it as a code.<sup>2</sup> Mr. Deutsch, in striving to give English readers an idea of the multiplicity and confusion of the Talmud, likens it to Hansard: “The Parliamentary discussions or episodes answering to the Gemara or general commentary, while the Bills or Acts are called the Mishna.” The distinction of course is, that in Hansard the legislative Acts are the result and termination of the discussions, while in the Talmud the Mishna or law is the older portion and the starting-point. Accordingly, while portions of the general Talmud commentary did not come into existence for many centuries after the introduction of Christianity, the compilation of the whole Mishna, or central portion, was begun by Rabbi Judah, somewhere about 200 A.D. But the Rabbi founded his own views in it on those of the earlier and famous Rabbi Meir, and

goes back for his traditions through the two Gamaliels to his own direct ancestor, Hillel, contemporary of Jesus, and himself a gatherer of the past. And while the oral law had thus been transmitted from mouth to mouth for centuries, two of its treatises are known to have been gathered together a hundred years before Rabbi Judah proceeded to compile the whole. So, when it was at last compiled, it was apparently as an oral law which had been growing in use and authority ever since the return of the nation from Babylon — as a “brief abstract of about eight hundred years legal production.” Hence modern Jewish writers have referred to it without hesitation as including the code of criminal law in existence at the date of the high-priestship of Annas and Caiaphas. Of course this cannot be matter of demonstration in the case of all portions of a book which was not finally reduced to writing until centuries had passed. But the evidence shows that the development of the Mishna in the direction of precaution against legal injustice or negligence was exceptionally early and strong. Its earliest period coincided with the time of “the Men of the Great Synagogue,” stretching from the Return from the Captivity to about 220 B.C. Their work has been summed up in the leading aphorism of the *Pirke Avoth*, which runs, “Be cautious and slow in judgment, send forth many disciples, and *make a fence round the law*.”<sup>3</sup> And this age, which inculcated caution in judicial action before all other things, was succeeded by the so-called age of “the Sanhedrin,” which for the next four hundred years worked out that caution in detail.

In nothing is the Mishna more express than in the contrast recognized at an early time between civil and criminal proceedings — judgments “of money” and judgments “of the life.” Even with regard to the former, its rules strike the modern legal mind as leaning to the side of pedantic caution. But with regard to criminal, and especially to capital, cases, there can be no doubt that long before the time of Jesus the value set by the law upon the life of a Hebrew citizen had led to extraordinary precautions. What have been called the four great rules of their criminal jurisprudence — “strictness in the accusation, publicity in the discussion, full freedom granted to the accused, and assurance against all dangers or errors of testimony”<sup>4</sup> — are carried out even in the Mishna in minute and scrupulous rules, leaning almost ostentatiously in every point to the side of the accused. And they ruled most of all in the case of a trial for life.

Indeed, so far does this go, that modern Jews have been disposed to represent capital punishment as abhorrent to the whole genius of Hebrew jurisprudence. We read in the oral law the saying of Eleazar the son of Azarias, that “the Sanhedrin, which so often as once in seven years condemns a man to death, is a slaughter-house.”<sup>5</sup> And more startling still, when we remember the Hebrew dread of all anthropomorphism in speaking of the Divine, is that terrible sentence of Rabbi Meir: “What doth God say (if one may speak of God after the manner of men) when a malefactor suffers the anguish due to his crime? He says, My head and my limbs are pained. And if He so speaks of the suffering even of the guilty, what must He utter when the righteous is condemned?”<sup>6</sup> And so, to save the innocent blood, to hedge round and shelter the sacred house of life, rule after rule was laid down in successive lines of circumvallation, and presumptions in favor of the accused were accumulated, until a false conviction became almost impossible.

Were the rules observed — was the law obeyed — in the trial of Jesus of Nazareth?

The question whether the Hebrew trial was according to their own rules of law has perhaps not been exhaustively considered by any one writer, though it has been touched upon by many. The most celebrated discussion upon it was raised by a learned Spanish Jew, M. Salvador, who in 1822, in the first edition of a work since twice republished under the title of *Histoire des Institutions de Moïse*,<sup>7</sup> gave two careful chapters on the penal law of the later Jews and on their administration of justice, and followed them up by a dissertation to show that the *Jugement de Jesus* was according to law. He admitted the facts as stated in the Gospels, and founded on the law as stated in the Mishna; and from these sources professed to prove that while the result may have been unfortunate if Jesus was really the Messiah, the process followed and the result arrived at were alike necessary, if the tribunal adhered to its own law. Salvador was answered in a brilliant treatise by a distinguished member of the French bar, M. Dupin (aine). He, however (like an able American writer, Mr. Greenleaf), devoted himself rather to the substantial injustice of the trial than to its form according to the jurisprudence concerned; and in the third edition of his *Institutions*, published in 1862, Salvador maintains and reprints the whole positions originally laid down. His argument, however,

falls short of its conclusion on the most essential points, so obviously, that to make it the basis of discussion would be one-sided and unfair. I propose, therefore, to treat the question independently, in so far as one who has no pretensions to Hebrew learning can deal with ascertainable fact on the basis of admitted law and underlying justice.

On a Thursday night in that month of March, the Thursday towards the end of the Passover Week, unquestionably took place the *arrest* — the first step before most modern trials. The question has been raised whether the arrest was legal. There is no reason to doubt that it was by authority of the High Priest; and the addition of a Roman *speira* to the officers of the temple must have been procured by Jewish authority. But was arrest before trial at all a lawful proceeding by Jewish law, no matter under how high an authority? It seems not to have been so, unless resistance or escape was apprehended. In this case no escape was intended, but resistance, though not intended, was possible, and the lawfulness of the mere arrest need not therefore be questioned. What is more important is what immediately followed the capture, for this raises the question whether the intention of the captors, the arrest at nightfall was to be the preface to a regular trial. Had that been their intention, their legal course was plain. It was that followed a little later by the captors of Peter and John, who “put them in ward until the next day, because it was now eventide.” It was to be otherwise here.

An *examination* by night followed the arrest. Jesus was first led by His armed escort to the presence of Annas, by far the most influential member of the Sanhedrin. For in that body there now sat no less than five of his sons, all of whom either had held, or were in a few years to hold, the supreme dignity of High Priest. The old man had exercised that great office twenty years before, and had, in the absence of the Roman governor,<sup>8</sup> stretched his powers, as one of his sons afterwards did, perhaps to the extent of carrying out capital sentences. At all events, the indignant Procurator had insisted on his removal from office; but though Annas gave a formal consent, he merely transferred the chair of the great Council to the younger members of his family.<sup>9</sup> It was now held by his energetic son-in-law, Caiaphas, the aged head of the house remaining, in the estimation of orthodox Jews, the *de jure* High Priest. By Annas Jesus was sent bound to Caiaphas, perhaps only to another department of the sacerdotal palace.

But before one or other of these princes of the Church the accused was certainly subjected to a preliminary investigation before any witnesses were called.

It is extremely difficult to decide whether this examination by “the High Priest,” recorded by John alone, was made by Annas or by Caiaphas<sup>10</sup> — so difficult that it is fortunate that scarcely any legal question turns upon the point.<sup>11</sup> The chief result of our decision of it will be its bearing on the proceedings which followed, the same night. For if the examination detailed by John took place before Annas, it was separated by an interval of place, and also of time, from the subsequent proceedings before Caiaphas. In that case it is more probable that the examination of witnesses, the confession, and condemnation which took place before the younger and titular High Priest were somewhat later in the night, or even towards morning, and followed the form and order of a regular public trial. If, on the other hand, Annas at once sent on the prisoner to Caiaphas, and if the examination recorded was by the latter, it may have been immediately followed by the production of witnesses, and by the adjuration and condemnation; and in this case it is likely that a considerable interval succeeded these proceedings before a formal or public meeting of Council in the morning confirmed the informal condemnation of the night.

But the main point with regard to the High Priest’s examination is independent of the question who the examiner was. It appears in any case to have been wholly illegal. In some countries — in France, for example, and in Scotland<sup>12</sup> — the accused is led before a magistrate, and subjected to private official interrogatories before he is remitted to his public trial. In others, and in the Hebrew law, it is not so. It was there the right of the accused to be free from all such private or personal investigation until he was brought for trial before his congregated brethren.<sup>13</sup> This rule of publicity seems to have been derived from principles both as to judges and witnesses. “Be not a sole judge,” was one of the most famous aphorisms, “for there is no sole judge but One.”<sup>14</sup> Still more clear was it, not from the Mishna only, but from the Pentateuch, that there was to be no such thing as a sole witness; and that the “two or three witnesses” at whose mouth every matter must be established must appear publicly to give their testimony. (Deuteronomy 19:15-18.) Their deposition was the beginning

of every proceeding; and until it was publicly given against a man, he was held to be in the judgment of law not merely innocent, but unaccused.

It is this principle which gives the fullest explanation of the answers of Jesus of Nazareth to the midnight questions of the High Priest. The ecclesiastical magistrate, probably sitting alone, and certainly sitting privately and during the night, and before as yet any witnesses were called, asked Jesus of His disciples and of His doctrine.

“Jesus answered him, I have spoken openly to the world; I ever taught in synagogues, and in the temple, whither the Jews always resort; and in secret have I said nothing.<sup>15</sup> *Why askest thou me? ask them that have heard me*, what I have said unto them: behold, they know what I said.”

It was in every word the voice of pure Hebrew justice, founding upon the broad principle of their judicial procedure, and recalling an unjust judge to the first duty of his great office. But as one who studied that nation in older times observed, “When a vile man is exalted, the wicked walk on every side” around him; and when the accused had thus claimed his rights, one of the officers of court — a class usually specially alive to the observance of form, and of that alone — “struck Jesus with the palm of his hand, saying, Answerest thou the High Priest so?” The reply of Jesus is exceedingly striking. In it He again resolutely took His stand on the platform of the legal rights of a Hebrew — a ground from which He afterwards rose to a higher, but which He certainly never abandoned: “If I have spoken evil, bear witness of the evil: but if well, why smitest thou me?”

The words are, no doubt, a protest for freedom of speech and liberty to the accused. But, they appeal again to the same principle of the Hebrew law — that by which *witnesses* took upon themselves the whole burden and responsibility, and especially the whole initiative, of every accusation, even as they were obliged to appear at the close, and with their own hands to hurl the stones. And the renewed protest was so far effectual. For now the witnesses came forward, or, at least, they were summoned to bear their testimony; and only when they came forward can a formal trial, according to Hebrew law, be said to have commenced.

But did not all this take place by night? And was a trial by night legal?

On the question of fact whether the trial took place by night or in the morning, it will be found on turning back to their narratives that the four Evangelists give a confused account of what took place. Matthew and Mark, omitting the seemingly private interrogation of which we have already spoken, distinctly narrate a double and very striking trial by night — first by witnesses, and then by an attempt to obtain a confession; but all before the High Priest, the scribes, and the elders, to whom Mark adds, “all the chief priests.” Their narrative reads as if the first part of this trial might have taken place almost as soon as the prisoner was brought from the Mount of Olives. At all events, in their narrative it took place by night, while in the morning there was a second and separate “consultation” of a similar, but seemingly larger and more authoritative, meeting.<sup>16</sup> John, on the other hand, narrates the interrogation by the High Priest, the transfer from Annas to Caiaphas, and the delivery to Pilate in the morning, but does not allude to any trial before the Council. These two representations, though not contradictory, are unsatisfactory and inconsistent; and the tradition of Luke, which differs from both, completes the confusion, but helps us to a result. He omits the earlier part of the alleged trial — the interrogation of witnesses; but narrates the confession and condemnation as at one meeting of the Council, which took place “as soon as it was day,” and after which the whole company led Him to Pilate.

Putting all these representations together, there is no difficulty in arriving at the order of the historical transactions, though there will always be insuperable difficulty to those who insist on the exact accuracy of the narrators on the one hand, or on the legal regularity of the proceedings on the other. The visit to Annas and the transfer to Caiaphas came first, with the interrogation of the accused by one or other of the High Priests. About this earlier hour certainly took place the denial of Peter, related by all the Evangelists, while some time must have been consumed in sending for witnesses, and summoning either the whole Council or some members. That the whole Council did not meet at night is unquestionable: that a certain number of them were present by night with Caiaphas is equally clear. Assuming that there was a final and formal meeting of the whole Sanhedrin at its usual morning hour, it is barely possible that the vivid scene of the adjuration, confession, and sentence took place before it. But it is much more likely on the evidence that it took place earlier, when a

considerable number, quite enough to be popularly called a Council, were already assembled. And, in any case, it is certain that there was a still earlier transaction — the examination of witnesses and the deliberation on their evidence~ and that this must have taken place some time during the night. It will always remain doubtful whether this midnight testimony took place before a considerable meeting of the Council or its committee on the one hand, or before Caiaphas and a few of his friends on the other. Nor is it of much consequence. The confusion of representation is quite natural. For, according to all the rules of Hebrew law, such a transaction in the night was absolutely illegal, incapable of being validly transacted in either form, and incapable of being reported so as to produce an impression of justice upon the minds of the people.

The detailed law is laid down in a passage of the Mishna,<sup>17</sup> which contrasts capital trials with questions of money. It is so striking that the whole paragraph may be quoted, though it is with the concluding words that we have now to deal: —

“Money trials and trials for life have the same rules of inquiry and investigation. But they differ in procedure, in the following points: — The former require only three, the latter three-and-twenty judges. In the former it matters not on which side the judges speak who give the first opinions: in the latter, those who are in favor of acquittal must speak first. In the former, a majority of one is always enough: in the latter, a majority of one is enough to acquit, but it requires a majority of two to condemn. In the former, a decision may be quashed on review (for error), no matter which way it has gone in the latter, a condemnation may be quashed, but not an acquittal. In the former, disciples of the law present in the court may speak (as assessors) on either side: in the latter, they may speak in favor of the accused, but not against him. In the former, a judge who has indicated his opinion, no matter on which side, may change his mind: in the latter, he who has given his voice for guilt may change his mind, but not he who has given his voice for acquittal. *The former (money trials) are commenced only in the daytime, but may be concluded after nightfall: the latter (capital trials) are commenced only in the daytime, and must also be concluded during the day. The former way be concluded by*

*acquittal or condemnation on the day on which they have begun: the latter may be concluded on that day if there is a sentence acquittal, but must be postponed to a second day if there is to be a condemnation. And for this reason capital trials are not held on the day before a Sabbath or a feastday.”*

The crucifixion of Jesus took place, as has scarcely ever been doubted, on the Friday, the day before a Sabbath which was also “an high day”; and this meeting of the Council took place on the same Friday morning.<sup>18</sup> Such a meeting on such a day was forbidden. If indeed it only met to register an acquittal, it was lawful. But if the court was unable at once to acquit, it, was bound to adjourn for at least twelve hours before meeting for final judgment, and such a final meeting could not be on the Sabbath. The necessity of the adjournment of a capital trial to secure the rights of the accused is shown very clearly by the detailed regulations of the Mishna.<sup>19</sup>

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“If a man is found innocent, the court absolves him. But if not, his judgment is put off to the following day. Meantime the judges meet together, and, eating little meat, and drinking no wine during that whole day, they confer upon the cause.<sup>20</sup> On the following morning they return into court” and vote over again, with the like precautions as before. . . . “If judgment is at last pronounced, they bring out the man sentenced, to stone him. The place of punishment is to be apart front the place of judgment (for it is said in Leviticus 24:14, ‘Bring the blasphemer without the camp’). In the meantime an officer is to stand at the door of the court with a handkerchief in his hand; another, mounted on horseback, follows the procession so far, but halts at the farthest point where he can see the man with the handkerchief. [The judges remain sitting], and if anyone offers himself to prove that the condemned man is innocent, he at the door waves the handkerchief, and the horseman instantly gallops after the condemned and recalls him for his defense.”<sup>21</sup>

These regulations, taken not from the commentary on the oral law, but from the Mishna itself, may have existed in full detail during the high-priesthood of Caiaphas. There is no reason to doubt that at least the

general rule, which prescribes adjourning the trial from daylight to daylight, bound the judges of Jesus of Nazareth. In no case was such a rule so absolutely necessary to justice, as where the accused, arrested after nightfall, had been put upon his trial by daybreak, without the least opportunity of summoning witnesses for his defense. But what the Gemara describes as the *atrociousness* of thus anticipating the day of death of the accused,<sup>22</sup> was exceeded in open injustice by the earlier outrage of commencing, and probably substantially concluding, the real trial under cloud of night. That would have been an intolerable scandal even in the case of an ordinary civil suit. Such a suit could only be called and commenced during the day, though upon occasion it might be prolonged after the shadows had fallen until a verdict were returned.<sup>23</sup> But a grave criminal case — certainly a capital case of crime — was always to be begun, and resumed or continued, and finished, only in the light of day. And that, of all criminal cases, a trial in which a son of Israel, acknowledged to be mighty in deed and word before all the people, was to be judged for his life. . . that such a trial should be begun and finished and sentence formally pronounced, between midnight and morning, was a violence done to the forms and rules of Hebrew law as well as to the principles of justice.<sup>24</sup>

Yet there can be no doubt that at some untimely hour, between Thursday night and Friday morning, the form, and somewhat more than the form, of a trial by Hebrew law did take place. The judges, unjust as they were, were men trained in that law of minute scruples and mighty sanctions; and we may be sure that they would have felt it impossible to dispense with process and form altogether. The last words we caught from Jesus were His demand for open accusation and trial: “Why askest thou me? ask them which heard me.” And we shall hear no further utterance until the close. For when this demand for public justice was met by a nocturnal trial, the accused declined to take part in it. Meantime much was going on. The members of the Council present sought for witness against Jesus. Matthew says they sought for false witness. But even the former was a scandalous indecorum. Hebrew judges, as we have seen, were eminently counsel for the accused. And one of the strangest sights the world has ever seen must have been the adjuration or solemn address to the witnesses who came to speak against the life of Jesus, by the magistrate who had —

no doubt with perfect sincerity — held it expedient that one man should die for the people. In our Courts an oath means a solemn undertaking by the witness, in the presence of God and the magistrate, to tell the truth. In the Hebrew Courts it was all adjuration by the magistrate of the witness as standing in God’s presence. That form of adjuration or solemn appeal still exists in the body of the law.<sup>25</sup> It was the duty of the High Priest to pronounce it to each witness in a capital case, and so to put them on oath. Who can measure the force of its utterance on this occasion by the sacred Judge of Israel upon the men who, while words such as these uttered, were forced to gaze into the face of those whose life it guarded?

“Forget not, O witness, that it is one thing to give evidence in a trial as to money, and another in a trial for life. In a money suit, if thy witness-bearing shall do wrong, money may repair that wrong. But in this trial for life, if thou sinnest, the blood of the accused, and the blood of his seed to the end of time, shall be imputed unto thee. . . Therefore was Adam created one man and alone, to teach thee, that if any witness shall destroy one soul out of Israel, he is held by the Scripture to be as if he had destroyed the world; and he who saves one such soul to be as if he had saved the world. . . For a man, from one signet-ring, may strike off many impressions, and all of them shall be exactly alike. But He, the King of the kings of kings, He the Holy and the Blessed, has struck off from his type of the first man the forms of all men that shall live; yet so, that no one human being is wholly alike to any other. Wherefore let us think and believe that the whole world is created for a man [such as he whose life hangs on thy words].”

The Son of Man, whose life was surrounded by the law with this tremendous sanction, stood silent before those witnesses; and, whatever was the reason, the narrative records that their testimony against him failed. Let us therefore refer now to the Hebrew law of evidence. The Talmud divides all oral evidence into —

1. A vain testimony.
2. A standing testimony.

3. An “equal” or adequate testimony; or (perhaps) the testimony of them that agree together<sup>26</sup> (ἰση μαρτυρία).

The evidence of the earlier witnesses who on that night were examined seems to have been set aside as belonging to the first class; for a “vain testimony” was not even accepted provisionally — was not retained until afterwards confirmed. A “standing testimony,” on the other hand, was admitted in the meantime and provisionally, but not held valid until confirmed by others. To this intermediate rank attained the evidence of that witness who at length came forward to speak to the early utterance of Jesus about the destruction and rebuilding of the temple. And when following him another came, the question was at once raised whether the testimony of both did not amount to the third and complete order of evidence, known as “the testimony of them that agree together.” “But not even so,” says Mark, using the exact technical term — “not even so did their witness agree together.”<sup>27</sup> This may undoubtedly have been a mere discrepancy in their narration of facts. That discrepancy cannot have been great, according to our modern ideas. For Mark gives the evidence of both in one indiscriminating sentence. And Matthew does the same in another sentence, slightly different. Neither of them makes any explicit distinction between what the two witnesses said. Let us suppose that the discrepancy between the two (alleged by Mark) amounted only to this, that the one said, in Matthew’s phrase, “I am able to destroy the temple of God,” and the other, “I *will* destroy this temple.” It is by no means clear that even such a difference as this might not have been sufficient to nullify their testimony. For in a Hebrew criminal trial “the least discordance between the evidence of the witnesses was held to destroy its value”;<sup>28</sup> and this rule, like others, was pushed to that childish extreme which we now call Judaical. A mere verbal distinction may have sometimes been a fatal objection in the mind of even such a judge as Caiaphas. But the evidence of men who are not reported to have said anything extreme against the accused, but whom the Evangelists, departing, from their usual reserve, distinctly call “false witnesses,”<sup>29</sup> was probably reckless and inaccurate, and so discordant upon the face of it. It is just possible, indeed, that the variation between the reports of the two Evangelists covers not a mere verbal distinction, but a substantial and serious difficulty, of great importance for the conduct of the case.

For at this point, we are confronted by one of the most important questions in the whole inquiry, What was the crime for which Jesus was all this time being tried? What was the charge, what the indictment, upon which He stood before the Council? Up to this point we have had no intimation on that subject. In modern times that would be an extraordinary state of matters. To try a man, especially for his life, without specifying beforehand the crime on which he is to be tried, is justly held to be an outrage. Some of the greatest events in English constitutional history turn on the illegality of “general warrants” — the illegality, that is, *not* of trying a man without specifying his crime the most arbitrary of our kings did not venture to do that — but of even committing him for trial, without specifying his accusation in the warrant of committal. But we must not judge Jewish law, or indeed early law of any nation, by our modern rules. Hebrew law, as we have seen, gave a peculiarly important position to the witnesses. I believe we shall not fully realize that position unless we remember that, at least in the earlier days of that law, the *evidence of the leading witnesses constituted the charge*. There was no other charge: no more formal indictment. Until they spoke, and spoke in the public assembly, the prisoner was scarcely an accused man. When they spoke, and the evidence of the two agreed together, it formed the legal charge, libel, or indictment, as well as the evidence for its truth. This, to us paradoxical, but really simple and natural origin of a Hebrew criminal process, is nowhere better illustrated than in that ancient *cause celebre* of Naboth the Jezreelite.

“They proclaimed a fast, and set Naboth on high among the people. And there came in two men, children of Belial, and sat before him; and the men of Belial witnessed against him, even against Naboth, in the presence of the people, saying, Naboth did blaspheme God and the king. Then they carried him forth out of the city, and stoned him with stones, that he died.”

The essential points of a Hebrew trial for life are here given with admirable terseness.<sup>30</sup> But in the case of Naboth the false witnesses suborned by the Sidonian queen are represented as using the technical word, or *nomen juris*, of blasphemy. In the trial of Jesus the only witnesses distinctly spoken to reported a particular utterance of the accused. What crime was this utterance intended by the accusers, or the judges, to infer?

There are two distinct meanings which may have been *innuendoed*. According to one of them, the words, “I will destroy this temple that is made with hands, and within three days I will build another made without hands,” may have been represented as the voice of one come to attack the existing institutions — to “destroy the law and the prophets.” We have a most important commentary on this in the parallel accusation of Stephen a few months later’ “We have heard him say, that this Jesus of Nazareth shall destroy this place, and shall *change the customs* which Moses delivered us.” But, according to another view, the same reported utterance — especially in the modified form of Matthew, “I am *able* to destroy the temple of God” — may have been intended as a charge of arrogating superhuman power. So His original auditors felt it. “Forty-and-six years was this temple in building, and wilt thou rear it again in three days?” The two charges, it will be observed, though very distinct, are not inconsistent. May He not have been charged *both* with attempting to change the national institutions and with pretensions to miraculous power?

The difficulty in this twofold supposition is that we have been seeking in these charges for the *one* crime upon which Jesus was finally condemned. But if we look more narrowly at the supposed difficulty, we may find what we have been seeking. Jesus was finally condemned for “blasphemy,” because He made Himself the Messiah and the Son of God, making thus higher personal claims than even the witnesses against Him had suggested. That was the crime, therefore, towards which one of the intended accusations — that as to superhuman power — may be held to have pointed. But what of the other, the attack upon Jewish institutions? The unexpected but satisfactory answer is, that such a charge may have fallen under precisely the same legal category, or *nomen juris* — that of blasphemy. This might be suggested to us even by the witnesses against Stephen, who describe as “blasphemous words” the deliberate utterances of the deacon as to the passing away of the holy place and the law. But I believe that it will be found there is no Hebrew category of crime under which the attempt to supersede the old institutions could so naturally come, as that which is here denoted by the term blasphemy. The witnesses, therefore, may have had this accusation somewhat in view from the beginning. The judges almost certainly had. And it is not too soon to

devote a few sentences to the question what a legal word so important for our inquiry properly includes.

Blasphemy is not mere profanity. It is profanity which, as the name imports, *strikes* directly against God.<sup>31</sup> This is the original sense of the word, and it is that to which we have returned in modern days. But throughout the countries of Europe ruled by civil and canon law, blasphemy has long since taken on a secondary and constructive meaning. It stands in their law-books at the head of the enumeration of crimes as “Treason against the Deity,” taking precedence even of treason against the State. And this *crimen laesae majestatis divinae*, like the crime of treason against earthly rulers, has often, under the head of constructive treason, taken great and dangerous latitude.<sup>32</sup> Now whether it is a necessary thing for ordinary nations and jurisprudences to have in their statute-book such a crime as treason against God at all, we need not inquire. One thing is certain. In the Hebrew commonwealth and under Hebrew law it was necessary. For that commonwealth was in theory a pure theocracy, and all its priests, prophets, judges, and kings’ were then held to have been the mere courtiers and ministers of the invisible King, whose word was Israel’s constitution and law. In such a constitution, blasphemy, or the verbal renunciation of God, was in the proper sense high treason; and any attempt to subvert the great institutions of His government was constructive treason. By what name was such constructive treason known and tried? I think it was probably blasphemy. Neither the crime of the “false prophet” of the true God, nor that of “the idolater” or seducer to the worship of strange gods, seems to have attained to the generality and eminence of the word Blasphemy in Jewish law. That some such word was used in the age of Caiaphas to designate constructive treasons — attempts against the Divine system of religion — is certain. That it had become the proper *nomen juris* for all such attempts I have not seen conclusively proved; but it seems highly probable.

We cannot therefore hold, as has sometimes been done, that these witnesses brought forward special and isolated charge with regard to the temple, and that on the failure of it the Council passed unfairly to other and disconnected counts. The special charge was at least in the line of the whole procedure contemplated.<sup>33</sup> For unless we are to become wholly unhistorical in our legal criticism, we must believe that the general course

of this night's proceedings was prearranged by the leading members of the Sanhedrin, and that they, and not the witnesses, really conducted the prosecution. The evidence is overwhelming (John 7:25, 30, 45; 8:40; 9:22; 11:47, 57; Matthew 21:23, 46; Luke 20:20; Matthew 26:3 *et seq.*) that at repeated meetings of what the Fourth Gospel even calls a Council, and what may have been formal meetings of the acting committee of that body, the suppression, and if need be the death, of Jesus had been previously resolved upon. And in these preliminary proceedings it was not merely His acts as a prophet or as an opposer of existing institutions that were deliberated upon. His claim to be the Christ, and even (as his nearer followers had already acknowledged Him to be) the Son of God — whatever that mysterious claim might mean — had during the second part of His career<sup>34</sup> pressed heavily upon the Hebrew conscience, especially in Jerusalem. The decision alleged in the Fourth Gospel, “That if any man did confess that he was the Christ, he should be put out of the synagogue,” does not indeed formally negative that claim. It may only, as Neander holds, have reserved it for the judgment of the one competent tribunal, the great Council of the nation; while it forbade all private persons, whatever their individual views, from in the meantime publicly anticipating the solemn verdict. But it combines with innumerable other parts of the history to show the agitating questions which pressed on the minds of the judges as they listened to witness after witness in that early dawn.

The evidence, all agree, was not found sufficient — perhaps not found “relevant”<sup>35</sup> — so as to infer a conviction upon it alone. The rule of law in such a case was dear, that the accused must be at once liberated. It was not done. And even had the inculpatory evidence been found sufficient, the next step, according to the rules of the court, was to call witnesses for the defense.<sup>36</sup> Such a proposal would of course have been a mockery in a trial at such an hour. But even that was not done. What was actually done was an attempt to cross-examine the accused. “Answerest thou nothing? What is it which these witness against thee?” are the exact words of the High Priest repeated in two of the narratives. But He “held his peace, and answered nothing.” The interrogation, too, was unlawful. But I am not, able to represent this silence as caused by indignation at the errors of the accusers, or the unfairness of the judges. That the ordinary rights of every accused Hebrew had been present to the mind of Jesus we have already

seen. But that He had any expectation of escaping, or even any desire at this stage to do so, there is no evidence whatever. All the narratives combine to show that He had for some time been consciously moving on to a tragical and tremendous close of His brief career. His utterances in anticipation of it during the previous weeks, and especially on the preceding day, have held the world spellbound in each succeeding generation. A similar height of self-possession marks Him at this final hour. The inaccurate or malicious recollections of what He had said three years or three weeks before were nothing now to Him. He had not come to Jerusalem to perish by a mistake; and if we are to fill that silence with thoughts at all, we may suppose that they had reference to the scene that now surrounded Him. For there, at last, were gathered before Him the children of the House of Israel, represented in their supreme Council and great assembly. To this people He had always held Himself sent and commissioned. Now at last they have met; and all the ages of Israel's past rise in the mind of Him who stands to be judged — or to judge.

At what hour the great concluding scene, so vividly described by three of the Evangelists, took place, it is impossible to say.<sup>37</sup> Plainly enough, the private and public examinations of the witnesses must have occupied a considerable time, and whether or not these had been attended by "all the Council," or a portion of its members, it is quite certain that by this time at the point where these examinations were discontinued — a large number of the great Sanhedrin" was met. The members of that body numbered seventy-one; the "little Sanhedrin," which was probably a committee or cabinet formed out of the larger, numbered only twenty-three.<sup>38</sup> It is very possible that the smaller body may have been summoned at a somewhat earlier hour by Caiaphas, and it may be that no other ever assembled. Still the narratives rather suggest that the great Council, which alone could at this time try a man for his life, and which alone could at any time judge a prophet,<sup>39</sup> was also called. Let us concede to the language of the Evangelists that so much of the law was properly observed. We must, in that case, imagine the Council as sitting in the hall Gazith, half within and half without the holy place.<sup>40</sup> The seats were placed in a circle, and half of the seventy sat on the right and half on the left of the President or *Nasi*, who on this occasion was the High Priest Caiaphas. At his one hand sat the "Father of the Court," at the other the "Sage." Two scribes waited at

the table to record the sentence; two officers guarded the prisoner, who stood in front of the President. Among the semicircular crowd of judges, Caiaphas and his friends, highest in rank and in Roman favor, represented also the great Sadducean element. The Sadducees, as rationalists, had no particular enmity to Jesus, over and above their general distaste for the introduction of the Divine as an element in human affairs. But, as the aristocratic and official party, they were most keenly alive to the disorganization which that element often produces, and were always disposed to suppress it before it had got to a dangerous length. The previous appeal of the High Priest to the *salus populi* as overriding all individual claims of right — “Ye know nothing at all, nor consider that it is expedient for us that one man die for the people, and that the whole nation perish not” — was one full of reason. His plan seems to have been founded on a just and sound view of the temper of his own nation and of the Roman authorities, — a clear-sighted and comprehensive view, omitting no element that ought to be taken into account, *except* the existence of God and His nearness to men. But in the working out of that plan a certain exasperation must by this time have mingled with the calm determination to get rid of a saintly fellow-citizen. The Pharisees, on the other hand, were an equally large part of the Council, and their patriotic and religious feelings had originally been far more appealed to by the preaching of Jesus. But the inward struggle which had preceded their rejection of His claims had caused that rejection to be followed, according to the ordinary laws of human nature, by a growing hostility, which by this time was almost hatred.

It was they, the zealots of the Council, who no doubt took the initiative in the extraordinary and tumultuous scene which closed the sitting. During the later examination of witnesses Jesus had been silent; but the thought of His Messianic or Divine claim pressed upon His judges with overwhelming force, and broke out at last into passionate utterance. The discrepancy between the Evangelists here merely reveals to us all the actors in the scene. “Art thou the Christ? tell us,” they cried; and the irrepressible exclamations of the judicial crowd described in one Gospel were only put an end to by the solemn adjuration of their President, recorded in another. To the eager and hostile questions of the Council, Jesus answered at first in a twofold utterance: “If I tell you, ye will not

believe.” Was He thinking sadly of their forgotten duty to weigh His word, and of a result to Himself, or to them? But He adds, “And if I also ask you,” as He had done perhaps only a few days before in the temple, when they had demanded His authority, “if I, instead, put my questions to you, ye will not answer me,” and ye will not release your prisoner. It was true; but the Council was long past being turned from its purpose by the reference which these words again have, as I think, to judicial fairness and the order of justice. They saw in his face the light of that more than earthly claim which His lips only for a few moments delayed to make; and with a mixture of terrible and hateful emotions, starting to their feet, then said they all, “Art thou then the Son of God?” But above that crowd of aged and angry faces was now seen rising the High Priest of Israel, and all voices sunk away as the chief magistrate and judge of the sacred nation demanded, in the name of God whose office he bore, an answer to his most solemn adjuration, “I adjure thee by the living God, that thou tell us whether thou be the Christ, the Son of the Blessed!” It was the question for which men had waited so long; and now the answer came. “I am,” the Christ, the Son of God; and, turning to the crowd who sat in their places of power around him, he added, “Hereafter shall ye see the Son of man sitting on the right hand of power, and coming in the clouds of heaven.” It was the critical moment for the elect people. When a king declared himself in Israel, the manner was that he stood in the temple by a pillar, and the people of the land receiving him rejoiced with hosanna and song., with palm-branch and with trumpet. And if this was the manner of a king, how should the King-Messiah be received when He claimed to be the Son of the Highest? But when a man blasphemed the name of God, the ordinance in Israel was that everyone who heard it should rend his garment from the top downwards — rend it into two parts which might again never be sewn into one. And scarcely had Jesus witnessed His confession before those many witnesses, when the High Priest, standing in his place, rent his clothes, saying, “He hath spoken blasphemy; what further need have we of witnesses? Behold, now ye have heard his blasphemy. What think ye?” And they answered and said, “He is *ISH MAVETH* — a man of death.” . . . “Then they all condemned him to be worthy of death.”

So passed that great condemnation.

There are very few points with regard to it which remain to be noticed. One relates to the lawfulness of the High Priest's adjuration, and to the judicial use of the confession of the accused.<sup>41</sup> Nothing can be clearer than the Talmudists on this. "Our law," says Maimonides, "condemns no one to death upon his own confession." "It is a fundamental principle with us," says Bartenora, "that no one can clamage himself by what he says in judgment."<sup>42</sup> Putting the question to the accused, and founding a condemnation on his answer, was therefore the last violation of formal justice.

But what as to its substance? The question had been put, and the answer had been given. Assuming that the claim thus made by Jesus had come in some lawful form before the Sanhedrin, were they shut up to this condemnation? In answering this we have first to remember the distinctions already taken between blasphemy, in its simple meaning of profanity or insult to God, and blasphemy as equivalent to treason, overt or constructive, against the theocracy. In the former sense there was no case here. The words of the great accused were full of filial reverence for the Father.<sup>43</sup> We have therefore to go on to the latter sense, and to face the grave question, Was it high treason in a Jew to claim to be the Messiah, the Son of God? Most certainly it was — *unless it was true*. And if blasphemy was the proper word by which to designate so tremendously audacious a claim, then was such a false claim also blasphemous. But what if it were true? In such a case the falsehood was of the essence of the crime, and had to be proved or assumed before the judicial conclusion could be reached. The mere claim to be the Messiah was no crime. "Art thou the Christ?" was asked continually, of John, of Jesus, of every reformer, and of every prophet; though an answer in the affirmative was held to be the most daring claim that human lips could frame. What relation indeed the Messiah of the Jews was supposed to have to their unseen King, and how far the dignity, not unknown to that age, of "Son of God," could freely be applied to the expected Christ, are questions on which vast learning has been expended. We shall equally err if we suppose that these words had in their ears all the meaning with which subsequent theology has invested them, or if we forget that the purpose and bearing of the accused gave them, on this last as on previous occasions, a unique and Divine significance. But the two-fold claim of the Messiahship and the

Sonship — made seemingly in response to the grouping of the two ideas (Art thou “the Christ, the Son of God?”) by the High Priest himself — could never release a Hebrew tribunal from the duty of weighing a claim to Messiahship. The proper response of an unbelieving judge, like Caiaphas, when his adjuration was answered by confession, was, “What sign shewest thou then, that we may see and believe thee?” And when, instead, he rent his clothes, with the words, “What need ye further witnesses?” it was either the preconcerted plan by which to terminate the whole semblance of judicial procedure, or, perhaps, a sudden inspiration of evil, spoken a second time not wholly of himself, in a moment when the cold, hard, cruel thoughts, which had so long smoldered in the unjust judge, blazed up at the touch of confronting Righteousness into final and murderous paroxysm.

We pass next to the Roman tribunal. But our conclusion on the question of Hebrew law must be this: that a process begun, continued, and apparently finished, in the course of one night; commencing with witnesses against the accused who were sought for by the judges, but whose evidence was not sustained even by them; continued by interrogatories which Hebrew law does not sanction, and ending with a demand for confession which its doctors expressly forbid; all followed, twenty-four hours too soon, by a sentence which described a claim to be the Fulfiller of the hopes of Israel as blasphemy, — that such a process had neither the form nor the fairness of a judicial trial. But though it wanted judicial fairness and form, it may nevertheless have been a real and important transaction. There is no reason to think that the Council missed the fact that Jesus claimed to be their King, though they deeply misunderstood the nature of His Kingdom. And there is every reason to believe that their condemnation truly expressed the rejection of His claim by the nation itself.

## THE ROMAN TRIAL

*Christus, Tiberio imperitante, per procuratorem  
Pontium Pilatum supplicio affectus est. — Tacitus.*

Οὗτοι πάντες ἀπέναντι τῶν δογμάτων Καίσαρος  
πράττουσι, Βασιλέα λέγοντες ἕτερον εἶναι, Ἰησοῦν.

*Luke*

### THE FOUR NARRATIVES

MATTHEW	MARK	LUKE	JOHN
Now when morning was come, all the chief priests and the elders of the people took counsel against Jesus to put him to death: and they bound him, and led him away, and delivered him up to Pilate the governor. . . Now Jesus stood before the governor: and the governor asked him, saying, Art thou the King of the Jews? And Jesus said unto him,	And straightway in the morning the chief priests with the elders and scribes, and the whole council, held a consultation, and bound Jesus, and carried him away, and delivered him up to Pilate. And Pilate asked him, Art thou the King of the Jews? And he answering saith unto him, Thou sayest. And the chief priests accused him of many things. And Pilate again	And the whole company of them rose up and brought him before Pilate. And they began to accuse him, saying, We found this man perverting our nation, and forbidding to give tribute to Caesar, and saying that he himself is Christ a King. And Pilate asked him, saying, Art thou the King of the Jews? And he answered him and said, Thou sayest. And	They lead Jesus therefore from Caiaphas into the palace, and it was early; and they themselves entered not into the palace, that they might not be defiled, but might eat the passover. Pilate therefore went out unto them, and saith, What accusation bring ye against this man? They answered and said unto him, If this man were not an evil-doer, we should not have delivered

Thou sayest. And when he was accused of the chief priests and elders, he answered nothing. Then said Pilate unto him, Hearst thou not how many things they witness against thee? And he gave him no answer, not even to one word; insomuch that the governor marveled greatly. Now at the feast the governor was wont to release unto the multitude one prisoner, whom they would. And they had then a notable prisoner, called Barabbas. When therefore they were gathered together, Pilate said unto them, Whom will ye that I release unto you?

asked him, saying, Answerest thou nothing? behold how many things they accuse thee of. But Jesus no more answered anything; insomuch that Pilate marveled. Now at the feast he used to release unto them one prisoner, whom they asked of him. And there was one called Barabbas, *lying* bound with them that had made insurrection, men who in the insurrection had committed murder. And the multitude went up and began to ask him to *do* as he was wont to do unto them. And Pilate answered them, saying, Will ye that I release

Pilate said unto the chief priests and the multitudes, I find no fault in this man. But they were the more urgent, saying, He stirreth up the people, teaching throughout all Judaea, and beginning from Galilee even unto this place. But when Pilate heard it, he asked whether the man were a Galilean. And when he knew that he was of Herod's jurisdiction, he sent him unto Herod, who himself also was at Jerusalem in these days. Now when Herod saw Jesus, he was exceeding glad: for he was of a long time desirous to see him, because he

him up unto thee. Pilate therefore said unto them, Take him yourselves, and judge him according to your law. The Jews said unto him, It is not lawful for us to put any man to death: that the word of Jesus might be fulfilled, which he spake, signifying what manner of death he should die. Pilate therefore entered again into the palace, and called Jesus, and said unto him, Art thou the King of the Jews? Jesus answered, Sayest thou this of thyself, or did others tell it thee concerning me? Pilate answered, Am I a Jew? Thine own nation and the

Barabbas, or Jesus, which is called Christ? For he knew that for envy they had delivered him up. And while he was sitting on the judgment-seat, his wife sent unto him, saying, Have thou nothing to do with that righteous man: for I have suffered many things this day in a dream because of him. Now the chief priests and the elders persuaded the multitude that they should ask for Barabbas, and destroy Jesus. But the governor answered and said unto them, Whether of the twain will ye that I release unto you? And they said,

unto you the King of the Jews? For he perceived that for envy the chief priests had delivered him up. But the chief priests stirred up the multitude, that he should rather release Barabbas unto them. And Pilate again answered and said unto them, What then shall I do unto him whom ye call the King of the Jews? And they cried out again, Crucify him. And Pilate said unto them, Why, what evil hath he done? But they cried out exceedingly, Crucify him. And Pilate, wishing to content the multitude, released unto them Barabbas,

had heard concerning him; and he hoped to see some miracle done by him. And he questioned him in many words; but he answered him nothing. And the chief priests and the scribes stood, vehemently accusing him. And Herod with his soldiers set him at naught, and mocked him, and arraying him in gorgeous apparel, sent him back to Pilate. And Herod and Pilate became friends with each other that very day; for before they were at enmity between themselves. And Pilate called together the chief priests and the rulers and the people and

chief priests delivered thee unto me: what hast thou done? Jesus answered, My kingdom is not of this world: if my kingdom were of this world, then would my servants fight, that I should not be delivered to the Jews: but now is my kingdom not from hence. Pilate therefore said unto him Art thou a king then? Jesus answered, Thou sayest that I am a king. To this end have I been born, and to this end am I come into the world, that I should bear witness unto the truth. Every one that is of the truth heareth my voice. Pilate saith unto him,

Barabbas. Pilate saith unto them, What then shall I do unto Jesus which is called Christ? They all say, Let him be crucified. And he said, Why, what evil hath he done? But they cried out exceedingly, saying, Let him be crucified. So when Pilate saw that he prevailed nothing, but rather that a tumult was arising, he took water, and washed his hands before the multitude, saying, I am innocent of the blood of this righteous man: see ye *to it*. And all the people answered and said, His blood *be* on us, and on our children. Then released he unto them

and delivered Jesus, when he had scourged him, to be crucified.

said unto them, Ye brought unto me this man, as one that perverteth the people: and behold, I, having examined him before you, found no fault in this man touching those things whereof ye accuse him: no, nor yet Herod: for he sent him back unto us; and behold, nothing worthy of death hath been done by him. I will therefore chastise him, and release him. But they cried out all together, saying, Away with this man, and release unto us Barabbas: one who for a certain insurrection made in the city, and for murder, was cast into prison. And

What is truth? And when he had said this, he went out again unto the Jews, and saith unto them, I find no crime in him. But ye have a custom, that I should release unto you one at the passover: will ye therefore that I release unto you the King of the Jews? They cried out therefore again, saying, Not this man, but Barabbas. Now Barabbas was a robber. Then Pilate therefore took Jesus, and scourged him. And the soldiers plaited a crown of thorns, and put it on his head, and arrayed him in a purple garment; and they came unto him, and

Barabbas: but Jesus he scourged and delivered to be crucified.

Pilate spake unto them again, desiring to release Jesus. But they shouted, saying, Crucify, crucify him. And he said unto them the third time, Why, what evil hath this man done? I have found no cause of death in him: I will therefore chastise him and release him. But they were instant with loud voices, asking that he might be crucified. And their voices prevailed. And Pilate gave sentence that what they asked for should be done.

said, Hail, King of the Jews! and they struck him with their hands. And Pilate went out again, and saith unto them, Behold, I bring him out to you, that ye may know that I find no crime in him. Jesus therefore came out, wearing the crown of thorns, and the purple garment. And *Pilate* saith unto them, Behold, the man! When therefore the chief priests and the officers saw him, they cried out, saying, Crucify him, crucify him. Pilate saith unto them, Take him yourselves, and crucify him: for I find no crime in him. The Jews answered him, We have a law, and by that law

he ought to die, because he made himself the Son of God. When Pilate therefore heard this saying, he was the more afraid; and he entered into the palace again, and saith unto Jesus, Whence art thou? But Jesus gave him no answer. Pilate therefore saith unto him, Speakest thou not unto me? knowest thou not that I have power to release thee, and have power to crucify thee? Jesus answered him, Thou wouldest have no power against me, except it were given thee from above: therefore he that delivered me unto thee hath greater sin. Upon this Pilate

sought to release him: but the Jews cried out, saying, If thou release this man, thou art not Caesar's friend: every one that maketh himself a king speaketh against Caesar. When Pilate therefore heard these words, he brought Jesus out, and sat down on the judgment-seat at a place called The Pavement, but in Hebrew, Gabbatha. Now it was the preparation of the passover: it was about the sixth hour. And he saith unto the Jews, Behold, your King! They therefore cried out, Away with *him*, away with *him*, crucify him. Pilate saith unto them, Shall I crucify your

King? The chief  
priests  
answered, We  
have no king but  
Caesar. Then  
therefore he  
delivered him  
unto them to be  
crucified.

## ROMAN TRIAL

THE trial of their Messiah by the Sanhedrin, had it stood alone, would have no doubt been the most interesting judicial transaction in history. The law of Moses, perpetuated though modified by Christianity, has perhaps been more influential than any other code of the world. Yet that law has had one rival — in the mighty jurisprudence of Rome. “The written reason of the Roman law has been silently or studiously transfused” into all our modern life, and lawyers of every nation look back with filial reverence to the great jurisconsults of the great age of the Imperial Republic. But between the two influences there is one important point of contrast. In the Hebrew commonwealth law was the product of religion. It was received, as Christendom has been content to receive it, as a Divine rule. There is no evidence whatever that the Jewish race was remarkable for an innate passion for justice, or for any such “tendency to righteousness” as might have originally led it to religion. Their whole history and literature indicate, on the contrary, that it was the intense sense of the Divine which molded the nation originally, and which afterwards led to a widespread though imperfect cultivation of the *ars boni et aequi*. Even that Rabbinic cultivation, as we have seen, was marred by continual exaggerations and artifices which reveal the original inaptitude of the race for the highest judicial excellence. Accordingly, down to the time with which we are dealing, it remained a small, isolated Asiatic tribe, filled through and through with national and religious prejudices. It is not to such a source that men look for a model of the administration of equal laws. But there have been races in the world who reflected, as there are races who do reflect, in an eminent degree, that deep sense of righteousness which lies at the root of all law. And of all such races, ancient and modern, the greatest was that which at this time ruled over Palestine and over the world. When the scepter departed from Judah, it passed into the strong, smiting hands of Rome; and already all the nations had begun to exchange their terror of Rome’s warlike might for that admiration of its administrative wisdom which has grown upon the world ever since. And already, too, that admiration was mingled with confidence and trust. Those Eastern races felt, what we two thousand years after can historically trace, that the

better part of the unequalled authority of Roman law was due to the stern, hard virtues of the early race and early Republic. It was dimly recognized then, and it is clearly traceable now, that that influence and authority sprang from an instinct of righteousness enforced by praetor and proconsul in every subject land, long before Ulpian or Gaius had written it out into immortal law.

Pontius Pilate was at this time the representative of Rome in Judaea — the governor, as he is called in the Gospels. But it will be found instructive to note more carefully what his exact position was. He was the *Procuator Caearis*; the procurator, deputy, or attorney of Tiberius in that province. And he was no *procurator fiscalis*,<sup>1</sup> with functions equivalent to those of Quaestor. Pilate's was no such subordinate or financial office, he was a procurator *cum potestate*; a governor with civil, criminal, and military jurisdiction; subordinated no doubt in rank to the adjacent Governor of Syria, but directly responsible to his great master at Rome. And what was the relation of the Emperor himself to the inhabitants of Judaea and to the world? The answer is important. The Emperor was neither more nor less than the representative of Rome. In modern times men associate the imperial title with absolutism, and a more than royal power. To Romans, even in the days of Tiberius, the name of a king was intolerable, and absolutism, except under republican forms, distasteful. Accordingly, when Augustus became the undisputed chief of the Republic, and determined so to continue, he remained nominally a mere private nobleman or citizen. The savior of society did not dare to attack the constitution of the State. He effected his object in another way. He gathered into his own hands the whole powers and functions, and accumulated upon his own head the whole honors and privileges, which the State had for centuries distributed among its great magistrates and representatives. He became perpetual Princeps Senatus, or leader of the legislative house. He became perpetual Pontifex Maximus, or chief of the national religion. He became perpetual Tribune, or guardian of the people, with his person thereby made sacred and inviolable. He became perpetual Consul, or supreme magistrate over the whole Roman world, with the control of its revenues, the disposal of its armies, and the execution of its laws. And lastly, he became perpetual Imperator, or military chief, to whom every legionary throughout the world took the *sacramentum*, and whose sword swept the globe from

Gibraltar to the Indus and the Baltic. And yet in all he was a simple citizen — a mere magistrate of the Republic. Only, in this one man was now visibly accumulated and concentrated all that for centuries had broadened and expanded under the magnificent abstraction of Rome. Tiberius, therefore, the first inheritor of this constitution of Caesar Augustus, was in the strictest sense the representative of that great city that ruled over the kings of the earth. And the Roman knight who now governed in Judaea was his representative in his public capacity. For Augustus, as is well known, had divided the provinces into two classes. To the more peaceful and central he allowed the Senate to send proconsuls, while even over these he reserved his own consular and military power. But some provinces, like Judaea, he retained in his own hands as their proconsul or governor. Strictly and constitutionally, the governor of the Jewish nation, at the time of which we write, was not Pilate at Caesarea or Vitellius at Antioch, but Tiberius at Rome. He was the Proconsul or Governor of Judaea under the still-existing Republic — a Republic now almost identified with himself. And Pilate, whom the Jews popularly called their governor, was strictly the procurator of the great Proconsul, holding civil and military authority by delegation from him in whom was now embodied the boundless authority of Rome. Such was the tribunal before which the Council of the Sanhedrin is now to lead a prisoner.

Pilate sat in his Praetorium on the morning of that “preparation-day,” to transact business and administer justice as usual. In what spot in Jerusalem his judgment-seat was on this occasion set up, cannot certainly be known. It may have been within the fortress and under the tower of Antonia, the visible symbol of Roman predominance which frowned beside the temple. Much more probably it was “Herod’s Praetorium,” that magnificent palace to the north of the temple which Josephus describes, and which had been recently built by the Idumean kings. Their former palace was also still in existence, and the visit of the Roman procurator and the Tetrarch of Galilee to the same feast, while it raises the question which of them occupied the new and more splendid residence, suggests the inevitable rivalry and possible “enmity” of their relation. If we suppose that Pilate, like Florus, asserted his right to occupy the new palace, we may remember that its white marble semicircle enclosed an open *Place* which had looked out on the sacred city, and was almost as public as the space between

Antonia and the temple. In the open space in front of this or any other Praetorium the movable *Bema* or tribunal could at once be set up. But on this morning Pilate was still sitting within the judgment-hall. Outside was the roar of the Eastern city awakening on a Passover dawn; within, the clash of Roman steel, the altars of the Roman gods, and perhaps the sculptured frown of the distant demigod Tiberius. Into that heathen chamber the priests and doctors of the separated nation would not enter during their sacred week; and the Roman, with his Roman smile, graciously removed their difficulty by coming with his soldier-lictors to the gate. But his first words there, as his eyes fell upon the prisoner who stood with his hands bound before him, were: "What accusation bring ye against this man?" We recognize instantly the spontaneous voice of Roman justice. It was no doubt meant to suggest his own authority and power of review, and in that respect we must presently consider it. But it was before everything else the instinctive utterance of a judge, and it at once recalls that memorable dictum of Pilate's successor in the same seat: "It is not the manner of the Romans to deliver any man to die, until that he which is accused have the accusers face to face, and have license to answer for himself concerning the crime laid against him." So ever spoke the worst of the Roman governors — and neither Pilate nor Festus was among the best — out of the mere instinct and tradition of justice which clung to their great office among the treacherous tribes around. The chief priests and scribes on this occasion avoided the demand to know the accusation. "If he were not a malefactor, we would not have delivered him to thee." The insolent evasion of his question was not likely to propitiate Pilate, who instantly puts the matter on its true footing by the calm but somewhat contemptuous reply, "Take ye him, and judge him according to your law." Sullenly came the answer, "It is not lawful for us (it is not permissible — οὐκ ἔξεστιν) to put any man to death." The answer revealed (what the word "malefactor" had perhaps already implied, and what may have been involved in their bringing their prisoner to Pilate at all) that it was a capital charge which they had come to make. But it closed this important opening dialogue. The conversation just narrated is only found in the Gospel of John; and it is remarkable that a narrative supposed to be much later than the others should record words which not only have the strongest internal evidence of truth, but to which subsequent investigation has given immensely increased historical value.

For at this point of the story comes in the question of conflict of *jurisdiction*. Why did the Jews go to Pilate at all? We have seen that their Council condemned Jesus to be “guilty of death.” Had they no right to pass such a sentence? or, having the right to pass it, had they merely no power to execute it? How far did the authority of the governor trench upon, or supersede, the authority of the Sanhedrin? Which of them had the *jus vitae aut necis*? What was the relation of the two powers, the Jewish and the Roman, to each other at this time?

This broad historical question lies at the root of the views which may be taken of the legal point — views which have sometimes been extremely contrasted. In the controversy between Salvador and Dupin, the former (true in this to the sad claim of some of his nation of old, “His blood be on us “) urged that the Sanhedrin had full authority to try even for capital crimes, and that their sentence of death required only the countersign or endorsement of the Roman governor. His opponent held that the Jewish court had no right to try for grave, or at least capital, crimes at all; that their whole procedure was a usurpation; and that the only real or competent trial was that which we are about to consider. I have no intention of going into the great mass of historical investigation which has been accumulated on this confessedly difficult point. There seems no one consideration which is quite conclusive upon it. Thus it would be rash to ascribe to the assertion of the Talmud, that “forty years before the destruction of the temple the judgment of capital causes was taken away from Israel,” the praise of exact chronological accuracy. Yet it is very striking as showing the time about which the doctors of the Jewish law were willing to hold that their power of life and death (no (doubt already restricted or suspended under the despotism of Herod) had finally passed away. But on the general subject of the relation of the two powers in that age there are some considerations which reasoners on either side do not seem to have always kept in view, but which are important.

**1.** There was no *concordat* on this subject between the Romans and the Jews. The latter were the conquered nation; their jurisdiction, including the power of life and death, was wrested from them *de facto*, and they were obliged to submit. But *de jure* they never did. To them, at least to the great mass of the nation, the Sanhedrin was still the national authority, especially in accusations relating to religious matters.

2. On the Roman side, the matter was of course precisely the reverse. Their view of the jurisdiction of subject races generally, and of the Jews in particular, was, I suspect, that it was just so much as they chose to leave them. In most cases that formed a very large field. The Roman governor sanctioned, or even himself administered, the old law of the region; but the policy of the ruling power was to concede to local self-government as much as possible. The concession was of course all the larger where there was no disposition on the part of the province to provoke a contest. In Roman law as in Roman campaigns, in questions of jurisdiction as in questions of politics, the maxim of the haughty and wise rulers of the world was *parcere subjectis et debellare superbos*.

3. It is evident that a large latitude was allowed on this subject to the great Roman officers — proconsuls or procurators — who administered *la haute justice*. The Republic and the Emperor permitted, and indeed demanded, that they should stretch or relax their authority as the particular case or exigency required. In ordinary matters brought before their tribunals, the rule on which they acted is perfectly expressed, a few years after this, by Annaeus Gallio, the humane proconsul of Achaia, and brother of the philosopher Seneca: “If it were a matter of wrong or wicked lewdness, O ye Jews, reason would that I should bear with you: but if it be a question of words and names, and of your law, look ye to it; I will be no judge of such matters.” But while they drove such questions from the judgment-seat, so long as they did not affect the rights of the sovereign power, the least hint that one of these words or names or questions of another law could prejudice the supreme power of Rome was enough to authorize the governor to plunge his ax into the offending part of the body politic with prompt and savage severity.

These general considerations should never be forgotten in reading the scattered and often inconsistent historical notices on the subject. They show that the extreme views, which critics in our own time have maintained, were probably held even then by the opposing powers whose jurisdictions were in poise. But the balance of evidence is very strong that, at this time, all questions of life and death in Judaea were by Roman law and practice reserved for the final decision of the Roman governor. In such cases the Jews had, at the most, only the *cognitio causae* they could try the cause, but not sentence the accused. Nor can there be much doubt that

the governor's final power in these cases was not a merely ministerial right of endorsement and *executio*; it was also a power of *re-cognitio*, or review, in so far at least as he chose to exercise it. Whether this reservation to the governor was such as to deprive the Jewish courts of their rights as tribunals of first instance — whether any previous trial of a capital cause before the Sanhedrin was necessarily a usurpation — is another and a more difficult question. With regard to ordinary civil crimes — robberies or assassinations — the Jewish rulers may have been content not to interfere further than to bring the perpetrators to the Roman tribunal for judgment. The Roman judges, on the other hand, may have been quite willing to send to the cross without much inquiry any ordinary malefactors against whom the authorities of the country, having already inquired into the case, were willing to appear as accusers. But, obviously, a more serious question arose when the alleged crime was a religious one — a claim, as prophet or Messiah, to change the ecclesiastical institutions. In such a case the Sanhedrin itself no doubt maintained, as the Jews generally did on its behalf, an exclusive right to judge in the first instance; and its tendency would be very strong to deny any *re-cognitio* by the Roman power, and either not to call in that power at all, or to limit it to a mere right of countersign. What view the Roman governor might take, in the very unusual case of such a charge being brought to his tribunal, was another matter.

But in truth, while the dialogue-narrative of the Fourth Gospel admirably illustrates the historical relations of the parties at the time, the history as it actually occurred supersedes the necessity for referring to these more general relations. Whether it was legitimate or not for the Jews to condemn for a capital crime, on this occasion they did so. Whether it was legitimate or not for Pilate to try over again an accused whom they had condemned, on this occasion he did so. There were certainly two trials. And the dialogue already narrated expresses with the most admirable terseness the struggle which we should have expected between the effort of the Jews to get a mere countersign of their sentence, and the determination of Pilate to assume his full judicial responsibility, whether of first instance or of *revision*. The reluctance of the Jews on the present occasion was no doubt prompted, not so much by their usual ecclesiastical independence as by their dread lest inquiry by Pilate should prevent his carrying out their

scheme. But as matters actually turned out, the collision which the Procurator's first words provoked had the effect of binding him publicly, before the men of both nations who surrounded his judgment-seat, to deal with this capital case in his judicial capacity. It was henceforth no mere matter of administration, no incident of summary police jurisdiction or military court-martial. It was a deliberate judgment of life and death by the supreme civil ruler, who had interposed his jurisdiction between an accused man and the chief authorities of the subject nation.

The *Accusation* demanded by Pilate necessarily followed, now that he had insisted on being judge in the cause. We have this given with considerable formality in the Gospel of Luke; and though it is omitted in the three others, the first question of Pilate to Jesus, which they all record, implies a previous charge. Luke gives it thus: "We found this man perverting the nation, and forbidding to give tribute to Caesar, saying that he himself is Christ a King." Had the accusation retained the form in which it was brought before the Sanhedrin — had it been a merely religious or ecclesiastical crime which was now named — a different question would have arisen. Had the chief priests, when they "began to accuse" Jesus, said at once what they passionately exclaimed at a later stage of the cause, "We have a law, and by our law he ought to die, because he made himself the Son of God," it may be doubtful what Pilate would have done. He was authorized as governor to administer their law, or to preside over and control its administration; and while his leaning would be, like that of Gallio, to consider this question a matter of words, he might have been induced to see that these words covered grave consequences to the State. But such difficulties were avoided by the deliberate change made by the accusers in the form of the accusation — or perhaps, by their reverting to that accusation which had been originally intended, and for which the ecclesiastical procedure of the night before was a pretext or preliminary. If we accept this sentence of Luke as equivalent to the *nominis delatio* of the Roman law, or to the affidavit of the prosecutor-witness of the Hebrew law already considered — and it has resemblances to both — it throws a flood of light before as well as behind. The charge of "perverting" (*διαστρέφοντα*), including perhaps "revolutionizing" as well as "seducing" the nation, was fairly true, and was distinctly included in the Jewish procedure of the night before. No doubt to Roman ears it was

‘ambiguous, but the ambiguity recalls that very real doubt which had governed his mind who said, “If we let him alone, all men will believe on him, and the Romans will come and take away our place and our nation.” The culminating charge, that Jesus called Himself “Christ a King,” was also true, and had just been acknowledged to be true, though scarcely in the sense in which the accusers desired that the ears of the governor should receive it. But if we are to take Luke’s narrative, we must believe that the charge was not left in this ambiguous and ineffective form. The managers of the impeachment had no doubt not intended to make a deliberately untrue statement before the heathen judgment-seat. They wished, at as small an expense of falsehood as possible, to throw upon the foreign power the odium of a prophet’s death. But the prompt utterances of Pilate seem to have forced them into the villainy they would rather have avoided, and between the more ambiguous charges of seducing the nation and claiming a royal Messiahship they add, by way of illustration, “forbidding to give tribute to Caesar.” It was a sheer falsehood, and some of the accusers must have known it to be the converse of the fact as recently ascertained. But it was a suggestion which, as they must also have known, would give the most deadly significance to the other vaguer and truer heads of the indictment, and would make it impossible for the governor to waive the capital charge.

For there is no mistake as to what the crime here imputed is. It is *majestas* — the greatest crime known in Roman law, the greatest crime conceivable by the Roman imagination — an attack upon the sovereignty or supreme majesty of the Roman State.<sup>2</sup> In the early days of the Republic the name *perduellio* was applied to treason and rebellion, and the citizen condemned by the people for that crime was interdicted from fire and water, or hanged upon an *arbor infelix*. As the rule of the city spread over the world, treason came to be known as an attack upon its majesty; and various laws were passed to define this crime and the treatment of it, the chief enactment being the *Lex Julia*. According to this law, every accusation of treason against a Roman citizen must be made by a written libel. A Jewish provincial had of course no such protection. He stood before the Procurator of the Caesar, with no defense against the summary exercise of absolute power but the plea of justice.

We come now to the *Defense*. All the narratives bear that Pilate put the same question to Jesus, in the same words, "Art thou the King of the Jews?" but that, on His answering in the affirmative, the Roman came to the paradoxical conclusion that there was "no fault in him." The Fourth Gospel contains the explanatory conversation which these facts almost necessarily imply. The statement of Jesus is unusually impressive. It is couched, no doubt, in that involved, allusive, and aphoristic style of utterance which we find in this Gospel from end to end. But we must remember that all the biographies represent this very style as occasionally used by Jesus, and as characteristic of Him in critical circumstances. It comes out in all the histories when He touches on the esoteric "mysteries of the kingdom" He preached, or where His own claims are brought in question; and it manifestly grew more and more His manner of utterance towards the close of His career. We hold, therefore, that a statement which, though only recorded in the latest Gospel, must according to all the others have been substantially made, and which as reported is at once startlingly original and intensely characteristic, has every internal evidence of being historical. This dialogue took place in the Praetorium, where Jesus may have possibly been detained while the question of jurisdiction was settled with His accusers. (It rather appears, however, that He must have been present while the accusation was made; the two first Evangelists state that either then or at a later stage His silence extorted the marvel of the governor, who said, "hearest thou not how many things they witness against, thee?") He now, however, brings his prisoner within, and puts the sudden question, "Art thou the King of the Jews?" Jesus' answer, "Sayest thou this of thyself, or did others tell it thee of me?" does not seem to have been a request to know what had been uttered by the Jews in His absence. The words evidently have a deeper reference. They are equivalent to, In what sense dost thou use the expression? "If thou sayest it of thyself, in the sense in which a Roman would naturally use the word, then I am not the King of the Jews. But if others told thee this of me, if thou art using the words of Hebrew prophecy, or of the world's hope," that may need further explanation. Pilate strives to reply as a Roman should, "Am I a Jew? Thine own nation and the chief priests have delivered thee to me: what hast thou done?" It was throwing back, and not unfairly, the burden of explanation upon the accused. So He who had kept silence before the midnight Sanhedrin, and who made no answer even now to their

dissimulated accusation, at once frankly answered the heathen magistrate, who desired himself to know the truth of the case: "My kingdom is not of this world: if my kingdom were of this world, then would my servants fight: . . .but now is my kingdom not from hence."

In considering words so memorable we must avoid as much as possible the theological and ecclesiastical, and look only from the historical, and in particular the forensic and judicial, point of view. Whatever else these words import, they are in substance, and almost in form, a defense. If they imply a confession of kingship, they express an avoidance of the particular kind of kingship charged. They do not set up a plea in bar of the jurisdiction. They seem to acknowledge that a kingdom of this world would be a legitimate object of attack by the deputy of Caesar, but they deny that the kingship of Jesus could be so described. The most important commentary on the words is of course the recent and famous scene of the tribute money, where Jesus, being demanded as a Jewish patriot and prophet., "Is it lawful to give tribute to Caesar, or no?" answered, "Show me a penny," and, having asked the significant question as to Caesar's image and superscription engraved upon it, closed the discussion with the words, "Render therefore unto Caesar the things that are Caesar's, and unto God the things that are God's." The two incidents, in common with the whole of the history, make it certain that it was no part of His plan of kingdom, as it was no part of the plan of Christianity historically, to attack the Roman power. But this critical utterance to Pilate (like that former one) seems to go farther. On the face of it, it indicates that there was no necessary collision between the kingdom which Jesus was prepared to assert as His own, and that great "kingdom of this world" which His judge represented. All actual collision there too probably might be. But the words are meaningless unless they are taken as asserting separate spheres within which it was possible for each power to confine itself, and by confining themselves within which it was possible for them to escape collision. Only one of these kingdoms is described, and it is defined generally as "of this world," the definition being illustrated by the suggestion that in every such kingdom the monarch may suitably be defended by the armed force of his subjects. The other is as yet only defined by the negation of these characteristics.

Pilate, as the result indicates, was already impressed by the statement, and perhaps convinced by it of the innocence of the accused of all conspiracy against Rome. And yet Jesus still spoke of a kingdom — a kingdom too in this world, though not of it<sup>3</sup> — and His words of renunciation were more royal than all the Roman had ever listened to of greatness. With true judicial tact, the governor lays his finger on the exact point which required to be brought from negative implication into express statement. “Art thou a king then?” he asked the prisoner whose kingdom was not of this world. And as before, to the adjuration of God’s High Priest, so now, to the representative of all the greatness of earth, the answer came back, making a crisis in the world’s history, “Thou sayest it: I am a king.” He who spoke so to a Roman governor knew that He was offering Himself to the cross, and that the next few hours might close that fateful life. And the thought was in His mind when he deliberately added, “To this end was I born, and to this end am I come into the world, that I might bear witness unto the truth.” Whatever else is included in words so great, this “witness to the truth” certainly embraces the testimony which a moment before had been given by the speaker Himself — by Him “who before Pontius Pilate witnessed the good confession” to the existence of a kingdom, true and real, though not of this *kosmos*. But this supreme utterance struck a deeper note than even the assertion of a spiritual and separate kingdom. It proclaimed that which is the basis of all human veracity and virtue, but which in those later ages was becoming strange to Roman ears — the existence of an eternal world of truth outside of man — a universal Divine system of things, high above all local or national tradition, and indeed above all human beliefs and desires. Over that objective truth men have no power: their highest privilege is to recognize and to confess it. And those do recognize it who have already a certain kinship and relation to that central truth — who are “of the truth.” For the last words to his judge of Him who now claimed to be both the witness and the King of that greater world were, “He that is of the truth heareth my voice.”

“Pilate answered, What is truth?” The blank response, half-sarcastic, half-despairing, wholly skeptical, will claim notice at a later stage. In the meantime we follow the course of the judge, who, thus waiving the personal question presented to him,<sup>4</sup> goes on to deal with the accusation and the accused. The narratives all bear that Pilate reached and expressed

the conclusion that the crime charged had not been proved — that indeed he found in the accused “no crime at all.” And the last Gospel distinctly refers the first public utterance of this conviction to the exact point in the conversation and defense at which we have just arrived. It was the only defiance which the accused is at any time stated to have offered; and Pilate now went straight out from the Praetorium, and announced his verdict, perhaps from the judgment-seat. Yet was this utterance, as it turned out, only the first step in that downward course of weakness the world knows so well: a course which, beginning with indecision and complaisance, passed through all the phases of alternate bluster and subserviency; persuasion, evasion, protest, and compromise; superstitious dread, conscientious reluctance, cautious duplicity, and sheer moral cowardice at last; until this Roman remains photographed for ever as the perfect feature of the unjust judge, deciding “against his better knowledge, not deceived.” Upon some of the points in the Evangelic narrative we need not dwell. The graphic incident of the judge catching at an allusion to Galilee, and, on ascertaining that the man was a Galilean, sending him to Herod, may be just noticed in passing. The word used is ἀνέπεμψεν (*remisit*), which seems the exact technical term for restoring an accused to his proper jurisdiction, as here in sending Him from a *forum apprehensionis* to a *forum originis*. Herod’s declinature was prudent as well as courteous, when we remember the terms of the accusation. A man, even a provincial, accused of *majestas*, “stood at Caesar’s judgment-seat, where he ought to be judged”; and the Idumean “fox” may have dreaded the lion’s paw, while very willing to exchange courtesies with the lion’s deputy. The second appearance at the tribunal of the governor shows a distinct accession of weakness on the part of the judge, and of pressure upon him by the accusers. His wife’s<sup>5</sup> morning message troubles his conscience, but does not purify his heart. Pilate is now willing to “chastise him and let him go,” *i.e.* to mangle an innocent man with the savage Roman scourge. The Jewish accusers refuse the compromise; and Pilate, characteristically, seems to have left them under the impression that he had finally sent Him to the cross, while he still intended to make a postponed appeal to their compassion. But before taking his first step in actual guilt, the judge washes his hands with the memorably vain words, “I am innocent of the blood of this just person’ see ye to it.” After the scourging, the three Evangelists record nothing but the insults of the fierce soldiery to one who

was given up to them as a Jewish traitor to their Emperor. But the later Evangelist interposes a series of incidents which are, now as before, noted with the finest characterization and the most delicate verisimilitude. He alone records the “Behold the man!” with which the struggling Procurator, whose “faith unfaithful” still made him “falsely true,” sought to move the multitude. He alone records the response, “We have a law, and by that law he ought to die, because he made himself the Son of God” — an utterance in exact accordance with that narrative of the Hebrew trial which is given by all the Synoptics, but which John has omitted. It is he who notices the unexpected but most natural effect of this claim upon the governor, whom the former utterances of the King “come into the world” had deeply impressed. “Whence art thou?” he almost tremulously demands. But from the first moment of his vacillation Jesus had given him no answer. Pilate, accordingly, at the very time when he is described as inwardly “more afraid,” flashes out in that insolent tone which less discriminating secular historians regard as the only one characteristic of him, “Speakest thou not unto me? knowest thou not that I have power to release thee, and power to crucify thee?” Jesus breaks the silence by a final word of answer, which is of high importance for our subject’ “Thou wouldest have no power against me, except it were given thee from above: therefore he that delivered me unto thee hath greater sin.” Some writers who hold that Pilate alone had “jurisdiction” in this case, and that the proceedings of the Sanhedrin were a usurpation, have appealed to this text, as containing in its first clause an acknowledgment of the exclusive right of the Roman tribunal, and in its last a denunciation of the illegality, as well as treachery, of Caiaphas. This is unwarranted, and in the circumstances grotesque. Yet, while we notice here first of all the extreme consideration and almost tenderness with which the sufferer judges His judge,<sup>6</sup> we must confess that the words, “Thy power (ἐξουσία) is given thee from above,” do relate themselves to the previous acknowledgment of a “kingdom of this world,” a *kosmos* in which men are to give to Caesar the things that are Caesar’s; while they add to that former acknowledgment the explicit idea (afterwards enforced by the apostles) that this earthly kingdom with its earthly aims is also from above. The powers that be are ordained of God; Pilate, who knew this not, was abusing a great and legitimate office partly through a heathen’s ignorance; and in so far he was less guilty than the false accusers who sat, in Moses’ seat. It was not strange that words so noble should

have prompted one last effort on the judge's part to save himself from his weakness. But it was too late. The Jewish hierarchs had now taken the full measure of the man, and their final argument was one fitted to bear down in him all of conscience that remained. "If thou let this man go, thou art not Caesar's friend: whosoever maketh himself a king speaketh against Caesar."

Few utterances are more valuable historically than this last general statement. To feel the full force of it we must recall how, as already explained, the Caesar had gathered up in himself all the public offices of the Republic, so that treason against the State and treason against him had become almost the same.<sup>7</sup> The old Roman watchfulness to crush out attempts against Rome was now intensified by being absorbed into the jealous personal suspicion of a despot. It was no anti-climax when the shrewd Jewish politicians, instead of saying, "Whosoever maketh himself a king speaketh against the majesty of the State," preferred to say, "Whosoever maketh himself a king speaketh against Caesar." Long before this period of the reign of Tiberius the latter had become the deadlier form of the crime. Some of the accusers must have remembered the early days of the dynasty, when Julius and Octavius perpetrated their own successful *lese-majeste*, and the nation of the Jews, adhering to them in the great convulsion, merited the name which came afterwards to be known as the title of honor, of "Caesar's friends." For some time thereafter, indeed, Palestine was on the footing of a "client-state" under Caesar; since 6 A.D. it had been absolutely Caesar's province. And the leading Jews must have been aware that while the first Emperor had extended the law of treason to punish libels against his own person, Tiberius, still more watchful in his jealousy, used the *leges majestatis* continually against all who failed in respect to the majesty of Caesar, even if they did not speak against him (*ἀντιλέγειν*) in the sense of favoring counter claims by themselves or others. The great historian records how, even before the date when Pilate was sent to Judaea, when the provinces appeared before Tiberius with complaints against their proconsuls, they took care to throw in along with the usual accusations of rapacity the added charge of treason — "Addito majestatis Crimine, quod tum omnium accusationum complementum erat!"<sup>8</sup> To Pilate, as a personal dependant on the favor of the Emperor (a favor seemingly originally procured through Sejanus, who, if not already

hurled from power, was by this time tottering to his fall), all this must have been continually and urgently present, the more as he had already earned the hatred of his province, and dreaded its revenge. His fears were not groundless. Tiberius was still upon the throne when, a few years after, Pilate was superseded, and ambassadors from Palestine, relying on the hereditary attachment of the nation to the imperial house, were sent to Rome to witness against the recalled and degraded governor. The shadow of that distant day paralyzed Pilate on this morning. What if he were to be accused before Caesar of spoliation and bloodshed, and, too well knowing himself to be guilty of those wrongs, should read also in the sunken eyes of his judge that other charge, the complement and the crown of every lesser crime? He who had so long persisted against all other arguments now succumbed at once before the well-chosen words: "If thou let this man go, thou art not Caesar's friend' whosoever maketh himself a king speaketh against Caesar." He ascended the tribunal, from which alone, a final sentence could be legally pronounced by a Roman judge — in the present case, apparently, a portable seat carried out from the Praetorium and placed in front upon a *lithostroton* or tessellated pavement. Yet even here he relieved his bitter feelings by the words to the accusers, "Shall I crucify your King?" But on the chief priests making the historical answer, "We have no king but Caesar," the judge turned to Him who had claimed another kingdom, and, in such words as "Ibis ad crucem," delivered him to be crucified.

"Was Pilate right in crucifying Christ?" The question was put in the last generation in a book of extraordinary ability, which opens with the most powerful attack in our language on what has been known in modern times as the right of "liberty of conscience." If you deny that right, argued John. Stuart Mill and others, you must approve of Marcus Aurelius and the other persecutors of Christianity — nay, you must go farther, and find "a principle which will justify Pontius Pilate." Sir James F. Stephen accepted the challenge; and his argument, while it in the first place raises the question, Did Pilate do right as a judge and as a man? will lead us on to the farther question, What was the law under which this judge ought to have acted?

"Was Pilate right in crucifying Christ? I reply, Pilate's paramount duty was to preserve the peace in Palestine, to form the best judgment he could

as to the means required for that purpose, and to act upon it when it is formed. Therefore, if and in so far as he believed in good faith and on reasonable grounds that what he did was necessary for the preservation of the peace of Palestine, he was right.”<sup>9</sup>

**1.** The suggestion which is here made, that Pilate may have “believed in good faith that what he did was necessary for the preservation of the peace of Palestine,” is purely gratuitous. Whether that would have justified him in condemning a man he believed to be innocent, we may touch upon hereafter. But in the meantime there is not the slightest ground for the suggestion itself. The narratives are uniform in asserting his expressed conviction of his prisoner’s innocence, his knowledge that Jesus had been delivered “for envy,” his scoffing incredulity in speaking to the Jews of their King, and his final yielding, as a judge, to those *vanae voces populi* against which his own law warned him, and yielding to them too, only when his personal and private interests were at last menaced. Now, the Christian narratives which have handed this down are, strange to say, in no respect hostile to Pilate. Jewish and other writers who expressly treat of the character of this governor give us his portrait as rapacious, cruel, and unjust. The Christian historians give no portrait, and have occasion to refer to him incidentally only where his actions are fitted to excite the keenest exasperation. Yet the few historical side touches of the Evangelists restore for us the man within the governor, with a delicacy, and even tenderness, which make the accusing portrait of Philo and Josephus look like a hard, revengeful daub.<sup>10</sup> Is there, in the Tito or Bulstrode of modern delineation, anything more true to nature, more provocative of sudden sympathy from men who know the pressure of public life, than that morning’s mental history of the sixth procurator of Judaea, as given by the friends of the man whom he crucified? The character of Pilate and the motives for his vacillation are only too intelligible. But that at any point of this vacillation he came to believe that his sentence was called for to preserve the peace of the province, is an unhistorical suggestion.

**2.** Had the history run at all in the direction suggested, there are various situations which might be figured. That the judge, even if he were not a military governor with *merum imperium* delegated from Rome, should slay a man who was overtly and in intent seditious, raises no question. Neither Mr. Mill, nor any other advocate of liberty, questions the duty of

Government to preserve the peace. That a governor, sitting or not sitting as a judge, should deliver to death a man whom he believed to have no intentions against the peace, because he was in point of fact dangerous to it, might raise a serious question.<sup>11</sup> In particular, it raises the distinction between the judicial and the administrative. What Pilate as administrator of the province might do in the way of deporting or even killing an innocent man for the sake of its peace, is one question. What he might do sitting as a judge and inquiring whether there was “fault in this man touching those things where of ye accuse him,” is another matter; and it is the one with which we have to deal. The distinction, kept sacred in all jurisprudences, might well be confused in the minds of English lawyers by the powerful but provincial theory of Utility which they have been taught, but the spread of which from the professor’s chair to the judgment-seat will, I think, be prevented both by the scientific traditions of Europe and by the moral sense of mankind. In saying so, I do not forget the story of the English judge who told a prisoner, “I sentence you to die, not at all because you have robbed this house, but in order that other people may not rob other houses in future.” That judge, if he existed and pronounced such a sentence, simply committed murder. But in the case with which we here deal we have not to do with such unjudicial motives for action. It was Caiaphas, not Pilate, who thought it *expedient* that one man should die for the people. And neither the one nor the other grounded the expediency on any immediately apprehended outbreak or on any danger to the peace. There was indeed no such immediate danger. How far there might be ultimate danger to the Roman State from the spread of convictions and the acceptance of claims like those of Jesus, was another matter, and it was the really important one. The true question, as the critic of the Liberty, Equality, and Fraternity watchword soon discerns, is between the universal supremacy of a Government whose claims extended to something much higher than keeping the peace on the one hand, and the claims of a kingdom not of this world on the other.

**3.** Accordingly, the final defense made for the Roman governor — the only one which can be of any weight in consistency with the history, and the only one also which bears on the great question of liberty of conscience or repression of opinion — is contained in the following passage of very general theory, illustrated in the quotation in my notes: —

“Pilate’s duty was to maintain peace and order in Judaea, and to maintain the Roman power. It is surely impossible to contend seriously that it was his duty, or that it could be the duty of anyone in his position, to recognize in the person brought to his judgment-seat, I do not say God incarnate, but the teacher and preacher of a higher form of morals and a more enduring form of social order than that of which he was himself the representative. To a man in Pilate’s position, the morals and the social order which he represents are for all practical purposes absolute standards” (p.93).

Whether this was the theory of Roman law, we may afterwards see. But it is here presented as the universal and true theory, against which it is difficult to contend seriously. It may be so. This, at all events, is not the place to deal directly with it, farther than by recording fundamental and implacable opposition.<sup>12</sup> But it is exactly the place to point out that this was the theory which the defense of the accused seems directed to meet. The doctrine of the powerful book from which we quote is that “skeptical arguments in favor of moderation about religion are the only conclusive ones.” To suggest such arguments to the governor, or at least to leave his mind to the skeptical poise of the average educated Roman of the day, might have seemed the prudent part in a prophet accused of treason. His words take directly the opposite course. Their assertion of a kingdom — a higher and ruling “form of morals and social order” — set up in the earth, but in a different plane and *kosmos* from the secular power of Rome, might of itself have implied the proclamation of a duty to recognize that kingdom. But when its assertion was backed by an immediate appeal to the truth, as that which men are born into the world to confess, the defense plainly resolved into a claim that this truth, and not any social order or traditional belief, should be the “final and absolute standard.” And the last words addressed to Pilate clench “the duty of anyone in his position to recognize the teacher” of that higher order and extra-mundane truth; for “everyone that is of the truth heareth my voice.”

And even if we prefer to disbelieve this conversation, we cannot escape from the fact that this was precisely the attitude taken up historically by Christianity. It did not claim merely to be one higher form of morals or religion among others. It claimed to be the true religion — in the sense of

being both universal and obligatory. And the Empire, which would have been content to ignore it while it presented itself as simply a higher form of morals or even of social order, could not ignore it when it appeared as the universal and obligatory form. When it claimed to be the truth, Rome first answered, "What is truth?" and when it insisted on the right of truth to be obeyed, Rome answered again with persecution. And Christianity responded by the constant reiteration of the duty of every member of the State, whether an official or not, to recognize this truth, to bear witness to it, and, if need be, to die for it. Hence the immense interest which has always attached to Pilate's answering inquiry. It was the utterance of one who was neither a philosopher nor a statesman, but simply a typical Roman gentleman, in a position where he represented his State. And precisely because it was so, his question, "What is truth?" lays bare the hinge upon which the mighty Roman world was then smoothly revolving towards the abyss. The Republic, we must never forget, was destined ere long to disbelieve — many of its leading spirits had come to disbelieve already — in its own morals and social order. The fact is certain, but the pathos of it has too seldom been acknowledged. Again and again in the past we have mused and mourned over Greece, and its search of truth intellectual — its keen and fruitless search, never ending, ever beginning, across wastes of doubt and seas of speculation lighted by uncertain stars. But today let us for once remember that greater race, the greatest this earth has known; called and trained through long centuries to the work of governing a world, and when at last that mighty inheritance came into its hands, stricken with inward paralysis for want of a motive and a hope. Too well has our own poet drawn the picture —

*"In his cool hall, with haggard eyes  
The Roman noble lay;  
He drove abroad, in furious guise,  
Along the Appian Way;*

*"He made a feast, drank fierce and fast,  
And crowned his hair with flowers:  
No easier and no quicker passed  
The impracticable hours."*

And so there crept upon men that moral languor and satiety of life which underlay the whole time of the Empire, and which often, even in the presence of a noble and protesting stoicism, hardened into cruel apathy or

reckless despair. But have we always reflected how certainly this cynical moral mood of the dominant race was the result of the new circumstances into which it was thrown? In early days the Roman believed in himself, in his gods, in his institutions, and, above all, in his State. It was for him *theatrum satis magnum* — his standard, his rule, his righteousness. And so he was righteous, in his stern, relentless way. But now the world had grown wider. And what had sufficed for virtue in former times did not suffice for virtue now. A provincial belief, a national religion, was too narrow for a world: it *necessarily* collapsed, and left the lords of earth, with strong hands and empty hearts, skeptical as to truth, and so lapsing from righteousness.

That this had become largely the result, even in the reign of Tiberius, is admitted. And it was plainly a position of matters very unfortunate for the application of the general rule suggested. That Pilate or Pliny, or any Roman official, should have to refuse a higher order of morals which his conscience approved, simply because his State believed in a lower, was hard enough. But that such an official should have to refuse that higher morality or religion, when both he and his State were ceasing to believe in the lower, was harder still. And that in such circumstances a judge should have to use systematic persecution against the confessedly higher convictions, simply to prevent their making head against a legal standard of faith which he or others had begun to disbelieve, was the most unfortunate thing of all. There is probably nothing which so excites the loathing of mankind as when the State persecutes for a faith which it has already begun to lose. And yet, obviously, that is precisely the time when dishonest persecution is most likely to happen, and on the theory with which we are dealing it is what ought to happen. Pilate was quite prepared to act upon this theory, for in point of fact he acted from a lower motive still — his private interest. But let us suppose that he had risen so far as to desire only to do what was right, and let us suppose also that the law he administered demanded the persecution of all convictions hostile to the religion of Rome. It is fair that we also should answer the question, What ought he in this case to have done? What in such circumstances was the “duty of a man in Pilate’s position “? I answer that his duty was (having first cared for the immediate peace of his district) to refuse to represent that law, and to resign his position rather than outrage a principle of

conscience, which lies deeper than all social superstructures of either the Church or the State.

But this brings us to the final question: What, in point of fact, was the law of Rome in the matter of the trial of Jesus Christ?

Its fundamental principle was that the public law of the imperial State had the right to permit or to forbid the exercise of the religion of private men. In its exercise of this right, it was no doubt generally cautious and wise, at least in its dealings with polytheistic States. It is well known that the policy of Rome as a conquering power towards the religions of subject peoples was one of toleration. But that meant little more than toleration of existing religions in their local seats, or, at the farthest, in the race to which such a religion properly belonged. Because the worship of Serapis or Isis was tolerated on the Nile, as a monotheistic worship was in Judaea, it by no means followed that either of them was permitted on the banks of the Tiber. In order to be so, it required to be expressly authorized by Rome — to become a *religio licita*. And even when it was tolerated throughout the Empire, as the Jewish religion at this time was, — at least in the East, — exclusive devotion to it was tolerated only in natives of the country from which it came, and was at no time permitted to Roman citizens. For them, all over the world the old religion was imperative; and for all others, the religion of the Tiber, though not imperative, was dominant. The concessions made to the provinces for their religions were strictly concessions, not concordats. Accordingly, the concession was generally limited by the idea, *Cujus regio, ejus religio*. Outside the region or province where the local cult ruled — and, in the case of Jews, outside the Jewish race — it was denied the rights of publicity and of proselytism, and was restricted to a passive and a private existence. These general considerations explain some of the variations in the Roman treatment of the Jewish and Christian faiths. The old Jewish religion had the paradoxical quality of being national or local on the one hand, while on the other it claimed to be exclusive truth. The union of the two qualities went far to explain that hostility to the human race which the Romans were fond of ascribing to it. A faith which attacked that of all other men, without inviting them to share in it, invited this misconstruction. But its very want of aggressiveness saved it from collisions. When Christianity appeared, a different problem had to be dealt with. Here was a faith which not only

claimed to be the absolute truth, but which refused to be confined within local limits. It was essentially proselytizing, and therefore essentially public; and it demanded universal individual acceptance — acceptance by the Roman as by the Greek and the Jew. What was the answer of Roman law? “Non licet *esse* vos” — a refusal of leave to exist. It was not always put in force. “The substance of what the Romans did was to treat Christianity by fits and starts as a crime.”<sup>13</sup> That occasional persecution was not founded upon any specialties in the nature of Christianity, or excited by any great dislike to it as a form of worship or belief. It was persecuted generally as a form of seditious or innovating atheism, or as opposition to the established and tolerated institutions. This principle was expressed in the words said to be taken from the Twelve Tables: “Separatim nemo habessit deos, neve novos; sed ne advenas, nisi publice adscitos, privatim colunto.” And the principle was supported by later “leges” or authoritative utterances, as when Marcus Aurelius denounced banishment against all who troubled the light minds of men by inducing a dread of the Divine. The opposition to Christianity on such grounds was set in motion and regulated by some of the greatest and wisest, and even, in a sense, most tolerant emperors. Trajan and the Antonines were wise and large-hearted monarchs. There was little in Christianity to repel, and there was much in it to attract such men. They were not bigots, and those around them were generally skeptics. They did not believe in absolute or universal truth in matters of religion, but they did believe in the sovereignty and supremacy of the Roman State. The consequence was, that while they protected in Egypt and Palestine and Italy all *religiones licitae* which would live side by side with each other, and claim no universal dominion, they from time to time bent the whole force of the State against the one religion which said, “For this cause are men born, that they should bear witness unto the truth,” and “Every one that is of the truth heareth his voice.” There is no way of explaining the history except by acknowledging that the constitutional law of Rome reserved to the State the right on the one hand to approve and license, and on the other to repress and forbid while unlicensed, the expression of new religious convictions, the public existence of a new faith. And this prerogative was held to form part of the *majestas* or supremacy of the State.

It was so in the days of Tiberius as truly as in the *Terreur juridique* of Domitian. Pilate, as his deputy, seems to have been convinced that the claim of Jesus to be “Christ a King” was not a claim to temporal sovereignty. He accepted in some sense his own assurance that it was a kingdom not of this world. Yet this meant, at the least, that His kingdom was a religion which He was about to found. It meant more. A religion which takes the form of a kingdom, with a king and his noncombatant servants, however little “of this *kosmos*” it may be, must be not only religion, but a Church. A universal religion, starting with individual faith, but adding immediately an obligation to love the brethren and to proselytize, is already (according to the Protestant definition) a Church, needing no visible center and no earthly head. The defense of Jesus gave at least as much prominence to the Church idea as His disciples did during the early ages; and in His case as in theirs it gave additional seriousness to the charge of treason. A great student of history who has left us has perhaps gone too far in holding that the Roman laws against unlicensed association or combination were the unhappy root of all the persecutions,<sup>14</sup> too far even in holding that they were the instrument by which all these persecutions were carried on. Those laws were the branches rather than the root, but they were in living union with the root. There can be no doubt that the laws regulating *collegia*, and repressing all unlicensed associations, had from the beginning a close connection with the *majestas* of the State, and especially with its right to institute and enforce religion.<sup>15</sup> The two things worked together, and they did so in theory and practice. A claim of Jesus merely to found a universal religion might no doubt, in practice, have come into collision with the law of Rome. But His claim to found it as a kingdom, though not of this world — “une association dans l’etat en dehors de l’etat,” as it is happily expressed — seems to me to have been essentially inconsistent with the public principle of that law. Christianity, in short, was incompatible with the Roman public law, and that not merely because its contents were different from those of the old religion of Rome, but because its claim to universal individual acceptance and public confession conflicted with the unlimited and unbalanced sovereignty of the Roman State. Christianity appealed to the individual conscience, and in order to its even taking root in the world demanded liberty of conscience. But the Roman law, while it sometimes

permitted in practice a large amount of contemptuous toleration, was at all times opposed to *rights* of conscience — opposed to them even in theory.

And on these very points, on which the Roman State was afterwards to come into conflict with Christianity, it now came into conflict with the Author of Christianity. It does not perhaps follow that Pilate, as its administrator, was bound at once to condemn Jesus. As Trajan explains in his famous letter to the Governor of Bithynia,<sup>16</sup> it was the duty of the higher magistrate to use a certain discretion in dealing with those who had transgressed the law on religion. And Pilate, who had satisfied himself of the non-existence of any immediate conspiracy on the part of the new faith, does not seem to have adverted to the future and fundamental conflict between it and the law he represented. It is clear, indeed, that he believed Jesus to be both just and harmless; and, so believing, he sinned in corruptly swaying from his first judgment, and betrayed the innocent blood. Yet had he adverted to the claim of his City to regulate religious opinion and conscience, and compared it deliberately with the counter claims of the prophet before him, or had he sent on his prisoner to answer for Himself at the imperial tribunal, it seems certain that in either case the trial would still have been followed by the tragedy which the world knows so well. Even the gentle Pliny, under the express orders of the magnanimous Trajan, devoted to the ax or the cross those whose obstinate refusal to recant and obey made them unworthy of the leniency of Rome. And the “obstinacy” of generations of His followers during the first three centuries found precedent and justification in his who now stood to bear witness to the same truth. For in point of fact, when Pilate ultimately sent Jesus to the cross, it was as claiming to be a King, and on the original charge of acting *adversus majestatem populi Romani*. The judgment, was legal, though the unjust judge did not believe in it. For whatever Caesar’s deputy may have thought, the claim of Jesus was truly inconsistent with the claim of the State which Caesar represented; and the world must judge between the two.

I have recalled the most famous of all trials from a legal and almost formal point of view. I have said nothing of its more memorable and characteristic aspects, — how the authoritative love which had originally arrested the eyes of disciples now deepened into an intenser glow, and a personality, which had attracted in peaceful days only a few fellow-countrymen

towered at the close over suffering and shame so as henceforth to draw all men to Him. We have omitted even what might seem nearer to our subject, — how the righteousness, negatived by a condemnation to the cross, shone out in that darkness till it became to subsequent generations not merely a center of admiration, but the star of the world's hope.

Yet, in considering so great a transaction in this external and forensic way, we have come to some conclusions. We have found that it was a double trial, conducted with a certain regard to the forms of the two most famous jurisprudences of the world. In both trials the judges were unjust, and the trial was unfair; yet in both, the right issue was substantially raised. Even the form which that issue took was, in a sense, the same in both. Jesus Christ was arraigned on a double charge of treason; the treason in the Theocratic court being a (constructive) speaking against God, while in the Imperial court it was a (constructive) speaking against Caesar. But under these tortuous traditions of a twofold law the real historical question was twice-over reached, and the true claim of the accused was made truly known. He died because in the ecclesiastical council He claimed to be the Son of God and the Messiah of Israel, and because before the worldwide tribunal He claimed to be Christ a King.

# THE TRIAL OF CHRIST

BY

FRANK JOHN POWELL

*WHAT  
SHALL I DO THEN  
WITH JESUS  
WHICH IS CALLED  
CHRIST — Pontius Pilate*

THE STORY OF THE DOUBLE “TRIAL” I.E. THE proceedings before the Jewish court and the Roman trial before Pilate, as related in the Gospels, is one which can be read in a few minutes, but to appreciate the significance of the incidents which occurred, the clash of personalities, the attitude of Jesus to His accusers and their accusations, and, above all, the reasons for His rejection by Israel, it is necessary to consider the historical background, the state of national opinion in Palestine, the laws by which the Jewish and Roman courts, respectively, were bound and the personal history of the chief characters concerned. This book is based on notes of lectures I have given on this subject. I have added considerably to the notes. It is a study by one who would like to be regarded as a “common juryman” who has hearkened to the evidence, including that of experts — who have not always agreed — and has tried to arrive at a reasonable verdict. I hope that the many who have asked for a printed copy of the lectures will find this book to be an acceptable substitute and a useful introduction to a study of the subject.

*F. J. P.*

*New Malden, Surrey.*

## BOOKS REFERRED TO BY THE AUTHOR

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## INTRODUCTION

### SOME QUESTIONS ARISING

THE TRIALS RAISE SOME INTERESTING QUESTIONS. WAS the arrest legal? Did the Romans take part in the arrest? Was Jesus arrested on a warrant? Was there a formal Jewish trial? Before what Jewish tribunals did Jesus appear? Who was the presiding Judge? What was the true nature of the proceedings before the Hebrew tribunals? What was the system of law in force? Was the proper legal procedure observed? Was the charge properly laid? Of what offense was Jesus “convicted” by the Hebrew tribunal? Why was the charge changed before Pilate? Why did the Jews not execute Jesus? What defense, if any, did Jesus make before the Hebrew tribunals? And before Pilate? Why did the Jews refer the case to Pilate? What were Pilate’s functions? What was Pilate’s view of the case? Had Herod power to try the case? Did Pilate know that the Jews had previously “tried” Jesus? Why did Pilate condemn to death One he declared to be innocent?

The uncertainty of the state of the national laws at the time, the passage of nearly two thousand years, and the scantiness of the material available make it impossible to answer these questions dogmatically; but such material as we have makes the study one of absorbing interest and we may hope to perceive at least a glimmer of the truth of what happened in those far-off days.

### SOURCES OF INFORMATION

The sources of information about the two trials of Jesus are the four Gospels and some references thereto in the Acts of the Apostles.

There are two kinds of law — the law of God and the law of the State. The Jewish State was in theory a theocracy, therefore the law of God was also the law of the State. But at the beginning of the Christian era the Sanhedrin of Judges, which was charged with the duty of administering that law, was divided against itself as to what constituted the law of God; therefore the law of the State was in doubt. This division amongst the judges arose from the fact that they were divided into two opposing religious sects; some of

them were Pharisees and some Sadducees. The Pharisees contended that the “Written Law” together with the “Oral Law” comprised the law of God; the Sadducees maintained that the Written Law alone was of divine origin. At the time of Jesus the Sadducees were in the ascendant in the Sanhedrin. The “Chief Justice” — the High Priest — was a Sadducee and he dominated the Court. But the Pharisees were the popular party and the Sadducees were by no means able to ignore their demands. Josephus makes a pronouncement of considerable importance when he says: “They (the Sadducees) are able to do almost nothing of themselves; for when they become magistrates, unwillingly and by force sometimes they addict themselves to the notions of the Pharisees, because the multitude would not otherwise bear them.” This confused state of affairs provides us with a major problem in our study, for it makes it a matter of no little difficulty to form an opinion about the system of law in force and applied in the Sanhedrin in c. A.D. 30, the year in which the trial of Jesus probably took place. It would seem that what happened *in practice* was that both sects acknowledged and enforced the Written Law; that to it the Pharisees sought to add the Oral Law; and that the Sadducees agreed to enforce the Oral Law only on occasions when they thought a refusal on their part would incense popular feeling. As for the Scribes who, *inter alia*, advised the Court on points of law and procedure, they might be either Pharisees or Sadducees. With a tribunal so divided against itself, there must have been more than the usual difficulties in obtaining a clear ruling upon a disputed point.

The Written Law, which, broadly speaking, corresponds with English Statute law, was contained in the Pentateuch. In c. A.D. 200, the Oral Law, corresponding roughly with English Common Law — described by Blackstone as “the ancient unwritten law of this kingdom” — was embodied in the *Mishnah*. “The Oral Law consisted of ‘the traditions of the elders’ — rules of Jewish life and religion which in the course of centuries had come to possess a validity and sanctity equal to that of the Written Law and which, as the Oral Law, were deemed, equally with the Written Law, to be of divine origin, and therefore consonant with and, for the most part, deducible from the Written Law” (*Mishnah*, Aboth 1. n. 2). The *Mishnah* was compiled by Rabbi Judah the Patriarch. “The Rabbi did not aim at promulgating the *Mishnah* as an authoritative, definitive legal

code, a final summary of Jewish law. It was simply a compilation of the Oral Law as it was taught in the many Rabbinical Schools of his time. His “prominence in the community, his reputation in the field of the Rabbinical law, served almost immediately to win universal recognition for his Mishnah as the only complete and balanced statement of the Oral Law. It displaced all others and became the final authority for legal decisions” (*Mishnah*, Intro., p. 22).

The chief value of the Mishnah in this study is that apart from the disputed Oral Law, it quotes much of the Written Law and contains rules of evidence and procedure, some of which were necessary in the administration of either system of law and about which there was probably no disagreement between the Pharisees and Sadducees.

As to the twenty-two books of the Old Testament (now sub-divided into thirty-nine), including as they do the Pentateuch, Josephus, writing about A.D. 100, is an authority for the statement that by general agreement those books constituted the sacred books of the Jews of his day (*Contra Apion* 1. 8). The general acceptance of their canonicity preceded any decision of the schools, though such a decision was probably made at the Council of Jamnia, c. A.D. 90.

It is outside the scope of this study to discuss why we should accept the authority of the Gospels or the Bible generally, but we share the traditional Christian belief that there is weighty historical and other evidence to justify a belief beyond reasonable doubt that the writers of the Gospels had personal knowledge and information of the matters about which they wrote; that their original writings were read and treasured in the Apostolic Churches; that when the original writings disappeared, authentic copies continued in use; that the greater part of the New Testament was in writing before the fall of Jerusalem in A.D. 70 and that the remainder came into existence soon after that event; that at the beginning of the fourth century the majority, and before its close, all of the Churches had accepted the canon of the New Testament as we have it to-day; and, finally, that in A.D. 397 the Third Council of Carthage ordered that “beside the canonical Scriptures nothing be read in the Church under the title of the divine Scriptures” (see *New Bible Handbook*).

Another valuable source of information is the Works of Josephus. Josephus (A.D. 37-103), the Jewish historian, general and statesman, was of a high priestly royal family, and claimed to be the most learned man of his time in Jewish lore. He was a Pharisee. His "Works" contain a useful collection of "case" law, that is to say, reports of cases tried in the Jewish Courts, and these cases contain interesting information concerning the law, practice and procedure in those Courts. Probably no historian knew more about Pilate, or the manner and customs of the Pharisees and Sadducees, than he.

There is a considerable difference of opinion as to whether or not the proceedings before the Sanhedrin constituted a formal legal trial and whether or not the Mishnah rules were observed. Klausner says that there was no full legal trial by the Sanhedrin but only a preliminary judicial investigation; that the Mishnah rules were not observed and that those rules are at variance with the system in vogue in the time of Jesus (see hereafter). Lord Shaw states a precisely opposite view (at pp. 8, 11 and 12 of his book): "Jesus Christ underwent a double trial. Two great and independent systems of criminal jurisprudence were called into play to determine His fate." Referring to the Sanhedrin of Judges, Lord Shaw says: "It contained apparently the leaders of both the Pharisaic and Sadducean castes. It was moved by traditions which it was bound to respect and which constituted the body of the law. In later years these were consolidated in the Talmud. But the Mishnah, or central body of the Talmud, includes those traditions which were admittedly in force as law when the Christian era began."

It is important to bear in mind that whatever the true nature of the proceedings before the Sanhedrin, that Court purported to convict Jesus of blasphemy, and blasphemy was an offense created by the agreed Written Law and not by the disputed Oral Law.

Our study leads to the conclusion that the Jewish proceedings, whatever their true character, were overshadowed and dominated by the fact that before they commenced, the members of the Tribunal pre-determined the result, namely, the death of the Accused. Such a prejudging of a case would be fatal to the validity of a trial under any system of jurisprudence. In view of this astounding fact, why were there any "proceedings" at all? It

would seem that the Rulers of the Jews desired above all else that the claim of Jesus of Nazareth to be the Messiah should be rejected with every outward show of judicial authority and in a manner most calculated to carry conviction to and secure the support of all shades of Jewish religious and political opinion; that to ensure this result, the Pharisaic and Sadducean Judges sank their differences and staged a “trial,” which was in fact and in intent a mere colorable pretense of a lawfully convened and formally conducted trial, at which they purported to observe not only the agreed Written Law but such of the rules of the Oral Law as did not interfere with their united and unlawful pre-trial determination to put Jesus to death. If this be the true view, there was no genuine Jewish “Trial” or “Investigation.” We also come to the conclusion that it was the Greater Sanhedrin which met during the night and purported to try Jesus, and that the meeting which was held “when the morning was come” was that of a much larger body, a grand Consultative Assembly, which took the decision to bring Jesus before Pilate and thus place the odium for His death upon the Roman Power.

The case purported to be made against Jesus before the Sanhedrin was in substance that He was a false prophet; that He was a sorcerer; that He was teaching a new religion; that He was inciting the people to worship God contrary to the law of Moses; that He was undermining the national religious institutions; that He falsely claimed to be the long-promised Messiah; that He falsely claimed to be “the Son of God,” that is, one in a unique relationship to Jehovah; that all this was insulting to the Deity, and, therefore, was the crime of constructive blasphemy. When before the Sanhedrin Jesus put forward no detailed defense. No doubt there were many reasons for this, but He mentioned one: “If I tell you, ye will not believe.”

When Jesus appeared before Pilate, the charge of “blasphemy” was abandoned and one of “high treason” against Caesar substituted. Contrary to a widely-held view, we see no reason to suppose that Pilate regarded himself as reviewing a decision previously arrived at in another Court. To the charge of high treason, Jesus entered a plea known to English lawyers as “Confession and Avoidance.” He confessed that He claimed to be a King, but “avoided,” that is, denied, the innuendoes implied by His accusers; that is to say, He denied that He claimed to be the sort of King

alleged, namely, a King who was a rival to Caesar. Jesus explained to Pilate that His Kingdom was “not of this world.” The Roman Judge was convinced by the explanation and defense and formally declared Jesus to be not guilty of the charges laid against Him. Before the amazing Roman trial concluded, the Judge envisaged the possibility that he himself might be accused of treason to his Emperor, and to avoid such impeachment, and to prolong his term of office, he condemned to death the Accused he declared to be innocent. But the respite Pilate gained was short-lived. In A.D. 36 he was recalled to Rome to answer the joint accusations of Samaritans and Jews.

## CHAPTER 1

### PRE-TRIAL DAYS

JESUS OF NAZARETH, MESSIAH OF THE JEWS AND SAVIOR OF THE WORLD, was born in the closing days of the reign of the tyrant Herod “the Great.” Herod died in the year of Rome 750 and that year corresponds to the year 4 B.C. It follows, therefore, that Jesus was probably born in the year 4 or 5 B.C. This confused chronology makes it difficult to fix the year of His trial with certainty, and that year is variously stated to be A.D. 29, 30 or 33.

Joseph and Mary fled with Jesus into Egypt to escape the massacre of the infants of Bethany ordered by Herod. Dean Farrar thinks that about twenty-seven infants were involved in the massacre. On their return after Herod’s death they settled in Nazareth in Galilee, of which Joseph and Mary were natives. Here, apparently, Jesus was brought up to Joseph’s trade of carpenter, was “subject to His parents,” and “advanced in wisdom and stature, and in favor with God and man.” At the age of twelve He was taken by His parents to Jerusalem, where He held a discussion with the learned Rabbis, “both hearing them and asking them questions.” “And all that heard Him were astonished at His understanding and His answers.” It is not known whether or not any of these Rabbis took part in His trial some twenty years later. Of the next eighteen years of His life we know nothing. We learn from Luke 3 that Jesus was about thirty years old when He was baptized by John the Baptist. After a period of severe temptation, testing and preparation in the wilderness, He commenced His public ministry. Various estimates have been given of the length of this ministry, the general view being that it lasted for three years at least, covering three, if not four, Passovers. Josephus makes only a brief reference to the trial of Jesus by Pilate and says nothing about a trial before the Sanhedrim Thus: “Now, there was about this time” (*i.e.* the time of Pilate, A.D. 26-36), “Jesus, a wise man, if it be lawful to call Him a man, for He was a doer of wonderful works, a teacher of such men as receive the truth with pleasure. He drew over to Him both many of the Jews, and many of the Gentiles. He was the Christ. And when Pilate, at the suggestion of the principal men amongst us, had condemned Him to the Cross, those that loved Him at the

first did not forsake Him; for He appeared to them alive again at the third day; as the divine prophets had foretold these and ten thousand other wonderful things concerning Him. And the tribe of Christians, so named after Him, are not extinct at this day” (Ant. 18. 3, 3). (This quotation from Josephus is generally regarded by historians as containing Christian interpolations.)

### **JEWISH MESSIANIC HOPES**

After the death of Herod and the distribution of his kingdom among his sister and sons, the Jews made more than one attempt to persuade the Emperor to remove this Idumean monarchy and allow a return of the High Priestly State under the direct control of the Romans. The first attempt failed, and the Emperor confirmed Herod’s distribution of the kingdom; but in A.D. 6, he granted a joint petition of Jews and Samaritans that Judaea should be formed into a Roman province. Archelaus, Ethnarch of Judaea, one of Herod’s sons, was banished to Gaul, and his departure was followed by the arrival of the first Roman Procurator.

### **THE TERRORISTS**

The Petitions to Rome had not been made out of any love for the Romans but as the best way of preserving peace among the contending factions of Jews. The common people, for their part, detested the Roman yoke and looked with suspicion upon the friendship of their Rulers, most of whom were Sadducees, with the Roman authorities. In particular the Zealots, with their left wing the Assassins, the Jewish terrorists of those days, regarded their rulers, to use a modern term, as “Quislings.” The policy of the Zealots was complete and open enmity to the Occupying Power. They appear to have originated as followers of a man called Judas, whose father had been killed by Herod, and they were strongest in Galilee. They refused to pay tribute to Caesar, regarded it as a religious duty to kill Romans, and Jews whom they knew to have Roman sympathies, and were ready to support any prophet or self-styled Messiah who proclaimed the imminent coming of God and the establishment of His Kingdom. The Assassins were even more extreme, and regarded marriage with a Gentile as a crime that merited death, and later went to the length of murdering the High Priest, whom they suspected of pro-Roman sympathies. (See Schofield, p. 292.)

Simon, one of the disciples of Jesus, was a Zealot; and it is probable that Barabbas, in custody for making insurrection against the Romans, who figured in the trial of Jesus before Pilate, was a terrorist who in the course of his sedition and insurrection had murdered a Roman and was on that account popular with his fellow countrymen.

“The age which saw the Birth of the Messiah was quivering with expectation” (Pressensé). Notwithstanding the differences which existed between the various Jewish sects and parties, all, save the Sadducees, were united in the hope that the long-promised Messiah would soon appear and deliver Israel from foreign domination. The Sadducees regarded the Messianic idea as politically dangerous, but did not go so far as to deny it, for they acknowledged the authority of the Scriptures. The Pharisees, on the other hand, who represented the bulk of the people, “believed in the coming of the Messiah with all their hearts, and made it a political and spiritual ideal” (Klausner). Many were ready to cry, “Lo, here: lo, there.”

### **THEUDAS**

Various impostors arose, such as Theudas, of whom Josephus says: “Now it came to pass, while Fadus was procurator of Judea [A.D. 44-46] that a certain charlatan, whose name was Theudas, persuaded a great part of the people to take their effects with them, and follow him to the River Jordan, for he told them he was a prophet, and that he would, by his own command, divide the river and afford them an easy passage over it; and many were deluded by his words. However, Fadus did not permit them to make any advantage of his wild attempt, but sent a troop of horsemen out against them, who, falling upon them unexpectedly slew many of them, and took many of them alive. They also took Theudas alive, and cut off his head, and carried it to Jerusalem” (Ant. 20, 5, 1).

### **JUDAS OF GALILEE**

“After this man rose up Judas of Galilee in the days of the taxing, and drew away much people after him; he also perished; and all, even as many as obeyed him, were dispersed” (Acts 5:37).

## JOHN THE BAPTIST

The advent of John the Baptist, proclaiming “The Kingdom of Heaven is at hand,” created a great sensation.

“Then went out to him Jerusalem, and all Judea,  
and all the region round about Jordan” (Matthew 3:5).

Many thought that possibly John himself was the long-promised Messiah, for they “mused in their hearts whether he were the Christ, or not” (Luke 3:15). The Rulers of the Jews also were gravely perturbed and sent emissaries to question him as to his identity and mission.

“The Jews sent priests and Levites from Jerusalem to ask him, Who art thou? And he confessed, and denied not, but confessed, I am not the Christ. And they asked him, What then? Art thou Elias? And he saith, I am not. Art thou that prophet? And he answered No. Then said they unto him, Who art thou? That we may give an answer to them that sent us. What sayest thou of thyself? He said, I am the voice of one crying in the wilderness, make straight the way of the Lord, as saith the prophet Esaias. And they which were sent were of the Pharisees. The next day John seeth Jesus coming unto him, and saith, Behold the Lamb of God, which taketh away the sin of the world. This is he of whom I said, After me cometh a man who was preferred before me: for he was before me” (John 1:19-24, 29, 30).

Later on, after the murder of John, Jesus asked His disciples “Whom do men say that I the Son of Man am? And they said, Some say that thou art John the Baptist: some Elias [*i.e.* Elijah]; and others Jeremias, or one of the prophets” (Matthew 16:13-14). It is interesting to note that Jesus said to His disciples concerning John the Baptist, “If ye will receive it, this is Elias, which was for to come” (Matthew 11:14).

## MISSION TO THE JEWS

At the beginning of His public ministry, Jesus appears to have confined His Mission to the Jews.

“I am not sent but unto the lost sheep of the house of Israel”  
(Matthew 15:24).

When Jesus sent His disciples forth to preach and to teach, He charged them:

“Go not into the way of the Gentiles, and into any city  
of the Samaritans enter ye not; but go rather to the lost sheep  
of the house of Israel” (Matthew 10:5, 6).

### **MISSION TO THE GENTILES**

The question whether or no Jesus had a Mission to the Gentiles as well as to Israel was a thorny one; it caused much discussion, and, when the Gentiles accepted Jesus, controversy arose as to whether they became Jews or remained Gentiles. In Acts 21 and 22, we read that when Paul was rescued from the Jews by the chief Roman captain and was given permission to address them from the stairs of the castle, they heard him in silence until he mentioned that Jesus had sent him to the Gentiles; when he mentioned that fact pandemonium broke out, and they shouted, “Away with such a fellow from the earth, for it is not fit that he should live.” Again, when “the apostles and brethren that were in Judea heard that the Gentiles had also received the word of God. they that were of the circumcision contended with” Peter on the subject, and he was hard put to it to convince them that believing Gentiles as well as Jews had received the gift of the Holy Ghost (see Acts 11:1-18). Jewish national pride is truly expressed in the Talmud: “Each Israelite is worth more before God than all the people who have been or shall be” (Gfrorer, 1. page. 214).

### **MIXED RECEPTION**

Many found some of the utterances of Jesus to be “hard sayings.” He had a mixed reception. In His own country and amongst His own kith and kin He received but little honor. When He taught in their synagogues they said:

“Whence hath this man this wisdom, and these mighty works? Is not this the carpenter’s son? Is not his mother called Mary? And his brethren. and his sisters, are they not all with us?. Whence then hath this man all these things? And they were offended in him” (Matthew 13:54-57).

“How is it then that he saith, I came down from heaven?. From that time many of His disciples went back, and walked no more with him” (John 6:42, 66).

But, little by little, Jesus increased His hold over the people, and they said,

“When Christ cometh, will he do more miracles than these which this man hath done?” (John 7:31).

The Scribes and Pharisees taught that Jesus was a sorcerer, and did their utmost to discredit and defame Him. Any who confessed that Jesus was the Christ was put out of the synagogue; all such in Jerusalem were excommunicated.

## NICODEMUS

But Nicodemus, a Ruler of the Jews, expressed the view of many when he said to Jesus:

“Rabbi, we know that thou art a teacher come from God: for no man can do these miracles that thou doest, except God be with him”  
(John 3:2).

“Among the chief rulers also many believed on him; but because of the Pharisees they did not confess him, lest they should be put out of the synagogue: For they loved the praise of men more than the praise of God” (John 12:42, 43).

Some would “take Him by force, to make him a king” (John 6:15); others “took. up stones to cast at him” (John 8:59). His life was often threatened. Yet they could not but be impressed by the miracles performed before their eyes and they constantly sought for some great and overwhelming sign as proof of His Messiahship. When Jesus told them that that sign

would be His resurrection from the dead (Matthew 12:39, 40) they failed to grasp His meaning. Jesus was to them the Man of Mystery.

## LAZARUS

The climax in the ministry of Jesus was reached when He raised Lazarus from the dead. This miracle had an electrifying effect upon the population, just as it decided the Pharisees and Sadducees to close their ranks and make common cause against Jesus to put Him to death. It was the immediate cause of the enthusiastic Palm Sunday crowds only five days before His arrest:

“For this cause the people also met him, for that they heard that he had done this miracle. The Pharisees therefore said among themselves, Perceive ye how ye prevail nothing? behold, the world is gone after him”  
(John 12, 18, 19).

## THE MIRACLES

In view of what modern critics say about the miracles of Jesus, it may be emphasized that not only the believers in Jesus but His enemies also accepted the *fact* of the miracles. The great issue in those days was not whether or not the miracles were performed, but by what power they were performed. The believing Jews, such as Nicodemus, were satisfied that Jesus performed the miracles *by the power* of God (John 3:2); while the unbelieving Pharisees contended that Jesus was in league with Beelzebub — a Satanic agency (Matthew 12:24). Jesus was now “mighty in deed and word before God and all the people” (Luke 24:19). The coming Passover would surely see the realization of all their hopes and they would witness some stupendous act of divine intervention which would rout their enemies for ever and restore the Kingdom to Israel.

So it was that towards the end of Christ’s ministry, the whole of Jewry was in a state of expectancy and suspense, a condition which was increased to fever-heat by the raising of Lazarus. At any moment there might be a political or religious explosion which would lead to a sanguinary conflict with the Occupying Power, such as in fact occurred a few years later in A.D. 70, when Jerusalem and the Temple were destroyed and the Jews were scattered with great loss of life; since which time they have

been wanderers on the face of the earth, but always with their faces turned towards Jerusalem.

The times of the great Jewish Festivals — when Jerusalem was the magnet for thousands of pilgrims, the population probably being increased to some three million souls — were occasions of special danger and called for extra vigilance on the part of the Procurator and his legions. (There was in fact a grave riot at the first Feast of the Passover after the death of Herod the Great, in which three thousand Jews were killed) (Ant. 17. 9).

Therefore, it was the custom of the Procurators, at the time of the Feasts, to leave their headquarters at Caesarea on the coast, about sixty miles from Jerusalem, and reinforce the Roman garrison of six thousand troops stationed in the fortress of Antonia adjoining the Temple. It was for this reason that Pilate was in Jerusalem at the time when Jesus was arrested. Pilate had under his command an army of some thirty-five thousand troops, consisting of the 5th, the 10th and the 15th legions and auxiliaries, with which to maintain law and order in Judea.

### **THE ROMAN PROCURATORS**

The removal of Archelaus from Judea in A.D. 6 was followed by the arrival of the first Roman Procurator. The Procurators were paid a fixed stipend from the Imperial treasury. The Procurator was the direct representative of Caesar and responsible to the Emperor for the good government of the Province, notwithstanding that his superior officer was the Imperial Legate of Syria. He was Governor, Administrator and Judge. The High Priest was his nominee and answerable to him for the good behavior of the Jews. The Procurator had the custody of the High Priest's vestments and could and did depose the High Priests at will. Throughout the regime of the Procurators, the Jews continued to be governed by their own Rulers; and the Jewish Courts, the Sanhedrins, continued to function, but always subject to the overriding authority of the Procurator, who deprived those Courts of the power to put any man to death. The Jewish Courts might convict a Jew of a capital offense, and in one case only they might try and convict a Roman; but it was unlawful for the Jewish Court to give effect to the conviction — the case had to be remitted to the Procurator for ratification or otherwise of the conviction. This state of the law was well known to the Jews, as they frankly admitted when accusing Jesus before

Pilate: “It is not lawful for us to put any man to death” (John 18:31). But the High Priest and the Sanhedrin did not always observe this law and sometimes exceeded the jurisdiction permitted to them. The inevitable result was the deposition of the High Priest and the appointment of another. Owing to the frequency with which the Procurators changed the High Priests there were several ex-High Priests alive at the same time. But while no ex-High Priest, *vis-à-vis* the Romans, could represent the Jewish nation, an ex-High Priest performed many other functions of no concern to the Romans. Moreover, whatever the Romans might do, the Jews regarded a High Priest as appointed for life. Annas, the father-in-law of Caiaphas, before whom Jesus first appeared after His arrest in Gethsemane, was the most notable example of a High Priest deposed by the Romans who continued to exercise much power in Jewry after his deposition.

Many a Roman Procurator lost his reputation in Palestine. The Jews were a turbulent race and constantly presented petitions to the Emperor complaining of some act or other of a Procurator.

The first Procurator, Coponius, was in office four years; the second, Ambivius, three years; the third, Rufus, one year. The fourth, Gratus, was in office for eleven years, during which time several High Priests were deposed, their tenure of office being about two years each. The fifth Procurator was Pontius Pilate, who held the position from A.D. 26 to 36, during the whole of which time Caiaphas retained office as High Priest, a significant fact showing how cleverly he walked the political tight-rope. Caiaphas was in office at the time Pilate arrived in Palestine and remained in office until shortly after Vitellius, Legate of Syria, ordered Pilate to return to Rome to report to the Emperor. After Pilate’s departure, Vitellius deposed Caiaphas from the High Priesthood. Caiaphas was succeeded by his brother-in-law, Jonathan.

One interesting and much-debated question which has a bearing on the arrest and trial of Jesus is whether or not the Procurators permitted the High Priests to summon the Sanhedrin without their consent.

The account given by Josephus of the trial and execution of James, the brother of Jesus, in A.D. 62, suggests that such consent was necessary. Josephus (Ant. 20. 9. 1) says: “And now Caesar, upon hearing of the death of Festus, sent Albinus into Judaea, as Procurator. Ananus (the

newly-appointed High Priest and son of Annas) was a bold man in his temper and very insolent. he thought he had now a proper opportunity to exercise his authority. Festus was now dead, and Albinus was but upon the road; so he assembled the Sanhedrin of Judges, and brought before them the brother of Jesus, who was called Christ, whose name was James, and some others. And when he had formed an accusation against them as breakers of the law he delivered them to be stoned; but as for those who seemed the most equitable of the citizens, and such as were most uneasy at the breach of the laws, they disliked what was done. They also sent to the king (Agrippa) desiring him to send to Ananus, that he should act so no more, for that what he had already done was not to be justified; nay, some of them went also to meet Albinus, as he was upon his journey from Alexandria, and informed him THAT IT WAS NOT LAWFUL FOR ANANUS TO ASSEMBLE A SANHEDRIN WITHOUT HIS CONSENT. Whereupon Albinus complied with what they said, and wrote in anger to Ananus, and threatened that he would bring him to punishment for what he had done; on which King Agrippa took the High Priesthood from him, when he had ruled but three months, and made Jesus, the son of Daimmeus, High Priest.”

But it may be that the action of Ananus in summoning the Sanhedrin without the consent of the Procurator was unlawful only because at that time the Procurator, *i.e.* he who personified the Roman Law, was not resident in the country, Festus being dead and his successor not having yet arrived. Or it may be that the true view is that of Schurer, who says: “All that is meant by the statement of Josephus is, that the High Priest had no right to hold a court of SUPREME JURISDICTION in the absence and without the consent of the Procurator” (Schurer, p. 189). In any case, the action of the High Priest and Sanhedrin in carrying out a sentence of death passed by them was obviously unlawful.

## THE RULERS OF THE JEWS

### THE HIGH PRIEST

The most important man in all Jewry was the High Priest. He was the ecclesiastical, administrative, political and judicial head of the Jewish State.

During the Roman occupation, just as the Procurator represented the Roman State, so the High Priest represented the Jewish State. The High Priest was the nominee of the Procurator and was responsible to him for the good order and discipline of the Jews.

Of the High Priests in general, Josephus says (Ant. 20:10): “History informs us that Aaron, the brother of Moses, officiated to God as a High Priest, and that, after his death, his sons succeeded him immediately; and that this dignity hath been continued down from them all to their posterity. Whence it is the custom of our country, that no one should take the high priesthood of God, but he who is the blood of Aaron, while everyone that is of another stock, though he were king, can never obtain that high priesthood.”

The High Priest was also supreme Judge in Israel. “As Moses first presided over the seventy elders, so did the High Priest thereafter preside over the Greater Sanhedrin” (Numbers 1:6; *Mishnah*, Sanhedrin 1. 6; *Ant.* 4. 8. 14).

No one in Israel was allowed to disobey the orders of the High Priest. Schurer says (p.181): “In a document of so early a date as the national decree declaring the combined office of High Priest and Sovereign to be vested by right of inheritance in the family of Simon the Maccabean, it was ordained that nobody was to be allowed to contradict his (Simon’s) orders, or to convene an assembly in any part of the country without his knowledge or consent.”

“In the time of Christ it may be held as certain. that the office of President (of the Sanhedrin) was always occupied by the High Priest for the time being, and that, too, in virtue of his being such” (Schurer, p. 184). These statements are helpful in clearing up the difficulty of deciding whether it was Annas or Caiaphas who presided over the trial of Jesus and in

considering whether or not the High Priest had inherent power to issue a warrant for the arrest of Jesus.

Throughout the public ministry of Jesus the High Priest was a Sadducee.

## **THE SCRIBES**

The Scribes were specialists in religious law. In the time of Jesus most of them were Sadducees. They were the zealous guardians of that law and the real teachers of the people. They were also the legal advisers of the Sanhedrin and acted as clerks of the court. They recorded the proceedings; they sat one at each end of the semicircle of judges; one recorded the arguments in favor of acquittal of the accused, and the other the arguments in favor of conviction. Some Rabbis held that there should be three Scribes in court—the third to record both sets of arguments.

They required of their pupils the most absolute reverence, surpassing even the honor felt for parents. “Let thine esteem for thy friend border upon thy respect for thy teacher, and respect for thy teacher on reverence for God” (*Mishnah*, Aboth. 4. 12). “Respect for a teacher should exceed respect for a father, for both father and son owe respect to a teacher” (*Mishnah*, Kerithoth. 6. 9). They claimed first place in order of precedence. “They love the uppermost rooms at feasts, and the chief seats in the synagogues, And greetings in the markets, and to be called of men, Rabbi, Rabbi” (Matthew 23:6, 7).

It was part of the duty of the Scribes to think out moot points of law upon which the Judges of the Sanhedrin might sharpen their legal wits. The holding of “moots” for the discussion of “nice” points of law has been a favorite pastime of lawyers of all times. To this day “moots” are held in the Inns of Court in London. The Scribes, together with some of the Pharisees, “strained out gnats and swallowed camels.” They grasped at the shadow and lost the substance of the law. They were all for forms and ceremonies; the letter of the law was more important to them than its spirit. They “omitted the weightier matters of the law, judgment, mercy and faith” (Matthew 23: 23). Jesus was careful to uphold the authority of their office, while condemning the way in which they discharged their duties. Said He:

“The Scribes and the Pharisees sit in Moses’ seat: All therefore whatsoever they bid you observe, that observe and do; but do not ye after their works: for they say, and do not” (Matthew 23:2, 3).

## THE PHARISEES

The Pharisees, *i.e.* the Separatists, became a distinctive sect in the second century B.C., in the days of Antiochus Epiphanes. They claimed a superiority, both in knowledge and in observance of the law of Moses. They were the popular and democratic party, and held a position of great influence and authority among their fellows. Their fundamental principle was tradition. They were the custodians of the oral explanations of the Written Law; these explanations, handed down from generation to generation, became tradition. This law of tradition the Pharisees held to have been first delivered to Moses at Sinai; and then to have been gradually completed by decrees of prophets and wise men, and the decisions of lawful authorities in the course of succeeding years. The Pharisees taught absolute obedience to these traditions; but in doing so had reduced themselves to a condition of spiritual slavery and some had become heartless formalists and hypocrites. De Pressensé (p. 99), dealing with the movement of thought in Palestine before the Birth of Christ, says: “From the time of Ezra, and the extinction of the spirit of prophecy, the doctor or rabbi became the foremost personage of the Judaism of the decline. A complete summary of his doctrine is given in the famous precept — ‘SET A HEDGE ABOUT THE LAW AND MAKE MANY DISCIPLES’ (*Talmud*, Pirke Aboth. p. 483). ‘Tradition is the check of the law,’ say the rabbis again. Nothing could be better adapted than such a maxim to exalt their own importance. This revolution is completely achieved in the time of Herod. The doctor boldly claims his place on the highest seat of the hierarchy, and above the prophet. The pride of the scribe rises to such a point that it concludes by seeing in heaven only a school of rabbis; and God Himself appears to be clothed with the rabbinical insignia. (Gfrorer, 1. p. 278). Soon tradition is unhesitatingly placed above Scripture. The rabbi declares that there is danger in reading freely the sacred books, because the disciples may be led to place greater confidence in them than in the words of his master. The Talmud is to be read twice as much as the Bible. Honoring the master is the same thing as honoring God. (Gfrorer, 1. pp. 150, 151).

“To increase their reputation, the rabbis gave their instructions gratuitously: on this account it was that each of them was to learn a trade.

“‘At five years of age,’ says the Talmud, ‘the sacred studies should be commenced; at ten, the youth should devote himself to tradition; at thirteen, he should know and fulfill the commandments of the Lord; at fifteen he should perfect his studies.’

“The disciple who had passed the first degree of learning took his seat at the foot of the doctrinal chair, and had the right to speak. It was needful to pass the third degree of initiation to become a rabbi. The memory had to be singularly exercised to retain the medley of Pharisaic traditions which were not fixed in writing. The disciple promised not to change one iota of that which was transmitted to him, under pain of being untrue to God Himself, and of drawing down the malediction of the chosen people. ‘He who gives explanations, not in conformity with tradition, should have no part in the future world, even though he have well understood the law, and done many good works.’ Nothing can give a just idea of the complicated puerility of such teaching, weaving, as it does, very spiders’ webs in the vacuum of thought. Subtlety which knew no bounds was the reigning genius. It spent itself in the most absurd use of the allegorical, and turned the plainest texts into enigmatical ciphers.”

Referring to the Pharisees’ devotion to tradition, Jesus said:

“Ye have made the commandment of God of none effect by your tradition, teaching for doctrines the commandments of men”  
(Matthew 15:1-9),

and of the Pharisaic formalists themselves He observed’ they “trusted in themselves that they were righteous, and despised others” (Luke 18:9). They thanked God they were not as other men. Amid such pedantic formalists, Jesus grew up “as a root out of a dry ground” (Isaiah 53:2).

Dean Milman (History of Jews, Book 10) says: “The generous and self-devoted Assideans degenerated into the haughty, tyrannical and censorious Pharisees.” They lived an austere life. Josephus likens them to the Stoics.

He also says (Ant. 28. 1. 3.): “They live meanly and despise delicacies in diet and they follow the government of reason. When they determine that all things are done by fate, they do not take away the freedom from men of acting as they think fit, since their notion is that it hath pleased God that events should be decided in part by the council of fate, in part by such as man will accede thereunto, acting therein virtuously or viciously. They also believe that souls have an immortal vigor in them, and that under the earth there will be rewards or punishments, according as they have lived virtuously or viciously in this life; and the latter are to be detained in an everlasting prison, but that the former shall have power to revive and live again.”

It is interesting to recall that when Archelaus was appointed Ethnarch of Judea on the death of his father, Herod “the Great,” and “all the people of the Jews gave assurance of their goodwill to Caesar, and to the King’s (Archelaus’) government, these very men” (*i.e.* the Pharisees) “did not swear, being above six thousand” (Ant. 17. 2. 4). “The Pharisees represented the bulk of the people; they did not allow belief in the Messiah to evaporate into a species of visionaries far removed from practical possibilities; yet they believed in it with all their heart and made it a political and a spiritual ideal” (Klausner, p. 201).

### THE SADDUCEES

The Sadducees were the wealthy political aristocrats of the Jewish people. In the time of Jesus, the Temple and all local government was in the hands of the Sadducean-Boethusean priests; hence “the Chief Priests and the Scribes and the Elders mentioned in the Gospels were almost entirely Sadducees” (Klausner, p. 334). But although they were in office and in power and opposed to the Pharisees in many ways, *they were obliged by public opinion to have regard to the “notions” of the Pharisees*; “otherwise,” says Josephus, “the multitude would not otherwise bear them.” (Ant. 18. 1. 4.)

The Sadducees dominated the Sanhedrin. They derived great wealth from the business side of the Temple services, involving as it did the sale of cattle and birds for the sacrifices and the changing of money from Roman to Jewish currency. The Sadducees must have been particularly incensed

when, on the Monday before His arrest, Jesus drove the money-lenders and cattle dealers from the Temple, saying: “My house shall be called the house of prayer; but ye have made it a den of thieves” (Matthew 21:13). The Sadducees did not share the Pharisees’ enthusiasm for the Messianic idea, “but did not go so far as to deny it” (Klaushner, p. 201). The Pharisees were by nature more lenient in all that concerned punishments (Ant. 13. 10. 6), and “the Sadducees were the harshest of all the Jews in their judgments” (Ant. 20. 9. 1). The Sadducees were not as implacably opposed to the Roman occupation as were the majority of their fellow-countrymen, and no doubt by their cooperation with the Romans won many favors for the Jews (Acts 24:2). They denied the binding authority of any oral additions to the Written Law; they also held that there was no resurrection and no rewards or punishments after death; they did not believe in the existence of angels or spirits, while the Pharisees confessed both (Acts 23:8). The doctrines of the Sadducees made no appeal to the mass of the people and were accepted among the few, most of whom were members of the official and wealthy classes.

### **THE CONSPIRACY**

The cleansing of the Temple was a direct challenge to the authority of the Sadducees, and the raising of Lazarus from the dead was the “last straw” so far as they were concerned, as it was an event which struck at the very roots of their denial of any resurrection. Therefore, they determined to put to death not only Jesus but Lazarus as well

“because that by reason of him many of the Jews went away,  
and believed on Jesus” (John 12:10, 11).

So they joined hands with the Pharisees and made common cause with them against Jesus, their fear being that unless they put Him to death “all men would believe on Him,” and there would probably be an insurrection against the Romans, in which case the latter would “destroy their place and nation,” and they would lose all. Therefore, from the time of the raising of Lazarus, the conspiracy against Jesus was in full swing, with the Sadducees taking the lead.

## JEWISH COURTS

The Jewish communities were governed by their local Sanhedrins. A city with one hundred and twenty men resident therein was entitled to its own Sanhedrin (*Mishnah*, Sanhedrin 1. 6).

According to the Mishnah, there were three Courts of Law in Jerusalem: the Greater Sanhedrin, the Lesser Sanhedrin and an Inferior Court.

The Sanhedrin was not primarily or principally a legal assembly; it combined many functions, ecclesiastical, administrative and legal.

As to the Courts at Jerusalem, one held its sittings at the entrance to the Temple Mount; another at the entrance to the Court of the Temple, and the third in the square chamber. The practice was that "They (the local Court in search of guidance) used to come first to the Court that was at the gate of the Temple Mount, and the one would say: 'In this way have I expounded and in that way have my fellows expounded; in this way have I taught and in that way have my fellows taught.' If they (of that Court) had heard a tradition, they told it to them; otherwise they betook themselves to them of the Court that was at the gate of the Temple Court, and the one would say (repeating the former statement). If they (of that Court) had heard a tradition, they told it to them; otherwise they both came in to the Great Court that was in the Chamber of Hewn Stone, whence the law goes forth to all Israel" (*Mishnah*, Sanhedrin 2. 2).

The Greater Sanhedrin, the Court of One-and-seventy Judges, was the Supreme Court of Appeal; it also sat as a Court of First Instance. "A tribe, a false prophet, or a High Priest may not be tried save by the Court of One-and-Seventy; they may not send forth the people to a battle waged of free choice save by the decision of the Court of One-and-seventy; they may not add to the city, or to the Courts of the Temple.; they may not set up Sanhedrins for the several tribes.; they may not proclaim any city to be an Apostate City save by the decision of the Court of One-and-seventy. "*(Mishnah*. Sanhedrin 1. 5).

The Lesser Sanhedrin, the Court of Three-and-twenty Judges, tried cases (other than the above) concerning offenses punishable by death (*Mishnah*, Sanhedrin. 1. 4).

The Inferior Court of three Judges tried cases concerning property, theft or personal injury and the like (*Mishnah*, Sanhedrin. 1, 2).

### RETRIAL OF CASES

As to the retrial of cases, the Mishnah (Eduroth 1. 5) provides: "A Court cannot annul the opinion of another Court unless it exceeds it both in wisdom and in numbers; if it exceeded it in wisdom but not in number, or in number but not in wisdom, it cannot annul its opinion; but only if it exceeds it both in wisdom and in number."

### QUALIFICATIONS OF JUDGES

It would seem that, excluding the Courts at Jerusalem, the Judges of the Sanhedrins were not necessarily lawyers; they were worthy citizens of high repute. They relied for guidance about the law and procedure upon the professional lawyers (the Scribes), who were the Clerks of the Courts; just as lay justices in English Magistrates' courts are advised by their professional clerks. "If they erred the Scribes kept them in remembrance" (*Mishnah*, Sanhedrin. 5. 5).

### CONVENING OF COURT

In addition to meeting of their own volition, the Sanhedrin could be compelled to assemble on the order of the Procurator (Ant. 20. 9. 1).

### JURISDICTION

The jurisdiction of the Greater Sanhedrin was, in the time of Christ, confined to Judea; but there was a sense in which it enjoyed a larger jurisdiction by consent of Jewish communities living beyond the Judean borders (Schurer, p. 185). For example, we know from Acts 9 that the High Priest armed Saul of Tarsus with letters to Damascus to the synagogues, that if he found any of the Christian way of life he could arrest them and bring them bound to Jerusalem for trial.

In view of the fact that so many people think of the Sanhedrin as a purely Ecclesiastical Court, the following extract from Schurer (p. 185) is interesting: "There could not possibly be a more erroneous way of defining

the extent of its jurisdiction as regards the kinds of causes with which it was competent to deal than to say that it was the spiritual or theological tribunal in contradistinction to the civil judicatories of the Romans. On the contrary, it would be more correct to say that it formed, in contrast to the foreign authority of Rome, that supreme native Court which here, as almost everywhere else, the Romans had allowed to continue as before, only imposing certain conditions with regard to competency. To this tribunal, then, belonged all those judicial matters and all those measures of an administrative character which either could not be competently dealt with by the inferior local courts or which the Roman Procurator had not specially reserved for himself.”

There was apparently only one case in which, if a Roman committed an offense, the Sanhedrin could try the Roman. That was if a person who was not a Jew passed the barrier at the Temple in Jerusalem, beyond which only Jews could go, and thus intrude into the inner Court; he was punished with death, and that even though he were a Roman. Titus referred to this matter in his speech to the Jews during the siege of Jerusalem, when he was trying to save the Temple from destruction: “Did we not grant you permission to put to death any one who went beyond the barrier, even though he were a Roman?” (Wars, 6. 2. 4). But even in such cases the condemnation still required confirmation by the Roman Procurator.

## CHAPTER 2

### THE HEBREW TRIAL RECONSTRUCTION OF EVENTS

#### THE ARREST

Jesus went forth with his disciples over the brook Cedron, where was a garden, into the which he entered, and his disciples. And Judas also, which betrayed him, knew the place: for Jesus often times resorted thither with his disciples.

Judas then, having received a band of men and officers from the chief priests and Pharisees, cometh thither with lanterns and torches and weapons.

Jesus therefore, knowing all things that should come upon him, went forth, and said unto them, Whom seek ye? They answered him, Jesus of Nazareth. Jesus saith unto them, I am he. And Judas also, which betrayed him, stood with them.

As soon then as he had said unto them, I am he, they went backward, and fell to the ground.

Then asked he them again, Whom seek ye? And they said, Jesus of Nazareth.

Jesus answered, I have told you that I am he: if therefore ye seek me, let these go their way.

Then Simon Peter having a sword drew it, and smote the high priest's servant, and cut off his right ear. The servant's name was Malehus.

Then said Jesus unto Peter, Put up thy sword into the sheath: the cup which my Father hath given me, shall I not drink it? Then the band and the captain and officers of the Jews took Jesus and bound him (John 18:1-12).

## ANNAS

And led Him away to Annas first; for he was father in law to Caiaphas, which was the high priest that same year (v. 13).

Now Caiaphas was he, which gave counsel to the Jews, that it was expedient that one man should die for the people (v. 14).

### PETER DENIES JESUS

And Simon Peter followed Jesus, and so did another disciple: that disciple was known unto the high priest, and went in with Jesus into the palace of the high priest. But Peter stood at the door without. Then went out that other disciple, which was known unto the high priest, and spake unto her that kept the door, and brought in Peter.

Then saith the damsel that kept the door unto Peter, Art not thou also one of this man's disciples? He saith, I am not.

And the servants and officers stood there, who had made a fire of coals; for it was cold: and they warmed themselves: and Peter stood with them, and warmed himself (v. 15-18).

And Simon Peter stood and warmed himself. They said therefore unto him, Art not thou also one of his disciples? He denied it, and said, I am not.

One of the servants of the high priest, being his kinsman whose ear Peter cut off, saith, Did not I see thee in the garden with him? Peter denied again: and immediately the cock crew (v. 25-27).

And Peter remembered the word of Jesus, which said unto him, Before the cock crow, thou shalt deny me thrice. And he went out, and wept bitterly (Matthew 26:75).

### JESUS BEFORE CAIAPHAS

The high priest (Caiaphas) then asked Jesus of his disciples, and of his doctrine. Jesus answered him, I spake openly to the world; I

ever taught in the synagogue, and in the temple, whither the Jews always resort; and in secret have I said nothing.

Why askest thou me? ask them which heard me, what I have said unto them: behold, they know what I said.

And when he had thus spoken, one of the officers which stood by struck Jesus with the palm of his hand, saying, Answerest thou the high priest so?

Jesus answered him, If I have spoken evil, bear witness of the evil: but if well, why smitest thou me? (John 18:19-23).

Now the chief priests, and elders, and all the council, sought false witness against Jesus, to put him to death; but found none: yea, though many false witnesses came, yet found they none. At the last came two false witnesses,

### **THE EVIDENCE**

And said, This fellow said, I am able to destroy the temple of God, and to build it in three days (Matthew 26:59-61). (We heard him say, I will destroy this temple that is made with hands, and within three days I will build another made without hands. But neither so did their witness agree together) (Mark 14:58-59).

And the high priest arose, and said unto him, Answerest thou nothing? what is it which these witness against thee? But Jesus held his peace. (Matthew 26:62, 63).

### **THE SOLEMN ADJURATION**

And the high priest answered and said unto him, I adjure thee by the living God, that thou tell us whether thou be the Christ, the Son of God.

Jesus saith unto him, Thou hast said: nevertheless I say unto you, Hereafter shall ye see the Son of man sitting on the right hand of power, and coming in the clouds of heaven (Matthew 26:63-64).

## THE CONVICTION

Then the high priest rent his clothes, saying, He hath spoken blasphemy; what further need have we of witnesses? behold, now ye have heard his blasphemy. What think ye? They answered and said, He is guilty of death (Matthew 26:65-66).

## THE MOCKING

Then did they spit in his face, and buffeted him; and others smote him with the palms of their hands, saying, Prophecy unto us, thou Christ, Who is he that smote thee? (Matthew 26:67-68).

## THE GRAND CONSULTATION

And straightway in the morning the chief priests held a consultation with the elders and scribes and the whole council, and bound Jesus, and carried him, away, and delivered him to Pilate (Mark 15:1).

THE ARREST, TRIAL, CRUCIFIXION AND DEATH OF JESUS appear to have occurred in the brief space of about fifteen hours, during the fateful 14/15th day of Nisan (April) in the year A.D. 29, 30 or 33. It does not seem possible to fix the year with certainty. It is a matter of some difficulty to get a clear idea of the exact hour and the order in which the various incidents took place, but by comparison of the accounts given in the four Gospels, the probable times and order would seem to be as follows:

<p><i>About midnight</i> <i>Midnight to daybreak</i></p>	<p>The arrest. Jesus appeared before <i>Annas</i> (John 18:13) <i>Trial before Caiaphas and Sanhedrin</i> (Matthew 26:57).</p>
<p><i>Daybreak: 6 a.m.</i> (‘When the morning was come’)</p>	<p><i>Grand Consultation</i> of “Chief Priests Elders, Scribes <i>and</i> the whole Council” (Mark 15:1)</p>

<i>Sunrise</i> (i.e. 6 a.m. to 9 a.m.) (12th to 3rd hour.)	<i>Trial</i> before Pilate (Matthew 27:2), Herod and Pilate—Trial resumed (Luke 23:7 and 11).
<i>9 a.m. to Noon</i> (3rd to 6th hour.)	Procession to Calvary and Crucifixion (Mark 15:35)
<i>Noon to 3 p.m.</i> (6th to 9th hour.)	Jesus on the Cross (Matthew 27:45).
<i>3 p.m. (9th hour)</i>	Jesus expired on the Cross (Matthew 27:46-50)

### THE ARREST

As we have seen, from the time Lazarus was raised from the dead, the Rulers of the Jews conspired to put Jesus to death.

For some time before the arrest of Jesus, the Rulers had tried to “entangle him in his talk” (Matthew 22:15) and, without success, to obtain evidence against Him of seditious activities.

“They sent out unto him their disciples with the Herodians, saying. Is it lawful to give tribute to Caesar, or not?” (v. 27)

and

“when they brought unto him a penny, he saith unto them, Whose is this image and superscription? They say unto him, Caesar’s. Then saith he unto them, Render therefore unto Caesar the things which are Caesar’s; and unto God the things that are God’s” (v. 21).

On a previous occasion the Pharisees and the chief priests had sent officers to arrest Jesus (John 7:32); but the officers returned empty handed. On being called upon to explain their failure they replied “never man spake like this man” (v. 46). Presumably they had been instructed to listen to what Jesus said, and, if they heard anything that could be used as evidence against Him, they were to effect His arrest. No such evidence had been forthcoming. Nicodemus, one of the Rulers, made bold to criticize his colleagues and reminded them of a fundamental principle of Jewish law”

“Doth our law judge any man, before it hear him, and know what he doeth?” (v. 51). As the Ministry of Jesus progressed and His fame spread throughout all Jewry the Rulers became increasingly alarmed for their own personal position. They were no doubt aware that already some five thousand persons had talked of making Jesus a King by force (John 6:15). Said the Rulers:

“What do we? For this man doeth many miracles. If we let him thus alone, all men will believe on him: and the Romans shall come and take away both our place and nation” (John 11:47, 48).

The high priest, Caiaphas, counseled: “It is expedient for us that one man should die for the people, and that the whole nation perish not. Then from that day forth they took counsel together for to put him to death.” But “*not on the feast day*, lest there be an uproar among the people” (Matthew 26:5).

“Jesus therefore walked no more openly among the Jews; but went thence into a country near to the wilderness, into a city called Ephraim, and there continued with his disciples. And the Jews’ passover was at hand: and many went out of the country up to Jerusalem before the passover. *Then sought they for Jesus*, and spake among themselves as they stood in the Temple, What think ye, that he will not come to the Feast?” (John 11:54-56).

### “NOT AT THE FEAST DAY”

There were the obvious reasons for this decision. At the time of the feasts, particularly at the Feast of the Passover, the ordinary population of Jerusalem was vastly increased and the housing accommodation was quite inadequate for the influx of pilgrims. The overflow of visitors camped outside the city walls. These pilgrims were religious enthusiasts and every Jew was an intense nationalist in outlook. For three years the people had been in expectation and suspense; the atmosphere in Jerusalem was tense. In the Courts of the Temple, the worshippers anxiously inquired of each other “Think ye that He will not come to the feast?” The crowds were apparently on the tip-toe of excitement as if they expected that this would be the most momentous Passover Feast — as, indeed, it turned out to be— since the great deliverance was wrought in Egypt (1444 B.C.). Would Jesus

prove His claim to the Messiahship by some great and spectacular sign and thus put an end to all speculations and doubts?

In accordance with his usual practice, Pilate moved his headquarters from Caesarea to Jerusalem. He was thus on the spot ready to deal personally with any trouble that might arise. There had already been clashes between the Jews and Pilate, to which we shall refer later. But, although the Roman garrison was strengthened, it was vastly outnumbered by the populace, and any fanatical Zealot, laboring under deep religious and nationalist conviction, might easily be moved to call the attention of his compatriots to the fact; and once trouble started who could say where it would end? If the great Prophet and Teacher were arrested how great an uproar might not be caused? Moreover, the Feast was at hand, and according to the Pharisaic law it was not lawful for the Sanhedrin, either the Greater or the Lesser Sanhedrin, to sit on the eve of a Sabbath or on the eve of or during a festival (*Mishnah*, Sanhedrin 4. 1.). Therefore, if Jesus were arrested at or just before the Feast, it would be necessary that He should be remanded in custody, in the “common prison” (Acts 5:18) for nine days — until the Feast was over. Who could say what disturbances might not break out during that time and what attempts at rescue essayed either during the remand or when Jesus appeared in Court? No. Caution advised “No arrest at the Feast; wait until the masses of pilgrims have returned home.” But an event occurred which altered all their plans. To their joyful surprise, a few days before the Passover, Judas Iscariot, one of the disciples of Jesus, approached them with an offer to betray Jesus to them at the first convenient opportunity. To this they gladly agreed, and a foul bargain was struck. Thereafter the rulers waited in hourly expectation of the vital message, and no doubt all members of the Sanhedrin were warned to be prepared to answer a summons at a moment’s notice. On the Thursday night the message came, and orders were issued for Jesus to be arrested at the time and place indicated by the traitor.

### JUDAS ISCARIOT

“One of you is a devil” (John 6:70). Thus spake Jesus of Judas. We bear that fact in mind in speaking of Judas. When Judas performed his devilish act of betrayal, all his Master said to him was: “Judas, betrayest thou the Son of Man with a KISS?” No outburst of anger. No upbraiding. No

condemnation. Just a quiet, pained remark, making it clear to Judas that His Master thoroughly appreciated the true nature and quality of his pretended act of affection.

Later, when he saw that Jesus was condemned, Judas “went and hanged himself” (Matthew 27:3-5). Surely, Jesus included Judas in His prayer, “Father, forgive them, for they know not what they do”?

### **WARRANT FOR ARREST?**

Was a warrant issued by the High Priest or Annas or the Sanhedrin for the arrest of Jesus?

The most important rule of Jewish Law about arrest was that whoever witnessed the commission of an offense or had personal knowledge of it was under a duty to bring the offender before the Court. By this means citizens assisted in the maintenance of law and order, and in the administration of justice. (Deuteronomy 17:2-5 and Leviticus 5:1.) A somewhat similar rule obtains in English Law. “The common law of England grants to private persons the power of arrest in certain circumstances for the preservation of the peace. Thus, a private person is justified in arresting any of the King’s subjects if there be a breach of the peace actually continuing, or if he has reasonable grounds for believing that a breach of the peace which has been committed will be renewed. It is also clear that any bystander may, and ought, to interfere to part those who are breaking the peace, and to stay those who are going to join them.” “Any person present may arrest the affrayer at the moment of the affray, and detain him until his passion has cooled, and his desire to break the peace has ceased, and then deliver him to a police officer.” “Again, any private person, who was present at the time when a felony was committed, may and ought to arrest or aid in arresting the offender. He may even break into a private house in order to prevent the commission of a felony. Statute law has given further powers of arrest to a private individual in many cases.” (Odgers on *The Common Law of England*, Vol. 1, p. 47.)

In a Jewish Court the trial did not usually commence with the preferring of a charge. The procedure was that the accused being before the Court, witnesses gave evidence of the matters complained of; if at least two witnesses corroborated each other about facts which disclosed the

commission of an offense, a charge was then preferred; the offense disclosed by their depositions became the offense which the Court had to try; presumably it would be the task of the Scribes to formulate the charge indicated by the evidence and to make a note thereof in the Court records. Until this was done there was no formal accusation or charge before the Court and the prisoner was not only deemed to be innocent but unaccused. In Jewish law, as in English law, there was a presumption of innocence, and the onus of proving the guilt of the accused always rested on those making the allegation. If the evidence of the “prosecution” failed to disclose an offense, then, as in English law, so in Jewish law, there was no case for the accused to answer; no one was entitled to question the accused in Court for the purpose of making him incriminate himself, and so make up for the shortcomings of the prosecution; in such cases the accused was “not guilty” and entitled to be discharged forthwith.

But to return to the question of a “warrant.” Some commentators think that neither the High Priest nor the Sanhedrin had power to issue a warrant for the arrest of a person suspected of having committed an offense.

It is, however, reasonably clear from the New Testament that such warrants were issued. Thus, in Acts 9:1, 2, we read:

“And Saul, yet breathing out threatenings and slaughter against the disciples of the Lord, went unto the high priest, And desired of him letters to Damascus, to the synagogues, that if he found any of this way [*i.e.* of the Christian persuasion], whether they were men or women, he might bring them bound unto Jerusalem.”

Again, in Acts 26:10, when making his defense before King Agrippa, Paul said: “Many of the saints did I shut up in prison, having received authority from the chief priests.” Yet again: “I went to Damascus with authority and commission from the chief priests.”

We have already seen, at page 30, that no one was to disobey the orders of the High Priest; that the High Priest was Chief Justice in Israel; and that it was the Greater Sanhedrin which sent the law forth to Israel. The Sanhedrin exercised not only judicial but executive and administrative functions, and obviously controlled the Jewish Police. Moreover, there is nothing incongruous in the idea of a Court issuing a warrant for the arrest

of a person who is to be tried by that Court; this is done every day in English Courts of law. It is, indeed, difficult to appreciate how any system of criminal jurisprudence could be made to function without such powers. Without them, how could a fugitive offender be apprehended and brought to justice? In England a person may be brought before a Magistrates' Court in any one of three ways: either by arrest while in the act of committing an offense (the practice most favored by the Jews), or on a warrant or a summons issued by the magistrates who try the case.

There would therefore seem to be every justification for supposing that both the High Priest and the Sanhedrin had inherent jurisdiction to issue a warrant for the arrest of Jesus.

Further, consider the probabilities of the situation. Judas Iscariot presents himself to the chief priests, presumably at the very house of the High Priest, to announce his proposals. Would not Caiaphas and Annas be the first persons to be informed? Certainly Caiaphas was High Priest, but knowing what we do about Annas, is it likely that he would permit himself to be ignored on such an important manner? He was the power behind the Jewish State and the plans for the arrest having been made, is it not probable that either Annas or Caiaphas then and there wrote an order to the officer in charge of the Temple Guard ordering him to make the arrest at the time and place indicated by Judas? If such an order were issued, that order would be a "warrant" for the arrest of Jesus. In view of the fact that "Jesus was taken first before Annas" is it not clear that if he did not actually sign the warrant or give an oral order for the arrest, he, at any rate, was fully conversant with all that was being done?

So far as power to issue a summons was concerned, the case of Herod of Galilee, reported by Josephus in Ant. 14. 9, makes it clear that in practice the High Priest did issue summonses, and that they were obeyed, even by persons of exalted rank. That case also reveals the interesting fact that an accused person on arraignment was expected to present himself before the Court with due humility and clad in a black and mourning garment. Josephus, after mentioning that the chief men of the Jews were in fear of Herod because he had slain one Hezekias and others, says that they complained to the High Priest, Hyrcanus, who was also king, that Herod "hath thereby transgressed our law, which hath forbidden to slay any man,

even though he were a wicked man, unless he had been first condemned to suffer death by the Sanhedrin; yet hath he been so insolent as to do this, and that without any authority from thee. Hyrcanus was so moved by these complaints, THAT HE SUMMONED HEROD TO COME TO HIS TRIAL, for what was charged upon him. Accordingly he came.” But the insolent and truculent manner in which Herod answered the summons and appeared before the Court, accompanied as he was by some of his soldiers, caused a member of the Sanhedrin, one Seme as, “a righteous man he was,” to make an oration which included the following illuminating observations: “O you that are assessors with me, and O thou that art our King, I neither have ever myself known such a case, nor do I suppose that any of you can name its parallel, *that one who is called to take his trial by us* ever stood in such a manner before us; but everyone, whosoever he be, that comes to be tried by this Sanhedrin, presents himself in a submissive manner, and like one that is in fear of himself, and that endeavors to move us to compassion, with his hair disheveled, and in a black and mourning garment; but this admirable man Herod, who is accused of murder, and called to answer so heavy an accusation, stands here clothed in purple, and with the hair of his head finely trimmed, and with his armed men about him, that if we shall condemn him by our law, he may slay us, and by overbearing justice, may himself escape death.”

In the foregoing circumstances it Would seem that the High Priest, acting as such or in the name of the Sanhedrin had power to issue either a warrant or a summons.

### **WHAT OFFICIALS ARRESTED JESUS?**

Was Jesus arrested solely by the Jewish Police, *viz.* the Temple Guard, such as were sent to arrest Him on the previous occasion (John 7:32) or did Roman soldiers assist? Much has been written on this point and commentators are not agreed. Matthew, Mark and Luke do not suggest the use of Romans, but there is a word used by John which causes some writers to think that a Roman tribune, or officer, was present. It is noteworthy that no one suggests that Romans were employed on the previous occasion.

It would seem that there are good reasons for thinking that only Jewish officials were engaged in the arrest of Jesus in the Garden of Gethsemane. Jesus was not arrested upon any definite charge. If Roman aid had been sought, Pilate, or the Roman officer responsible for making the arrest, would want to know what the charge was. Pilate, like his predecessors and successors in office, was notoriously irritated by the constant squabbles among the Jews about the interpretation of their law; he declined to intermeddle in such matters. If the Rulers of the Jews asked for Roman assistance in arresting a Jew on a charge of blasphemy, he would almost inevitably reply "see ye to it." Indeed, when Jesus eventually appeared before him, his first reaction was to say to the Jews, "Take ye him, and judge him according to your law" (John 18:31). Moreover, once they had disclosed to Pilate their intention to arrest Jesus, the fate of Jesus would not rest entirely with them; and if they entertained the idea of doing away with Jesus themselves in defiance of the Roman edict not to put any man to death, their plans might be frustrated by going to the Romans for assistance. It appears that it was not until the Grand Consultation held by the Rulers of the Jews "when the morning was come" (Matthew 27:1), after Jesus had been condemned, that the decision was taken to bring Jesus before Pilate. Up to that time, the Rulers may have had it in mind to put Jesus to death themselves as they subsequently did in the case of James the brother of Jesus (see p. 28). Of course, the Jewish Rulers knew well enough "it is not lawful for us to put any man to death" (John 18:31), but they sometimes took a chance and ignored the Roman edict, always with disastrous consequences to the High Priest of the day, as we have already seen and as Annas well knew. But the strongest reason for supposing that the Rulers did not consult Pilate about the arrest surely is that there was absolutely no need to do so; it was clear from what Judas Iscariot had told them that there would be no difficulty at all in arresting Jesus in the dead of night, in the open, and when He would be alone except for His eleven disciples.

### **THE JEWISH PROCEEDINGS**

Many and varied opinions have been expressed concerning the part played by Annas, the order and nature of the Jewish proceedings, particularly the

two meetings of the Rulers, the constitution of the tribunals, and the system of law in force at the time and in fact applied.

We make a brief summary of some of those views. The Italian lawyer, Rosadi, appears to take the view that Annas questioned Jesus while the Sanhedrin was being summoned; that “the condemnation of the Sanhedrin was pronounced by night” (p. 158), that the second meeting was held “simply to refer the case to Pilate” (p. 160), and that “the Talmudic compilations do represent the Mosaic law such as it had become in the last days of the Jewish State” (p. 167). Klausnet (pp. 334-336) says: “Mark 10:23 and the genuine part of Josephus’s paragraph about Jesus (of which the bulk is spurious) assert that Jesus was delivered ‘to the Gentiles’ or ‘to Pilate’ by the ‘Chief Priests and Scribes’ or by ‘the principal men among us.’ These statements are all of them comprehensible if we assume that the Sanhedrin only carried out a preliminary inquiry and, when the charge was proved against Jesus, delivered Him to Pilate, who alone conducted the trial proper and passed sentence. Thus we see why the procedure of the ‘trial’ as conducted by the Sanhedrin does not conform with the details of procedure laid down in the Mishnah; was not a trial but only a preliminary judicial investigation and, as such, it was altogether fair and legal.

“It is gradually being recognized, however, that the real reason why the Mishnah rules are at variance with the system in vogue in the time of Jesus, is that between the two periods (the time of Jesus and the time of the Rabbi Yehuda he-Nasi) there intervened two hundred years and many and great changes. The trial of Jesus was not in accordance with the spirit of the Pharisees, but of the Sadducees and Boethuseans (then the majority in the Sanhedrin), to which the High Priest, the president of the Sanhedrin, belonged.” Lord Shaw says (p. 8): “Jesus Christ underwent a double trial. Two great and independent systems of criminal jurisprudence were called into play to determine His fate.” Lord Shaw does not distinguish between the two meetings of the Sanhedrin, and treats of only one; he also assumes that the Sanhedrin was bound by the “Mishnah Law,” which, he says, was admittedly in force (pp. 11, 12).

Dr. Edersheim (pp. 579-584) says: “We know absolutely nothing of what passed in the house of Annas—if, indeed, anything passed, except that

Annas sent Jesus bound to Caiaphas.” “Christ was not tried and sentenced in a formal meeting of the Sanhedrin. terrible as the proceedings of that night were, they even seem a sort of concession—as if the Sanhedrists would fain have found some legal and moral justification for what they had determined to do.” As to the meeting after daybreak, he says: “It is not unreasonable to suppose that some who would not take part in deliberations which were virtually a judicial murder might, once the resolution was taken, feel in Jewish casuistry absolved from guilt in advising how the informal sentence might best be carried into effect. It was this, and not the question of Christ’s guilt, which formed the subject of deliberation on that early morning.”

Mr. Taylor Innes, the Scottish advocate, (p. 23), says: “It is extremely difficult to decide whether this examination by the ‘High Priest’ was made by Annas or by Caiaphas. It appears in any case to have been wholly illegal. There is no difficulty in arriving at the order of the historical transactions. The visit to Annas and the transfer to Caiaphas came first, with the interrogation of the Accused by one or other of the High Priests. About this time came the denial of Peter. while some time must have been consumed in sending for witnesses and summoning either the whole Council or some members. That the whole Council did not meet at night is unquestionable; that a certain number of them were present by night with Caiaphas is equally clear. Assuming that there was a final and formal meeting of the whole Sanhedrin at its usual morning hour, it is barely possible that the vivid scene of the adjuration, confession and sentence took place before it.” He goes on to say that it is much more likely that that scene took place earlier and that that earlier meeting was preceded by a still earlier transactions the examination of witnesses and the deliberation on their evidence—and that this must have taken place some time during the night. He expresses the view that, whatever the true order and nature of the proceedings, they were absolutely illegal, being contrary to the Mishnah law, which he holds was in force.

The French scholar, Mons. E. De Pressense (pp. 508-510), says that Annas “plays in the trial of Jesus the part of an examining magistrate.” “The trial of Jesus was gone through according to form in the presence of the Sanhedrin, presided over by Caiaphas. The endeavor was to establish, if possible, a ground of accusation which might ensure a sentence of capital

punishment from the Roman Governor, in whom alone was vested the power of life and death.” De Pressensé treats of only one meeting of the Sanhedrin. Finally, we would mention that one view, widely held today, is that the meeting of the Sanhedrin held after daybreak, was of the Greater Sanhedrin; that the proceedings during the night were in the nature of a personal investigation by the High Priest, assisted by some members of the Sanhedrin; and that the purpose of this investigation was to expedite the trial by the Greater Sanhedrin in the morning. Further, that because the Sadducees dominated the Sanhedrin and repudiated the Pharisaic “Mishnah” law, that system of law was not in force at the time of the trial.

### **THE RULERS’ PLAN**

As we have seen, from the time Jesus raised Lazarus from the dead, the Rulers of the Jews conspired to put Jesus to death. It is abundantly clear from the Gospel narratives, that there was no question of holding a careful and judicial investigation into the claim of Jesus to be the Messiah. **THE DECISION WAS TO KILL JESUS.** This fact cannot be over emphasized, for it dominates the events which took place after the arrest and fixes the true character of the so-called Jewish “trials.” In our view these trials were merely part of the machinery employed to kill Jesus.

The Jewish plan seems to have been to arrest Jesus, to stage a trial before the Sanhedrin; to induce Jesus when before the Court formally to make His claim to be the Messiah, immediately to denounce the claim as blasphemy; thereupon to condemn Him as being worthy of death and then to kill Him. By this means the Jewish people would be left under the impression that the great question which had agitated their minds for three long years had been formally investigated and adjudicated upon once for all in the Supreme Court from which “the law went forth to all Israel.” Thus the nation would be presented with a decision which was apparently clothed with all the weight and sanction of the law and the Rulers would hope to secure for their action, as they did, in fact, secure, the almost unanimous support of all shades of Jewish religious and political opinion — a support which has continued to this day.

## ANNAS

*“And led him away to Annas first”* (John 18:13). After His arrest Jesus was taken before Annas first. Why to Annas when, in fact, Caiaphas was the officially appointed High Priest recognized by the Procurator as such? In trying to form a reasonable answer to this question it is helpful to know what manner of man Annas was’ his reputation, his position in life, his outlook, the way fortune had dealt with him and, most important of all, his hopes and his fears both for the future of the Jewish nation and of his own class.

The House of Annas was the most powerful in all Jewry and was detested by the common people. Annas, who was a Sadducee, was appointed High Priest in A.D. 7, and deposed by the Roman Procurator Gratus in A.D. 14 for exceeding the jurisdiction permitted him by the Occupying Power. He was successful in getting no less than five of his sons appointed to the High Priesthood, to say nothing of his son-in-law Caiaphas and one grandson. He appears to have been a far more forceful and powerful character than Caiaphas. He was the father of the Annas (or Ananus) who, when High Priest in A.D. 62, executed James the brother of Jesus, for which act he was deposed by Agrippa after only three months of office. Some commentators think that Annas and Caiaphas either lived (as the Oriental custom of families was) in the same house or adjoining houses. There seen as to be little doubt that at the time of the trial of Jesus, Annas, Caiaphas, Pilate and Herod were all residing within a “stone’s throw” of each other. As the chief Sadducee of his day, Annas would be particularly angered at the miracle of the resurrection of Lazarus from the dead and at the act of Jesus in driving the money-changers and cattle-dealers from the Temple precincts. The House of Annas derived much of its wealth from the business side of the Temple activities. The cleansing of the Temple was a direct interference by Jesus with the authority of Annas and his class. He and his like were filled with envy at the hold Jesus was obtaining over the people. Annas took full advantage of the fact that, although he had been deposed by the Romans, the Jews regarded a High Priest as appointed for life. After his deposition he continued to be the power behind the Jewish State. He would be in full accord with — if, indeed, he did not instigate— the advice of Caiaphas to the Sanhedrin: “It is expedient for us that one man should die for the people.” He and his

relations did very well out of the concordat reached with the Romans on the banishment of Archelaus in A.D. 6, and he would be the last to want this convenient arrangement disturbed. As a Sadducee he had little sympathy with the Messianic idea. In the meantime his son-in-law, Caiaphas, was a useful tool in his hands. What we know of Annas makes it easy to believe that when the unexpected news came that Judas Iscariot was prepared to betray his Master, he would have a considerable say in the arrangements for the arrest and would give orders that Jesus was to be brought before him immediately the arrest had been effected.

Annas appears to have questioned Jesus but never to have made any attempt to discover whether or not His claim to be the Messiah was well founded. In view of his leading position in the State, a special responsibility rested upon him before God and the people; but, like the rest of his co-religionists, he was smitten with the “partial blindness” and “ignorance” referred to by the Apostle Paul in his Epistle to the Romans. Annas should have been the first to examine and seek to understand the statement of Jesus: “Think not that I am come to destroy the law, or the prophets: I am not come to destroy, but to fulfill. For verily I say unto you, Till heaven and earth pass, one jot or one tittle shall in no wise pass from the law, till all be fulfilled” (Matthew 5:17). He must have been well aware of the fact that Jesus had bidden the people to “beware of the leaven of the Sadducees” (Matthew 16:6), and would know that whatever might be the nature of the kingdom which Jesus taught He had come to establish, there would be no place of honor in it for him and his colleagues while they persisted in their way of life. He therefore realized with Caiaphas that he stood to lose all that he held dear in this life (and as a Sadducee he had no belief in another) if the Ministry of Jesus succeeded, and he and Caiaphas were undoubtedly the ringleaders in the campaign to put Jesus to death.

The Gospel records do not state expressly whether it was Annas or Caiaphas who presided over the Sanhedrin before which Jesus appeared. We should, however, have little doubt on this point if we recall that John expressly mentions that Caiaphas was the High Priest and that the questions were put by the High Priest; that the High Priest (and not an ex-High Priest) was the supreme Judge in Israel; that only the Greater Sanhedrin could try a false prophet; that the High Priest was the President

of the Greater Sanhedrin and the one who by Jewish law and tradition presided over the deliberations of that Tribunal.

## CAIAPHAS

*“Annas had sent Jesus bound unto Caiaphas the high priest”* (John 18:24).

Historians and commentators do not paint a flattering picture of Joseph Caiaphas, the man upon whom devolved a responsibility unequalled in the experience of any other Jewish Judge.

He was appointed High Priest by the Procurator Valedus Gratus in A.D. 14 and deposed by Vitellius in A.D. 36, after the recall of Pilate to Rome. He was succeeded in office by his brother-in-law, Ananus (Ant. 20. 9. 1.).

“Of all men mentioned in the crucifixion records, Caiaphas is surely the most despicable. He was that not uncommon phenomenon—a man of low character in a high place. In religion he found, not a conviction, but a career; and so there fell upon him the nemesis of those who traffic in high things, without making to them an adequate spiritual response” (Hastings).

Caiaphas was in once when Pilate landed in Palestine in A.D. 26 to assume the reins of government, and, as before mentioned, remained High Priest throughout the whole of Pilate’s tenure of office, though this fact is far from meaning that during that time there were no clashes between Pilate and the Jews; on the contrary, there were many, but they did not bring about the downfall of Caiaphas.

It is said that Pilate and Caiaphas were good friends. It is noteworthy that no mention is made of the presence of Caiaphas in the Praetorium when Jesus was before Pilate. But one would hardly expect the head of the Jewish State to attend personally a trial in the Roman Court. The account in Acts 25 of the trial of the Apostle Paul suggests that whereas the High Priest might appear personally before the Roman Governor to make representations about the trial of a case, he would not personally conduct the case or be present at the trial before the Procurator. Nevertheless, by means of his colleagues who were present, the High Priest could strongly influence the presentation of the case before the Roman Judge, and this is what happened while Jesus was before the Roman Court.

## JESUS BEFORE THE SANHEDRIN

It would seem that Jesus, having been arrested about midnight and taken before Annas, the messenger of the High Priest must have hurried through the moonlit streets calling the Judges to the midnight Court. Was the messenger supplied with a list of the names of those who were to be summoned? If so, was the name of Nicodemus, who came to Jesus by night, or the name of Joseph of Arimathea, who later that same day begged the body of Jesus from Pilate, on that list? And what of the wise Gamaliel, mentioned in the Acts of the Apostles? No doubt the five sons of Annas, all members of the Sanhedrin, were not overlooked. But whatever care Caiaphas or Annas may have taken, if they took any care at all, about the selection of the names of those to form the Court to “try” the Accused, they could not be sure that their plan to kill Jesus would not be frustrated at the last moment.

According to the Pharisaic rules subsequently embodied in the Mishnah, the Lesser Sanhedrin of three-and-twenty Judges could lawfully try a capital case; blasphemy was not one of the offenses specially reserved for trial by the Greater Sanhedrin; therefore it would seem that a charge of blasphemy could be lawfully tried by the Lesser Sanhedrin. But it is difficult to take the view that it was the Lesser Sanhedrin which tried Jesus before daybreak, because the midnight court was in fact presided over by the High Priest, and the High Priest was the President of the Greater Sanhedrin, not the Lesser Sanhedrin. It was not until the very end of the trial that the charge of blasphemy emerged, up to then it would seem that Jesus was being tried on the basis that the accusation was that He was a “false prophet “—and a false prophet could only be tried by the Greater Sanhedrin (*Mishnah*, Sanhedrin 1. 5). Matthew and Mark, referring to the night trial, expressly state that it took place before “the whole council,” the New Testament expression for the Greater Sanhedrin; finally, in view of the importance of the matters at issue and, above all, of the necessity, from the Ruler’s point of view, of satisfying the national conscience that everything was done in due form of law—and by the highest tribunal in the land — surely the High Priest and his colleagues, even though they had pre-determined the result of the trial, would bring Jesus before the Supreme Court, from which “the law went forth to all Israel “? A reasonable view of the order of events would seem to be that while Annas,

ex-High Priest, was satisfying his insatiable curiosity by questioning Jesus, the Judges were being summoned; that the “midnight” Sanhedrin which “convicted” Jesus was the Greater Sanhedrin of one-and-seventy Judges; that “When the morning was come” (Matthew 27:1) Jesus appeared before a great Consultative Assembly (see p. 80, where this Assembly is discussed in greater detail), before which body He reaffirmed His claim to be the Messiah and “the Son of God”; and that this Assembly decided to bring Jesus before Pilate.

### **THE ORAL OR “MISHNAH” LAW**

In view of the decision of the Sanhedrin to arrest and bring Jesus to “trial” for the express purpose of putting Him to death and, as we suggest, using a colorable imitation of a genuine trial as part of the machinery for effecting that purpose and satisfying the national conscience, questions such as the constitution of the “Court” which carried out the “trial” and the system of law which was applied, become of little importance. But since many hold the view that there was a formal trial and that the Mishnah traditions “were admittedly in force as law” (Lord Shaw), it seems desirable to try to ascertain what the system of criminal jurisprudence was and to what extent it was applied, or purported to be applied, at the Jewish trial, real or pretended. Moreover, whatever opinions may be held as to whether or not the Mishnah law was in force at that period, the fact remains that at the “trial” of Jesus the Court did follow, or purported to follow, some of the Pharisaic Mishnah rules. Is it not a reasonable inference that if both Pharisees and Sadducees on the Bench were united in a determination that the trial should have one result, and one result only, namely, the death of the Accused, that for once they would not dispute among themselves as to the enforceability or otherwise of such parts of the Oral Law and procedure as were relevant to the issue before them?

(Before considering the Mishnah law in detail it should be mentioned that some take the view that the Mishnah represents in many cases not what the Jewish law was during the life of Jesus but what the Rabbis thought should be the case if a Jewish State should be re-established.)

Assuming that the proceedings before Caiaphas and the Sanhedrin purported to be a formal legal trial, convened and held in due course of

both the Written and the Oral Law, then it was void *ab initio* because it was held by night. Assuming that the proceedings were not a trial but only a judicial investigation by the High Priest and some of his colleagues, then the condemnation of Jesus was without legal effect, as being without lawful authority; for only the Greater or Lesser Sanhedrin could convict of a capital offense.

We will now consider some of the Mishnah rules and observe to what extent, if at all, they were applied.

### MISHNAH RULES

The Mishnah divided cases into two main classes: capital or non-capital. “In non-capital cases they held the trial during the daytime and the verdict may be reached during the night. In *capital cases they held the trial during the daytime and the verdict also must be reached during the daytime*. In non-capital cases the verdict, whether of acquittal or conviction, may be reached the same day; in capital cases a verdict of acquittal may be reached on the same day; *but a verdict of conviction not until the following day. Therefore, trials may not be held on the eve of a Sabbath or on the eve of a Festival*” (*Mishnah, Sanhedrin 4. 1.*).

The Trial was a remarkable exhibition of “straining out gnats and swallowing camels.” Holding the Trial by night was the largest camel; while the tiniest gnat was the decision to reject the testimony of the two witnesses who purported to give Jesus’ alleged observations about the destruction of the Temple; they rejected that evidence, not because they thought it to be inaccurate or deliberately false—for they had no objection to false evidence (Matthew 26:59-60): (they subsequently perjured themselves before Pilate by accusing Jesus of “forbidding tribute to Caesar”) — but because the witnesses “agreed not together” as required by the letter of the law (*Mishnah, Sanhedrin 5. 4*). The formal agreement of the witnesses was of more importance to them than the truth of what was said. The rule was: “If they (the witnesses) contradict one another, whether during the inquiries or the cross-examination, their evidence becomes invalid” (*Mishnah, Sanhedrin 5. 2*).

It is interesting to note that in English law corroboration is required only in a limited number of cases. In Jewish law corroboration was essential in all

cases. In English law an accused may be convicted on the testimony of a single witness; but in Jewish law there could be no conviction except on the testimony of at least two witnesses, and those two had to “agree together.”

### **ARRANGEMENT OF COURT**

“The Sanhedrin was arranged like the half of a round threshing floor so that they might all see one another. Before them stood the two scribes of the Judges, one to the right and one to the left, and they wrote down the words of them that favored acquittal and the words of them that favored conviction. Rabbi Judah says there were three: one wrote down the words of them that favored acquittal, and one wrote down the words of them that favored conviction, and the third wrote down the words both of them that favored acquittal and of them that favored conviction.

“Before them sat three rows of disciples of the Sanhedrin, and each knew his proper place. If they needed to appoint another as a Judge, they appointed him from the first row, and one from the second row came into the first row, and one from the third row came into the second; and they chose yet another from the congregation and set him in the third row. He did not sit in the place of the former, but he sat in the place that was proper for him” (*Mishnah*, Sanhedrin 4. 3, 4).

The Court called to try Jesus having assembled, the first duty of the High Priest was to be sure that each Judge possessed the necessary qualifications to adjudicate.

### **QUALIFICATION OF JUDGES TO TRY CAPITAL CASES**

“In a capital case only those members of the Sanhedrin who were priests, Levites and Israelites that may give their daughters in marriage into the priestly stock,” were qualified to sit as Judges (*Mishnah*, Sanhedrin 4. 2).

## PROCEDURE

“Non-capital and capital cases are alike in examination and inquiry, for it is written, Ye shall have one manner of law” (*Mishnah*, Sanhedrin 4. 1; Leviticus. 24:22).

### PREFERRING THE CHARGE

“At the mouth of two witnesses or three witnesses shall he that is worthy of death be put to death; but at the mouth of one witness he shall not be put to death” (Deuteronomy. 17:6; *Mishnah*, Makkoth, 1. 7; Leviticus 5:1).

### PROVING AND ADMONISHING WITNESSES

“They (the Court) brought them in and admonished them; then put them all forth and kept back the chief among them. Afterward they brought in the second witness and proved him. If their words were found to agree together the Judges discussed the matter,” *i.e.* considered what offense, if any, was disclosed and what the charge should be.

“How did they admonish the witnesses in capital cases? They brought them in and admonished them, saying: Perchance ye will say what is but supposition or hearsay or at secondhand, or ye may say in yourselves, we have heard it from a man that is trustworthy. Or perchance ye do not know that we shall prove you by examination and inquiry? Know ye, moreover, that capital cases are not as non-capital cases; in non-capital cases a man may pay money and so make atonement; but in capital cases the witness is answerable for the blood of him that is wrongfully condemned and the blood of his posterity that should have been born to him at the end of the world. For so we have found it with Cain that slew his brother, for it is written ‘the bloods of thy brother cry.’ It says not ‘the blood of thy brother, but ‘the bloods of thy brother’ — his blood and the blood of his posterity. Therefore but a single man was created in the world, to teach that if any man hath caused a single soul to perish from Israel, Scripture imputes it to him as though he had caused a whole world to perish; and if any man saves alive a single soul from Israel, Scripture imputes it to him as though he had saved alive a whole world. And if perchance ye would say, Why should we be at these pains? — was it not

once written, He being a witness whether he hath seen or known, if he do not utter it, then shall he bear his iniquity?" (Leviticus 5:1; *Mishnah*, Sanhedrin 4. 5).

### **PENALTY FOR FALSE EVIDENCE**

"Ye shall do unto him as he thought to do unto his neighbor" (Deuteronomy 19:19). The rule was a life for a life and a fine for a fine, etc.

"False witnesses are put to death only after judgment has been given. Scripture says 'life for life,' thus they are not put to death until judgment of death has been given against him that was falsely accused" (*Mishnah*, Makkoth 1. 6; Deuteronomy 19:15, 21).

### **THE DEATH PENALTY**

"The Court had power to inflict four kinds of death penalty: stoning, burning, beheading and strangling" (*Mishnah*, Sanhedrin 7. 1).

If a trial ended with the death sentence, then, before the Romans deprived the Sanhedrin of the right to execute a condemned prisoner, the two chief witnesses for the prosecution were the two chief executioners. In a Jewish trial of a capital charge the witnesses possessed an importance unknown to English law, for they were the attesters, testifiers and executioners.

### **EXECUTION OF SENTENCE**

"When sentence of stoning has been passed they take him forth to stone him. The place of stoning was outside, far away from the Court, as it is written, Bring forth him that hath cursed without the camp (Leviticus 24:14). One man stands at the door of the Court with a towel in his hand, and another, mounted on a horse, far away from him but near enough to see him. If in the Court one said, I have somewhat to argue in favor of his acquittal: that man waves the towel and the horse runs and stops him that was going forth to be stoned. Even if he himself said: I have somewhat to argue in favor of my acquittal,' they must bring him back, be it four times or five, provided that there is anything of substance in his words. If then they found him innocent they set him free; otherwise he goes forth to be stoned. A herald goes forth before him calling 'Such-a-one the son of such-

a-one, is going forth to be stoned for that he committed such or such an offense. Such-a-one and such-a-one are witnesses against him. If any man knoweth anything in favor of his acquittal let him come and plead it.’

“The place of stoning was twice the height of the man. One of the witnesses knocked him down on his loins. If he straightway died, that sufficed; but if not the second witness took the stone and dropped it on his heart. If he straightway died, that sufficed; but if not, he was stoned by all Israel, for it is written, the hands of the witnesses shall be the first upon him to be put to death and afterwards the hand of all the people” (Deuteronomy 17:7; *Mishnah*, Sanhedrin 6. 1, 2, 3, 4).

### HANGING

“The Sages say: ‘None is hanged save the blasphemer and the idolater. His body shall not remain all night upon the tree, but thou shalt surely bury him the same day; for he that is hanged is a curse against God” (Deuteronomy 21:23; *Mishnah*, Sanhedrin 6. 4.).

### CONFESSIONS BY ACCUSED

Most commentators quote Salvador, the famous Jewish lawyer, as authority for the proposition: “Our law condemns no one to death on his own confession.”

### THE EVIDENCE

The illegal proceedings seem to have commenced with the outward show of proper legal formality. Witnesses were called in manner provided by Jewish law, although it is not quite clear that they were called before Jesus had pointed out that there was no evidence before the Court that He had done any wrong. “Ask them that heard Me; they know what I said unto them.” “If I have done evil bear witness of the evil.” These observations could have been made either before any witnesses, or after the last of them, had been called without any result.

What took place is typical of the action of the Rulers of the Jews at this period of their history. Whatever the true nature of the proceedings, they ignored the substance and spirit of the law, but observed, or purported to

observe, such of the laws and rules of procedure as suited their purpose and conveniently turned a blind eye to the rest.

“Now the chief priests, and elders, and all the council, sought false witness against Jesus, to put him to death” (Matthew 26:59).

This may mean either that those referred to deliberately sought for witnesses who would give evidence which to their certain knowledge was false, or witnesses who would give evidence of actual statements they had heard Jesus make and which would be susceptible of a false interpretation. On either view such conduct in Judges staggers the imagination. The enormity of the offense, grave in any case, was enhanced by the fact that every member of Court knew the penalties attaching to perjury. Moreover, such reprehensible action was the more nauseating in view of the solemn terms in which each witness was adjured (or sworn) before giving evidence. For we assume the witnesses were duly sworn (see p. 63 for the terms of the adjuration). The High Priest and his colleagues well knew that at the trial for life, a false witness put his own life in peril (see p. 64). What are we to think of a Tribunal, the members of which regarded themselves as the representatives of God on earth, administering His laws in the Judgment Seat once occupied by Moses, resorting to such practices? Was there ever a chance of Jesus having a fair trial? But Judges who had determined on the death of the Accused before the “trial” commenced, could be guilty of any conduct, however infamous. A possible key to their conduct is that they were so blinded by religious bigotry that they persuaded themselves that if they killed Jesus they would be “doing God service” (John 16:2).

But the remarkable thing is that notwithstanding the ease with which their consciences permitted them to commit one gross irregularity after another, they rejected the evidence of the “false witnesses,” giving as their ostensible reason that those witnesses “agreed not together” as required by the Mishnah law. A conspiracy to put false evidence before a Court of Justice usually ends in disaster for the conspirators, especially when they have to make their plans in a hurry. We are not told the nature of this evidence.

By rejecting evidence which was unimportant from their point of view they may have hoped to create the appearance of impartiality while their

true intent was to obtain evidence of a matter of great gravity, viz. that Jesus had been heard to claim to be the “Messiah.”

Then came two witnesses in particular and, unlike the case of the other witnesses we are told what these two said; apparently they gave evidence which, although inaccurate, they believed to be true. Yet, says Mark, “neither so did their witness agree together.” Now, the difference in the evidence of these two witnesses was very slight; in substance there was no divergence. Apparently one of them attributed to Jesus the words: “I am able to destroy the Temple of God and to build it in three days.” The version of the other was: “I will destroy this Temple, which is made with hands, and within three days I will build another made without hands.”

This evidence could reasonably be construed as disclosing a *prima facie* case of sorcery or sacrilege. Once during his public ministry Jesus had been accused by the Pharisees of performing miracles by the power of Beelzebub (Matthew 12:24), a Satanic agency. The destruction of the Temple would be sacrilege and a claim to be able to rebuild it in three days sorcery. The punishment for both sorcery and sacrilege was death. Yet this evidence was not what the Sanhedrin wanted. They wanted to hear evidence about a much more serious matter than that of a fantastic threat to destroy the Temple or a claim to be able to rebuild it in three days. So on the highly technical ground that “the witnesses agreed not together” they rejected this evidence. In doing so they followed, or purported to follow, the Pharisaic Mishnah law. Of course, as we know from John 2:18-21, what Jesus in fact said had been misunderstood, as were many of His sayings. “Then answered the Jews and unto him, What sign showest thou unto us.? Jesus answered and said unto them, Destroy this temple and in three days I will raise it up. Then said the Jews, Forty-and-six years was this temple in building, and wilt thou rear it up in three days? But he spake of the temple of his body.” No doubt when Jesus made this statement, his hearers genuinely misunderstood Him and thought he was referring to the Sanctuary, for when He was on the Cross they cast the saying in His teeth (Mark 15:29, 30).

## THE CASE BREAKS DOWN

The case for the prosecution had now reached a stage at which no evidence had been *accepted* which justified the preferring of a charge, capital or otherwise; the accusers, namely, the witnesses, had failed to provide a case for Jesus to answer; they had not discharged the onus placed upon their shoulders by law. In particular—no evidence had been given that Jesus claimed to be the Messiah or the “Son of God.” It was, however, common knowledge that Jesus made this claim and this was the real reason why He had been arrested. The Court wanted evidence that Jesus had made the claim so that they might rely upon it and denounce it once for all. The Mishnah rules for the trial of a charge of blasphemy are set out on p. 74. No witness had given the evidence there indicated. In these circumstances it was the duty of the High Priest to announce that no charge had been made out and that the Accused would be discharged.

Instead of discharging Jesus, the High Priest took to questioning Him; his Pharisaic colleagues apparently raised no objection and did not insist on the Mishnah rules concerning blasphemy being observed. This questioning was in defiance of the fundamental practice of Jewish Written Law, which required the witnesses to establish the charge, and of the rule: “Our law condemns no one to death on his own confession.”

We have to look at St. John’s Gospel for details of the questioning. John is generally regarded as being the disciple who “went in with Jesus into the palace of the high priest” (John 18:15), and if this is so we have an account of the proceedings by an eye-witness.

“The high priest” (Caiaphas, not Annas, was the High Priest; it is necessary to bear this in mind when reading John’s account, lest the questioning be attributed to Annas), “asked Jesus of his disciples, and of his doctrine.” Jesus replied by reminding the High Priest of the Hebrew law that a charge should be proved by witnesses. Such a reply would be particularly galling to the Supreme Judge in Israel. “Why askest thou me? Ask them which heard me, what I have said unto them; behold, they know what I have said.” Thereupon Jesus was struck by an officer of the Court. “Answerest thou the High Priest so?” Jesus said: “If I have spoken evil, *bear witness* of the evil; but if well, why smitest thou me?”

This questioning seems to have concluded with the great and supreme question in which the High Priest incorporated “the solemn adjuration.” Caiaphas, apparently determined to obtain evidence on which to found a conviction for blasphemy, threw all semblance of law to the winds: “I adjure thee by the living God that thou tell us whether thou be the Christ, the Son of God.” It seems obvious from what followed that the question was not put from a genuine desire to know the truth, but in order to obtain the reply he knew he would receive and to use that reply as a colorable justification for a conviction.

This was the great climax of the trial. Let us examine the incident. Some think that Caiaphas was legally entitled to put this question and that Jesus was bound by law to answer.

Now, if this question had been put to Jesus after at least two witnesses had testified that they had heard Jesus say that He was “the Son of God” no exception could be taken to it; for their evidence would have prepared the ground for a charge of blasphemy and provided a case for Jesus to answer — in which case the onus would then have been on Jesus to justify the statement; if He justified it He would be entitled to be acquitted; if not, a conviction would be lawful by Jewish law. *But at the time the question was put no such evidence had been given:* the case sought to be made against Jesus had failed; there was, in fact, NO CHARGE BEFORE THE COURT; there was no case for the Accused to answer, and He was entitled to be set free then and there. The Judge was not entitled to make up for the shortcomings of the prosecution by questioning the Accused. It may help to understand this point if we refer to the procedure in English law. There is a sense in which it is true to say that an accused person must answer any question put to him by a Judge or Magistrate. But there are certain limitations upon this general rule. The question must always be one which is permitted by law, and questions may not be asked of an accused until the case has reached a stage at which it is proper to put them. In an English Court that proper time is after the case for the prosecution has closed; closed with a case having been made out for the accused to answer; and the accused has voluntarily entered the witness-box and submitted himself for questioning. But if the prosecution fails to make out a prima facie case, no fight to question the accused arises either by a Judge or a Magistrate or anybody else.

So in the case of the Trial of Jesus. At the time Caiaphas put his great question to Jesus, his action in doing so was unlawful because the moment in the trial when he had the fight to put the question had not arrived, for the evidence had failed to disclose any *prima facie* case of blasphemy; at that moment there was no tryable matter before the Court and no case for Jesus to answer.

### THE GREAT ADMISSION

Illegal though the question was, it was immediately answered, and in the affirmative. Notwithstanding the lack of evidence, it was really because Jesus claimed to be the Messiah and the Son of God that He was before the Court. It was, indeed, remarkable that no such evidence had been given. The great moment in the trial had come. Jesus at once made the great confession and claim. He was the Christ, the Son of God. Immediately, with that devotion to ritual and seeming reverence for the “Mishnah law” (see p. 75) he had ignored so obviously throughout the proceedings, the High Priest rent his garments, saying, “He hath spoken blasphemy, what need have we of witnesses? What think ye?”

We observe that if the Scribes, who were so expert at legal quibbles, had done their duty to keep the Judges “in remembrance” of the law, they would have advised the Court that there was every need of witnesses because

- (a) none of the Pharisaic rules governing the trial of cases of alleged blasphemy had been observed, and
- (b) the Court was trying the Accused on the basis that He had committed an offense *before* He came into Court (of which there was no evidence) and not for *something said by the accused in Court*, and
- (c) “Our law condemns no one on his own confession.”

It is interesting to note the attitude of Jesus to the all-important question of Caiaphas compared with His attitude to the evidence of the witnesses. To the evidence of the “false witnesses” He answered nothing. “Answerest thou nothing? What is it which these witness against thee?” But Jesus held His peace. But to the great question, the legality or illegality of which was and is of no moment compared with its tremendous

import, He did not remain silent. His hour had come and He made the great confession and claim. “Thou hast said” (Matthew); “I am” (Mark); “Ye say that I am” (Luke).

### “HE HATH SPOKEN BLASPHEMY”

In English law “it is a misdemeanor to speak, or to write and publish, any profane words vilifying or ridiculing God, Jesus Christ, the Holy Ghost, the Old or New Testament, or Christianity in general, with intent to shock and insult believers, or to pervert or mislead the ignorant or unwary. This intent is an essential element in the crime, and is generally inferred from the intemperate and scurrilous language of the accused. The disputes of learned men, and publications discussing with decency questions as to Christianity and the Scriptures are not punishable as blasphemy. If the decencies of controversy are observed even the fundamentals of religion may be attacked. A man is free to teach what he likes as to religious matters, even if it is unbelief, but in considering whether he has exceeded the permitted limits, the place where he speaks and the people to whom he speaks, have to be taken into account. If he is arguing for an honest belief in a doctrine or a non-doctrine to which he is attached, he is not guilty of publishing blasphemous words; but if, not for the sake of argument, he makes a scurrilous attack on doctrine, which the majority of persons hold to be true, in a public place where passers-by may have their ears offended and where young people may come, he renders himself liable to the law of blasphemous libel” (Odgers on *The Common Law of England*, vol. 1, p. 206).

In Jewish law blasphemy was the profane use of the name of the Deity. “Thou shalt not take the name of the Lord thy God in vain: for the Lord will not hold him guiltless that taketh his name in vain” (Ex. 20:7). But this was not the whole of the law of blasphemy. The proceedings which preceded the murder of Stephen, recorded in Acts 6 and 7, make it clear that the Jewish law had some points of similarity with English law. Stephen was accused of attacking Moses, the national religion, the established religious institutions, the religious customs of the Jews, saying that Jesus would destroy the Temple, and generally with trying to pervert or mislead the ignorant or unwary. All this they alleged was “blasphemy,” *i.e.* “constructive blasphemy.” Thus they said: “We have heard him speak

blasphemous words against Moses, and against God. This man ceaseth not to speak blasphemous words against this holy place and law. For we have heard him say, that this Jesus of Nazareth shall destroy this place, and shall change the customs which Moses delivered to us.”

The Jewish State was in theory a theocracy; God was the invisible head of the State; God was the God of the Jews — all others were outside the pale; they were the Chosen Race; their laws were divine, not man-made laws; the law of God was also the law of their State; their institutions were also divinely ordained; their rulers were the representatives on earth of their invisible King. “Moses received the law from Sinai and committed it to Joshua, and Joshua to the elders, and the elders to the prophets, and the prophets committed it to the men of the Great Synagogues” (*Mishnah*, Aboth. I. I). The members of the Sanhedrin “sat in Moses’ seat” (Matthew 23). When Jesus claimed to be “the Son of the Blessed” or “the Son of God,” He did not use, and they did not understand Him to use, the expression merely in the sense in which they, the Jews, as a community, regarded themselves as “the sons of the living God” (Hosea 1:10); or in which the Apostle John later referred to all Christians as “sons of God, even to them that believe on his name”; or as the Apostle wrote in Romans 8:14: “For as many as are led by the Spirit of God, they are the sons of God.” *Nor did they understand Jesus to be claiming to be the Second Person in the Holy Trinity: the Jews had no belief in or knowledge of the Holy Trinity: to them God was One and Indivisible.* They were monotheists. Even after the Day of Pentecost when the Apostle Paul visited Ephesus he found certain disciples there who had “not so much as heard whether there be any Holy Ghost” (Acts 19:2). The expression “Son of God” did not mean to the High Priest and Sanhedrin all that it means to Christians today; they did not expect their Messiah to be God Himself, “manifest in the flesh.”

The High Priest and Sanhedrin understood Jesus to be claiming a *unique* relationship with God; to be claiming to be “God’s anointed” (Psalm 2:2; Isaiah 11:2) — the premier Jew, the “Messiah,” the “Christ” (John 1:41); and this they regarded, and tightly if the claim were false, as an insulting and treasonable activity against God and, therefore, the crime of blasphemy.

In these circumstances it was their bounden duty to investigate the truth or falsity of the claim. This they signally failed to do. There was no investigation into the claim of Jesus to be the Messiah and “the Son of God.” As soon as Jesus made the claim, the High Priest rent his clothes, “and they all condemned him to be guilty of death.”

“And some began to spit on him, and to cover his face, and to buffet him and say unto him, Prophecy” (Mark 14:65).

There were certain Mishnah rules for the trial of a charge of blasphemy and certain specific questions had to be put to the witnesses. The law is set out in the Mishnah as follows:

### **TRIAL FOR BLASPHEMY**

“‘The Blasphemer’ is not culpable unless he pronounces the Name itself. Rabbi Joshua B. Karha says: On every day of the trial they examined the witnesses with a substituted name, such as ‘May Jose smite Jose.’ When sentence was to be given they did not declare him guilty of death on the grounds of evidence given with the substituted name, but they (the Judges) sent out” (*i.e.* out of Court) “all the people and asked the chief among the witnesses and said to him ‘Say expressly what thou heardest: and he says it; *and the judges stand up on their feet and rend their garments* and they may not mend them again. And the second witness says: I also heard the like,’ and the third says ‘I also heard the like’” (*Mishnah*, Sanhedrin 7, 5).

The questioning of the witnesses on a trial for blasphemy would take the following form:

1. In what Sabbatic period did you hear the accused use the Name?
2. In what year of the Sabbatic period?
3. In what month?
4. On what date of the month?
5. On what day of the week?
6. At what hour?
7. In what place?

This series of questions was known as Hakiroth (*Mishnah*, p. 388; Sanhedrin 5. 1.).

None of this pedantic Pharisaic procedure was followed by the Sadducean-dominated Court at the trial of Jesus. On the contrary, the moment Jesus said "I am," the High Priest said, "He hath spoken blasphemy; what further need have we of witnesses? behold, now ye have heard his blasphemy. What think ye? They answered and said, He is guilty of death."

### THE DEFENSE

Strictly speaking, Jesus was never formally charged with any offense. He was condemned out of hand for blasphemy the moment He made His claim to be the Messiah and Son of God. His answer and defense to the implied charge of blasphemy was "Truth." Although it may be that the Gospels do not give us a complete account of all that took place before the Sanhedrin, it seems clear that Jesus did not enter upon a long and reasoned speech in justification of His claim to be the Messiah and the Son of God. The Gospel records suggest He was not given the opportunity. Certainly His claim was not investigated. Jesus apparently realized that nothing He might say would make the slightest difference to their decision. "If I tell you, ye will not believe. nor let me go." (When He rose from the dead, His Resurrection made not the slightest difference in their attitude to Him.) Jesus declined to argue with them. He had reasoned with them throughout His public Ministry with but little result. This attitude of refusing to be drawn into an argument with those who argued for argument's sake and with no desire or intention of learning the truth, was typical of Jesus; but He was always ready and willing to discuss His Mission with earnest seekers after truth.

But there was another reason to which without presumption we may, perhaps, attribute the silence of Jesus at His trial. Jesus had made it abundantly plain that He intended to go to the Cross that He might give to the whole world a sign which would be the great proof of His Divine Mission on earth, *viz.* His resurrection from the dead. His condemnation and death were therefore necessary for the giving of that sign. Moreover, He knew the end from the beginning. On the way up to Jerusalem He

forecast to His disciples the course of events: “Behold, we go up to Jerusalem; and the Son of Man shall be betrayed unto the Chief Priests, and unto the Scribes, and they shall condemn Him to death, and shall deliver Him to the Gentiles. And they shall mock Him, and shall scourge Him, and the third day He shall rise again.”

But although Jesus did not put forward any detailed defense before the Sanhedrin, His Judges were perfectly familiar with His point of view. He had previously told the Jews plainly on what evidence He relied for the proof of His claims. In John 5 is recorded a discourse by Jesus, in the course of which He mentioned four classes of evidence which should have convinced the Jews. Having recalled the rule of Jewish law that at least two witnesses were required to prove any claim, Jesus proceeded to mention the following evidence:

**(a) *John the Baptist:***

“Ye sent unto John, and he bear witness unto the truth. But I receive not testimony from man: but these things I say, that ye might be saved” (vv. 33-35).

**(b) *The Works:***

“I have greater witness than that of John: for the works which the Father hath given me to finish, the same works that I do, *bear witness* of me that the Father hath sent me” (v. 36).

**(c) *The Father:***

“And the Father himself, which hath sent me, hath borne witness of me. Ye have neither heard his voice at any time, nor seen his shape. And ye have not his word abiding in you for whom he hath sent him ye believe not” (vv. 37, 38).

(Jesus was, of course, referring to the fact that when He was baptized of John in Jordan, a voice from heaven said: “This is my beloved Son, in whom I am well pleased.”)

**(d) *The Scriptures*** “Search the scriptures. they are they which testify of me” (v. 39).

## THE TRAVELERS TO EMMAUS

The speech which would have been entirely relevant to the charge of “blasphemy” was the one Jesus made on the day of His resurrection to the two dispirited travelers who journeyed that same day to the village called Emmaus, when

“beginning at Moses and all the prophets, he expounded unto them in all the scriptures the things concerning himself” (Luke 24:27),

thereby demonstrating that His Mission was not to destroy the law given to Moses by God and handed down from generation to generation, but to fulfill that law in His own person (Matthew 5:17). As Jesus explained to the travelers (who, in common with all His followers, thought the crucifixion meant the destruction of all their hopes “that it had been He which should have redeemed Israel”) until He had been to the Cross the Scriptures concerning Him would not be fulfilled. “Ought not Christ to have suffered these things, and to enter into his glory?”

This exposition, however, would have been wasted upon the Sanhedrin, for they had obviously made up their minds that *in no circumstances whatever* would they acknowledge the claim of Jesus to be the Messiah (see pages 89-91).

In view of the expression of opinion by the Judges that the Accused was guilty of blasphemy, it became the duty of the High Priest to adjourn the Court for twenty-four hours for the Judges to “pair off” and discuss the case. It was their bounden duty to discuss all possible reasons for an acquittal before discussing reasons for a conviction. The Mishnah lays down the law about consideration of verdict as follows:

### CONSIDERATION OF VERDICT

“Non-capital cases may begin either with reasons for acquittal or conviction, but capital cases must begin with reasons for acquittal and may not begin with reasons for conviction.

“In non-capital cases they may reach a verdict either of acquittal or of conviction by the decision of a majority of one; but in capital cases they may reach a verdict of acquittal by the decision of a majority of one, but a

verdict of conviction only by the decision of a majority of two. In capital cases they may reverse a verdict from conviction to acquittal but not from acquittal to conviction.

“In capital cases all (including the disciples) may argue in favor of acquittal but not in favor of conviction. (Also) in capital cases he that had argued in favor of conviction may afterwards argue in favor of acquittal, but he that had argued in favor of acquittal cannot afterwards change and argue in favor of conviction” (*Mishnah*, Sanhedrin 4. 1).

“In capital cases they (the Judges) in declaring their opinion, begin from them that sit at the side” (*i.e.* the youngest) (*Mishnah*, Sanhedrin 4. 2). “If their words (*i.e.* the words of the first and second witnesses) were found to agree together they (the Judges) begin to examine the evidence in favor of acquittal.

“If one of the witnesses said: ‘I have somewhat to argue in favor of his acquittal,’ or if one of the disciples said: ‘I have somewhat to argue in favor of his conviction’, they silence him. If one of the disciples said: ‘I have somewhat to argue in favor of his acquittal,’ they bring him up and set him among them and he does not come down from among them the whole day. If there is anything of substance in his words they listen to him. Even if the accused said, ‘I have somewhat to argue in favor of my acquittal,’ they listen to him, provided that there is anything of substance in his words.

“If they found him innocent they set him free; otherwise they leave his sentence over until the morrow. In the meantime they went together in pairs, they ate a little (but they used to drink no wine the whole day) and they discussed the matter all night, and early on the morrow they came to the Court.

“He that favored acquittal says, ‘I declared him innocent yesterday and I still declare him innocent’; and he that favored conviction says, ‘I declared him guilty yesterday and I still declare him guilty.’ He that favored conviction may now acquit, but he that favored acquittal may not retract and favor conviction. If they erred in the matter the scribes of the Judges must put them in remembrance. If they all found him innocent they set him free; otherwise they decide to vote.

“If twelve favor acquittal, and eleven favor conviction, and one says ‘I do not know,’ or even if twenty-two favor acquittal or favor conviction and one says, ‘I do not know,’ they must add to the number of the Judges. Up to what number may they add them? By two at a time up to one-and-seventy. If, then, thirty-six favor acquittal and thirty-five favor conviction, he is declared innocent; if thirty-six favor conviction and thirty-five favor acquittal, they debate with one another until one of them that favored conviction approves of the words of them that favored acquittal” (*Mishnah*, Sanhedrin V. 4, 5).

### ADVOCATES

There was no such person as counsel for the prosecution or counsel for the defense in a Jewish court. The prosecutors were the Witnesses who saw the offense committed. The Judges themselves were required to act as counsel for the defense, and, as we notice in the *Mishnah* role set out at page 78, any disciple of a Judge present in court had the right to argue in favor of the accused. This latter practice reminds us of the age long tradition of the English Bar by which a Judge of Assize presiding over a criminal trial may call upon any counsel in court to act as counsel for the accused, a request which is treated by the Bar of England with the same respect as a Royal Command. But when the Jews prosecuted one of their countrymen in a Roman court they sometimes engaged the services of an orator for the better presentation of their case. A notable example of this occurred at the trial of the Apostle Paul before Felix (Acts 24) when the Jews retained an orator, one Tertullus, to conduct the prosecution.

It is sometimes said that the law of England is unduly favorable to the accused; but the safeguards in English law designed to reduce to a minimum the danger of an innocent person being convicted are as nothing compared with the “fences” put around an accused in a Jewish Court. Indeed, with so many “fences” it is a wonder that anybody was convicted. But at the trial of Jesus these safeguards against a miscarriage of justice were thrown to the winds, and, judged by the *Mishnah* law standards, the proceedings ended in a riot of illegality with the Accused condemned as the Presiding Judge and his colleagues had previously determined should be the case.

## THE GRAND CONSULTATION

“And straightway in the morning the CHIEF PRIESTS held a CONSULTATION with the ELDERS and SCRIBES and the WHOLE COUNCIL. “ (Mark 15:1);

to put him [Jesus] to death” (Matthew 27:1).

Both Matthew and Mark clearly indicate two meetings of “the whole council,” the name by which the Greater Sanhedrin is commonly regarded as being described in the New Testament: the one meeting being held before and the other *after* daybreak. They are equally clear that the second meeting was of a much larger body than the first. This is the meeting we refer to earlier in this work.

We are distinctly told by Matthew and Mark that, in addition to “the whole council,” all the “chief priests” *and* the “elders of the people,” *and* the “scribes” were present. It is not clear that this was not a session of the Greater Sanhedrin of seventy-one Judges attended by only the usual two, or perhaps three, Scribes? At this meeting the judicial element alone must have run into three figures, for if all three Courts at Jerusalem were in session at one and the same time ninety-seven Judges would be required to provide the necessary quorum—and not every Judge was qualified to adjudicate in a capital case. It seems clear that the Judges of the three Courts must have been drawn from a “pool,” and this pool must have been a large one. Then there were Elders not included in “the whole council.” Elder Statesmen, perhaps, whose advice would naturally be sought in a national emergency; also the “chief priests,” also not included in the expression “the whole council,” and a not inconsiderable body of Scribes, the specialists in religious law. Altogether these “Rulers of the Jews” must have run into hundreds, and they all had a vital interest in what was going forward. There was no official body superior to the Greater Sanhedrin, and if the Greater Sanhedrin tried Jesus before daybreak, this second assembly would have no power either to review the case or to ratify or quash the finding of that Court. It would seem that this second meeting was for consultative purposes only held for the single purpose of deciding the most expedient way of giving effect to the illegal pre-trial decision of the Sanhedrin to put Jesus to death. One of two courses was open to them: either to defy the Roman edict depriving them of the power to put any

man to death, or to decide to bring Jesus before Pilate. Incidentally, they seem to have taken advantage of the holding of the meeting to bring Jesus before it so that the largest possible number of the official classes might hear Jesus repeat His claim to be the Messiah. The Mark record suggests, and the unprecedented nature of the matter under review required, that every member of the official classes then resident in Jerusalem who could be contacted at that early hour was summoned to that vital assembly. It seems to have been a sort of Council of State summoned to be told of the overnight events and to be invited to give the High Priest and the Sanhedrin their moral and formal support for what had been done and the benefit of their opinion as to the best way “to put Jesus to death.” No doubt there was no precedent in Jewish history for such a meeting, but the matter under review was also without precedent. It was precisely the sort of situation in which precedents are made; certainly it was necessary that the High Priest, as Head of the Jewish State, should have the assurance that the whole of official Jewry agreed with what had been done.

The need for such a Grand Consultation was obvious. Israel was at the cross-roads. Matters of high policy called urgently for immediate decision. Much required to be explained and much more required to be arranged. The Accused claimed to be the Messiah. He was, in fact, “mighty in deed and word before God and all the people” (Luke 24: 19). Many of the Rulers of the Jews believed on Him but secretly. On the Thursday night the restless Festival crowds had retired to rest on the tiptoe of expectancy, the predominant and anxious thought in their minds being the whereabouts of Jesus and whether or not He would give the great Sign at the Feast. Unknown to them He was, in fact, in their very midst lying under condemnation of death. The High Priest and his colleagues had burnt their boats; there was no going back. The situation called for immediate action. They had completely and irrevocably reversed their previously fixed and determined policy not to arrest Jesus at the Feast. The Feast was now upon them and Jesus was in their hands. They could not hope to conceal the fact over the nine days of the Feast.

The High Priest would have to satisfy the Assembly that he had been justified in going back on the previous decision “not on the feast day,” and he would certainly want their approval of what had been done. It was probably a stormy meeting. Joseph of Arimathea at least “had not

consented to the counsel and deed of them” (Luke 23:51); no doubt he was supported by Nicodemus and others.

Having obtained approval of what had been done, the next question would be, what was to happen now? What was the best way to carry out their decision to put Jesus to death? Should they themselves kill Jesus, thus defying the Roman edict, or should they bring Jesus before Pilate in the hope that he would condemn Him?

Several High Priests, including Annas, had already been deposed from office by the Procurators before the arrival of Pilate. If Caiaphas exceeded his powers, he could be sure that a like fate would overtake him. But that was not a matter of supreme importance, because Annas had a large family and could easily put forward a successor. (In fact, when Caiaphas was eventually deposed after the recall of Pilate to Rome, he was succeeded by his brother-in-law, Artanus.) But there was a more important question to be decided than the probable fate of the High Priest. How would public opinion react to the news that the Sanhedrin had not only condemned but executed the Great Prophet who “went about doing good” and “healing . . . all manner of disease”? and that just at the time when they confidently expected some great sign from Him to prove His claim to the Messiahship? Would it not be better to put the onus and responsibility for the death of Jesus upon the Romans?

Whatever the reason, or reasons, for their decision, it was, in fact, decided to bring Jesus before the Judgment Seat of Pilate.

Having made that decision, they had another vital question to settle. Should they inform Pilate of all that had taken place during the night after the arrest, or should the proceedings remain secret? If they disclosed the proceedings before their own Court, the illegality thereof would be manifest to Pilate, for he would know that according to the Pharisaic law the trial could not lawfully take place by night. Pilate would want to know of what offense Jesus was convicted. He would not be interested in a conviction for blasphemy. Awkward questions would be asked and there would be no answer to them. Complications would arise. Pilate might immediately quash the conviction and release Jesus and let him go. Would it not be better to say nothing about their own proceedings and merely

mention that Jesus had been arrested overnight and was now, early the next morning, being brought before Pilate for trial?

There was no difficulty in practice for the Jewish authorities to bring a Jew before the Procurator for trial without any previous Jewish trial. It was often done in New Testament days. Thus we read in Acts 18:12-16, that when Gallio was the deputy of Achaia, the Jews brought Paul before the Roman judgment seat, saying: "This fellow persuadeth men to worship God contrary to the law. And when Paul was now about to open his mouth, Gallio said unto the Jews, If it were a matter of wrong or wicked lewdness, O ye Jews, reason would that I should bear with you; But if it be a question of words and names, and of your law, look ye to it; for I will be no judge of such matters. And he drove them from the judgment seat." These sentiments were largely held by the procurators as a class, and would appear to have been those of Pilate also; for when Jesus eventually appeared before him, his first reaction was to say to the Jews, "take ye him, and judge him according to your law" (John 18:31). Caiaphas, who was a friend of Pilate, would undoubtedly be aware of Pilate's probable reaction, and that would be an important fact to bear in mind in deciding whether or not to disclose the midnight trial to Pilate and, in any event, how to present the case against Jesus.

It would be obvious to the High Priest and the Council that it would be useless to expect Pilate to be interested in a charge of "blasphemy," for that would be "a question of their law"; "blasphemy" was an offense unknown to Roman law; the Romans were pagans. Therefore the Jews would have to prefer a charge which would interest Pilate, and be one with which he would be *bound* to deal. And, in addition to alleging an offense against Roman law, it had to be one which carried the death penalty.

Subsequent events reveal fairly clearly the lines of their plan of action. They would accuse Jesus of high treason — treason against the Emperor. Pilate would be obliged to take cognizance of such a charge and be unable to refer it to the Sanhedrin. Pilate would not be told of the trial by the Sanhedrin and no question of quashing their conviction for illegality or other reasons would arise. Pilate would suppose that he was trying a case which had not been previously investigated. If Pilate showed signs of wanting to release Jesus they held a trump card. They would stir up the

people to point out that if he let Jesus go he was not Caesar's friend and would render himself liable to recall to Rome for suffering a rival to Caesar in Judea. Yes, the plan was fool-proof. They would lose no time in informing Pilate that they desired to bring an important prisoner before him; that the interests of State would brook of no delay, and further and better particulars of the urgency of the matter would be supplied by the High Priest in personal audience.

Much speculation has been indulged in on the question why Pilate was so readily available, and at such an early hour, and who persuaded him that great haste was called for. Comment has also been made on the fact that no mention is made in the Gospels about Caiaphas appearing personally at the trial before Pilate.

Now although the high priest did not appear personally at the trials and in the nature of things it would not be reasonable or probable that he should do so — there seems to be no doubt that it was the practice in some cases for the High Priest to communicate personally with the Procurator and make representations about an impending trial. Thus in Acts 25 we read that while Paul was in the custody of the Romans in Caesarea, the High Priest made representations to Felix asking that Paul should be removed to Jerusalem for trial. It would therefore seem reasonable to suppose that Caiaphas, as High Priest, and the liaison officer between official Jewry and the Procurator, would immediately after the Grand Consultation make haste to visit Pilate and urge upon him the necessity for immediate trial, notwithstanding the proximity of the Feasts rather, indeed, because of that proximity. It may be that Caiaphas took the opportunity of urging upon Pilate that it would be in the Roman as well as in the Jewish interest that Jesus should be condemned and executed out of hand before the general populace became aware of His attest, and His devoted followers from Galilee, who had hailed Him so joyfully on the previous Sunday on His way to Jerusalem, knew that His life was in peril. Why not present His followers with a *fait accompli* and end with one stroke all danger of an insurrection?

Whatever the true reasons, the fateful decision was in fact made to bring Jesus before Pilate.

## SUMMING UP

To try to form an opinion as to the legality or otherwise of the Jewish “proceedings” (apart altogether from the fact that the Sanhedrin had pre-determined the issue) it is necessary to know the answer to the vital question, what was the law by which Israel as a nation was governed? The answer would seem to be that inasmuch as the Jewish State was a theocracy, the national law was the Law of God. The difficulty which confronts us is that the Sanhedrin of Judges could not agree as to what was the Law of God. Both the Pharisaic and the Sadducean Judges were agreed that the Written Law was of divine origin; the Pharisees contended that the Oral Law also was divine; not so the Sadducees. Who is to decide between the two contending sects? Perhaps the most authoritative pronouncement on this matter is to be found in the words of Jesus to the Pharisees when He said “Ye have made the commandment of God of none effect by your tradition.” Yet the teaching of Jesus was more in consonance with the doctrines of the Pharisees than with those of the Sadducees; and Jesus may not have intended to condemn all the traditions contained in the Oral law. In any case, the Judges not being agreed as to what constituted the national law, it does not seem possible to dogmatize about the legality or otherwise of some of the incidents in the proceedings. It cannot be held that a particular act or omission during the proceedings was illegal, unless it can be shown that it was done or omitted contrary to the agreed law. Presumably there was general agreement about rules of procedure for the efficient day-to-day working of the Courts, but even this matter is not beyond doubt.

We do know from Josephus, however, that “they” (the Sadducees), “are able to do almost nothing of themselves; for when they become magistrates, unwillingly and by force *sometimes* they addict themselves to the notions of the Pharisees, because the multitude would not otherwise bear them.” (Ant. 18. 4. 1.)

Bearing these observations of Josephus in mind, we offer the following comments upon the “proceedings.”

As to the much debated question of the legality of holding the proceedings by night, since we do not know if the Sadducees accepted the Mishnah ruling about trial of capital cases being held only in the day time, we

cannot be sure that the proceedings were illegal because held wholly or in part by night.

As to the trial being illegally held because the Festival of the Passover had commenced, there seems to be no doubt that the Court was illegally in session, because the holding of it at such a time was a breach of the agreed law.

As to the “conviction” being without admissible evidence to support it, the conviction was based on a “confession” made by the Accused in Court and procured by illegal questioning by the presiding Judge. This was a breach of the agreed law which required the offense to be proved by at least two witnesses; no witnesses gave evidence that Jesus claimed to be the Messiah or Son of God.

As to the non-observance of the Mishnah rules concerning the trial of charges of blasphemy, we have no evidence that the Sadducees ever agreed to these rules and in view of their pedantic Pharisaic character it is improbable that the Sadducees would agree.

As to the non-observance of the Mishnah rules about consideration of verdict, here again we do not know if these rules were ever agreed to by the Sadducees.

As to Jesus being condemned without being afforded an opportunity to be heard in His own defense, this was a fundamental illegality going to the very root of the “trial.”

Finally, there is the predominating fact compared with which all other irregularities pale into insignificance, that the result of the “trial” was formally pre-determined by the Judges, without distinction of sect. Such conduct under any system of jurisprudence would be fatal to the validity of a conviction.

To these views the Sanhedrin of Judges might reply, if they could: “We knew from the outset of the Proceedings that the real main and substantial question before us was whether or not Jesus of Nazareth claimed to be the Messiah, the Son of God. It was common knowledge that He made that claim. We knew that if He were asked the question He would affirm that claim. The proceedings were conducted in great haste. If we had had more

time to call witnesses, evidence would have been given by those who heard Him make the claim and He would not have disputed their evidence. Haste was indicated because if there had been a remand, a riot, which might have developed into an insurrection, would probably have broken out, with the inevitable result that the Jewish State would have been destroyed. It was expedient that one man should die in preference to the nation being destroyed. We did not believe His claim to be the Messiah. He was not the ‘type’ to lead the Jews in a successful revolt against Rome. We were aware of the fact that He had performed miracles but we attributed His power to do so to Satanic agencies. We admit we may not have administered the law with complete strictness and may have ignored some of the rules of evidence and procedure. Most of us denied the binding authority of the Oral Law. But there was no miscarriage of justice because Jesus admitted that He claimed to be the Christ. Therefore, on His own admission, He was guilty of blasphemy.”

To such a reply, it may be rejoined: “The issue was not only whether Jesus claimed to be the Messiah but whether or not His claim was true. Justice cannot possibly be regarded as having been done, when the Judges concerned met before the trial and determined on the death of the Accused; thereby deciding to disregard anything the Accused might say in His defense, and in support of His claim, or might prove by the testimony of His witnesses. With regard to the argument of ‘expediency’; Jewish law never justified the killing of a man on such grounds. The killing of a man in such circumstances would amount to judicial murder.”

One highly important fact emerges from a consideration of the “trial,” namely, *The claim of Jesus of Nazareth to be the Messiah* was NOT INVESTIGATED. The behavior of the Judges when they received the news of the resurrection of Jesus, apart from their conduct before and at the Trial, justifies the belief that in no circumstances whatever would they be prepared to admit the claim of Jesus to be the Messiah of Israel. When the news of the resurrection reached them, instead of trying to make contact with Jesus to confirm the fact, or holding a full inquiry to ascertain the facts — possibly with a view to holding a new trials they gave large money to the soldiers who supplied the evidence, as a bribe to induce them to start the false story that while they slept the disciples stole the body of Jesus:

“Say ye, His disciples came by night, and stole him away while we slept. And if this come to the governor’s ears, we will persuade him and secure you. So they took the money, and did as they were taught: and this saying is commonly reported among the Jews until this day” (Matthew 28:13-15).

Why was it that the Rulers of the Jews would not admit the Messiahship of Jesus in any circumstances whatever? Put in a sentence the answer would seem to be that the Sadducees preferred that there should be no Messiah, while so far as the Pharisees were concerned, Jesus was not the “type” envisaged by them as the true Messiah of Israel. They were looking for a Messiah who would be “like unto Moses,” or who, like the great national hero and idol Judas Maccabeus (B.C. 167-161), with a strong and mighty arm would deliver them from their oppressors; one who would effect the supreme deliverance so that the Promised Land would pass into their undisputed possession for ever; one who would be attended by every circumstance of power and glory as foretold by the prophets. None other would satisfy them. Jesus fulfilled none of these prophecies. Jesus was not a warrior and, in any case, gave no sign of being willing to lead a revolt against Rome. On the contrary, He was a man of peace. His kingdom was “not of this world.” He had not denounced the Romans; but He had certainly denounced them — the Rulers of the Jews. They were looking for a Messiah of the type indicated by the prophet Daniel, amongst many others:

“I saw in the night visions, and, behold, one like the Son of man came with the clouds of heaven, and came to the Ancient of days, and they brought him near before him. And there was given him dominion, and glory, and a kingdom, that all people, nations, and languages, should serve him: his dominion is an everlasting dominion, which shall not pass away, and his kingdom that which shall not be destroyed” (Daniel 7:13-14).

Jesus never claimed to have fulfilled such prophecies. He made it plain that that event was yet in the future. He described that “second” advent in phraseology not unlike that employed by Daniel, when He said:

“When the Son of man shall come in his glory, and all the holy angels with him, *then* shall he sit upon the throne of his glory: and before him shall be gathered all nations and he shall separate them one from another, as a shepherd divideth his sheep from the goats”  
(Matthew 25:31, 32).

Israel understood nothing about two advents and erroneously attributed *all* the prophecies about the Messiah to a single advent. Further, they ignored all the prophecies about a “suffering” Messiah.

Moreover, Jesus taught that He had a mission to the Gentiles as well as to the Jews. In the estimation of the Jewish Rulers such a person could not possibly be a “true” Jew or their Messiah. In their conception of things Jehovah was not concerned with the Gentiles. They were deeply conscious of the age-long promise of Jehovah to their father Abraham; “Abraham shall surely become a great and mighty nation,” but were quite unconscious of the meaning of the rest of the promise “and all nations of the earth shall be blessed in him” (Genesis 18:17-18). They knew that these promises had been re-affirmed to Isaac, “I will perform the oath which I swear unto Abraham thy father”; but, again, the rest of the reaffirmation, “and in thy seed shall all nations of the earth be blessed,” was not comprehended (Genesis 26:3, 4). They knew that the promise and reaffirmation had been repeated to Jacob, “I am the Lord God of Abraham thy father, and the God of Isaac: the land whereon thou liest, to thee will I give it, and to thy seed,” but the rest of the promise, “and in thee and in thy seed shall all families of the earth be blessed” (Genesis 28:1 3, 14) was lost upon them.

And so, failing to understand that the teaching of Scripture was that the Messiah of the Jews was also the Savior of the World, and that there were to be two advents of the Messiah; and erroneously expecting all the glories of the second advent to be fulfilled at the first and, because Jesus did not fulfill (as indeed He did not claim to fulfill) the glories of the second advent, they treated Him as an impostor and His claim to be the Son of God as blasphemy.

Therefore, “they that dwell at Jerusalem, and their rulers, because they knew him not, nor yet the voices of the prophets which are read every Sabbath day, have fulfilled them in condemning him” (Acts 13:27).

“And The Whole Multitude Of Them Arose,  
And Led Him Unto Pilate” (Luke 23:1).

## CHAPTER 3

### THE ROMAN TRIAL RECONSTRUCTION OF EVENTS

#### THE HALL OF JUDGMENT

Then led they Jesus from Caiaphas unto the hall of judgment: and it was early; and they themselves went not into the judgment hall, lest they should be defiled; but that they might eat the passover. Pilate then went out unto them, and said:

#### THE CHARGES

What accusation bring ye against this man? They answered and said unto him, If he were not a malefactor, we would not have delivered him up unto thee. Then said Pilate unto them, Take ye him and judge him according to your law. The Jews therefore said unto him, It is not lawful for us to put any man to death (John 18:28-31). And they began to accuse him, saying, We found this fellow perverting the nation, and forbidding to give tribute to Caesar, saying that he himself is Christ a king (Luke 23:2).

And when he was accused of the chief priests and elders, he answered nothing. Then said Pilate unto him, Hearest thou not how many things they witness against thee? And he answered him to never a word; in so much that the governor marveled greatly (Matthew 27:12-14).

#### THE INTERROGATION

Then Pilate entered into the judgment hall again, and called Jesus, and said unto him, Art thou the King of the Jews?

Jesus answered him, Sayest thou this thing of thyself, or did others tell it thee of me?

Pilate answered, Am I a Jew? Thine own nation and the chief priests have delivered thee unto me' what hast thou done? (John 18:33-35).

### **THE DEFENSE**

Jesus answered, My kingdom is not of this world: if my kingdom were of this world, then would my servants fight, that I should not be delivered to the Jews; but now is my kingdom not from hence.

Pilate therefore said unto him, Art thou a king then? Jesus answered, Thou sayest that I am a king. To this end was I born, and for this cause came I into the world, that I should bear witness unto the truth. Every one that is of the truth heareth my voice.

Pilate saith unto him, What is truth? (John 18:36-38).

### **THE INTERRUPTED VERDICT**

And when he had said this, he went out again unto the Jews, and saith unto them, I find in him no fault at all (John 28:38).

And they were the more fierce, saying, He stirreth up the people, teaching throughout all Jewry, beginning from Galilee to this place.

When Pilate heard of Galilee, he asked whether the man were a Galilaean. And as soon as he knew that he belonged unto Herod's jurisdiction, he sent him to Herod, who himself also was at Jerusalem at that time (Luke 23:5-7).

### **JESUS BEFORE HEROD**

And when Herod saw Jesus, he was exceeding glad; for he was desirous to see him of a long season, because he had heard many things of him; and he hoped to have seen some miracle done by him.

Then he questioned with him in many words; but he answered him nothing.

And the chief priests and scribes stood and vehemently accused him (Luke 23:8-10).

### **THE MOCKING**

And Herod with his men of war set him at naught, and mocked him, and arrayed him in a gorgeous robe, and sent him again to Pilate.

And the same day Pilate and Herod were made friends together: for before they were at enmity between themselves (Luke 23:11-12).

### **JESUS AGAIN BEFORE PILATE**

And Pilate, when he had called together the chief priests and the rulers and the people, Said unto them, Ye have brought this man unto me, as one that perverteth the people: and, behold, I, having examined him before you, have found no fault in this man touching those things whereof ye accuse him:

No, nor yet Herod: for I sent you to him; and, lo, nothing worthy of death is done unto him (Luke 23:13-15).

### **THE VERDICT REPEATED.**

I will therefore chastise him, and release him (Luke 23:16).

### **BARABBAS**

The chief priests and elders persuaded the multitude that they should ask Barabbas, and destroy Jesus (Matthew 27:20).

And they cried out all at once, saying, Away with this man, and release unto us Barabbas: (who for a certain sedition made in the city, and for murder, was cast into prison) (Luke 23:18-19).

Pilate saith unto them, What shall I do then with Jesus which is called Christ? They all say unto him, Let him be crucified (Matthew 27:22).

## **PILATE'S WIFE**

When Pilate was set down on the judgment seat, his wife sent unto him, saying, Have thou nothing to do with that just man for I have suffered many things this day in a dream because of him (Matthew 27:19).

## **PILATE ABSOLVES HIMSELF**

When Pilate saw that he could prevail nothing, but that rather a tumult was made, he took water, and washed his hands before the multitude, saying, I am innocent of the blood of this just person; see ye to it (Matthew 27:24).

## **THE JEWISH CURSE**

Then answered all the people. His blood be on us, and on our children (Matthew 27:25).

## **THE SCOURGING AND TORTURE**

Then Pilate therefore took Jesus, and scourged him. And the soldiers platted a crown of thorns, and put it on his head, and they put on him a purple robe,

And said, Hail, King of the Jews! and they smote him with their hands.

Pilate therefore went forth again, and saith unto them, Behold I bring him forth to you, that ye may know that I find no fault in him.

Then came Jesus forth, wearing the crown of thorns, and the purple robe. And Pilate saith unto them, Behold the man!

When the chief priests therefore and officers saw him, they cried out, saying, Crucify him, crucify him. Pilate saith unto them, Take ye him, and crucify him: for I find no fault in him (John 19:1-6).

## **INTERROGATION RESUMED**

The Jews answered him, We have a law, and by our law he ought to die, because he made himself the Son of God.

When Pilate therefore heard that saying, he was more afraid;

And went again into the judgment hall, and saith unto Jesus, Whence art thou? But Jesus gave him no answer.

Then saith Pilate unto him, Speakest thou not unto me? knowest thou not that I have power to crucify thee, and have power to release thee?

Jesus answered, Thou couldest have no power at all against me, except it were given thee from above: therefore he that delivered me unto thee hath the greater sin (John 19:7-11).

## **THE THREAT TO PILATE**

And from thenceforth Pilate sought to release him: but the Jews cried out, saying, If thou let this man go, thou art not Caesar's friend: Whosoever maketh himself a king speaketh against Caesar.

## **CLOSING SCENES**

When Pilate therefore heard that saying, he brought Jesus forth, and sat down in the judgment seat in a place that is called the Pavement, but in the Hebrew, Gabbatha.

And it was the preparation of the passover, and about the sixth hour: and he saith unto the Jews, Behold your king!

But they cried out, Away with him, away with him, crucify him. Pilate saith unto them, Shall I crucify your King? The chief priests answered, We have no king but Caesar.

Then delivered he him therefore unto them to be crucified. And they took Jesus, and led him away (John 19:12-16).

And he released unto them him that for sedition and murder was cast into prison, whom they had desired (Luke 23:25).

## **PONTIUS PILATE**

PILATE LANDED IN PALESTINE IN A.D. 26 TO ASSUME THE reins of government in Judea. His immediate superior was the Imperial Legate of Syria but Pilate was nevertheless directly responsible to the Emperor for his administration of the province. In him vested the power of life and death. He was both judge and governor.

Of Pilate's origin nothing is known and there is no really authentic account of his death but there are many legends. Probably the most authoritative statement about his death is that which says that after Pilate was recalled to Rome in A.D. 36, to answer the accusations of the Jews, he committed suicide whilst living in exile in Gaul at Vienne, where a monument, fifty-two feet high, is still shown as his tomb.

## **CAESAR'S EFFIGIES**

Pilate despised the Jews, and it was not long before he was in conflict with them. At first he seems to have been minded to abolish the Jewish laws; but he found that this was not possible. Josephus (Ant. 18. 3. 1) tells us: "Pilate, the procurator of Judea, removed the army from Caesarea to Jerusalem, to take their winter quarters there, in order to abolish the Jewish laws. So he introduced Caesar's effigies, which were upon the ensigns, and brought them into the city; whereas our law forbids us the very making of images; on which account the former procurators were wont to make their entry into the city with such ensigns as had not those ornaments. Pilate was the first who brought those images to Jerusalem, and set them up there; which was done without the knowledge of the people, because it was done in the night time; but as soon as they knew it, they came in multitudes to Cesarea, and interceded with Pilate many days that he would remove the images, and when he would not grant their requests, because it would tend to the injury of Caesar, while yet they persevered in their requests, on the sixth day he ordered his soldiers to have their weapons privately, while he came and sat upon his judgment seat, which seat was so prepared in the open place of the city, that it concealed the army that lay ready to oppress them; and when the Jews petitioned him again, he gave a signal to the soldiers to encompass them around, and threatened that their punishment should be no less than immediate death,

unless they would leave off disturbing him, and go their ways home. But they threw themselves upon the ground, and laid their necks bare, and said they would take their death very willingly, rather than the wisdom of their laws should be transgressed; upon which Pilate was deeply affected with their firm resolution to keep their laws inviolable, and presently commanded the images to be carried back from Jerusalem to Caesarea.” Thus Pilate was worsted in his first conflict with the Jews.

### THE AQUEDUCT

This incident was soon followed by another which ended in much slaughter. It arose out of Pilate’s laudable desire to improve the water supply in Jerusalem; but to pay for it he used the sacred Temple money, no doubt with the permission of the High Priest, but at first unknown to the people. When the people found out, there was a riot. Josephus records the incident as follows (Ant. 18. 3. 2.): “Pilate undertook to bring a current of water to Jerusalem, and did it with the sacred money, and derived the origin of the stream from the distance of two hundred furlongs. However, the Jews were not pleased with what had been done about this water: and many ten thousands of the people got together and made a clamor against him, and insisted that he should leave off that design. Some of them also used reproaches, and abused the man, as crowds of such people usually do. So he habited a great number of his soldiers in their habit, who carried clubs under their garments, and sent them to a place where they might surround them. So he bid the Jews himself go away: but they boldly casting reproaches upon him, he gave the soldiers that signal which had been beforehand agreed on: who laid upon them with much greater blows than Pilate had commanded them, and equally punished those that were tumultuous, and those that were not: nor did they spare them in the least: and since the people were unarmed, and were caught by men who were prepared for what they were about, there were a great number of them slain by this means, and others of them ran away wounded. And thus an end was put to this sedition.” Dr. Edersheim was one of those who thought that the Tower of Siloam referred to in Luke 13:4 was part of this work. Jesus said:

“Those eighteen upon whom the tower in Siloam fell, and slew them, think ye that they were sinners above all men that dwelt in Jerusalem?”

The point of this observation seems to have been that Jesus was correcting the general opinion amongst the Jews that since the work was being carried out with the sacred money, any Jews who took part in the work deserved to be punished.

### **GALILEANS KILLED**

There was also an incident in which Pilate had apparently killed some Galileans while they were actually worshipping in the Temple and their blood had “mingled with their sacrifices.” These Galileans lived in Herod’s jurisdiction, and Pilate’s slaughter of Herod’s subjects may have given offense to Herod as being an infringement of his sovereignty and caused an estrangement between them. Pilate, apparently, was anxious to remove this estrangement; and when he was trying Jesus and heard that Jesus had come from Herod’s jurisdiction, he sent Jesus to Herod for trial both as an act of appeasement and in an attempt to be rid of a very troublesome case. At any rate the gesture had the desired effect and resulted in Pilate and Herod being “made friends together” (Luke 23:12).

As the result of these incidents between Pilate and the Jews, the relations between them at the time Jesus was arrested were not a little strained; and the Jews were on the look-out for good grounds for a petition to the Emperor Tiberius for the removal of Pilate from office. Neither of the two principal incidents we have just considered provided such grounds. That which referred to the ensigns glorified Caesar; while the use of the sacred money for the water supply resulted in a benefit to the inhabitants of Jerusalem. It was only by yielding to the clamor of the Jews at the trial of Jesus that Pilate escaped an accusation that he himself was guilty of treason to Caesar.

### **MASSACRE OF SAMARITANS**

Pilate finally over-reached himself in A.D. 36 when he was responsible for a massacre of Samaritans and was ordered by Vitellius, then President of Syria, to return to Rome to answer in person before the Emperor the

accusations of the Samaritans and Jews. Josephus records the incident as follows (Ant. 18. 55, 1, 2): “But the nation of the Samaritans did not escape without tumults. The man who excited them to it, was one who thought lying a thing of little consequence, and who contrived everything so that the multitude might be pleased: so he bid them get together upon Mount Gerizim, which is by them looked upon as the most holy of all mountains, and assured them, that when they were come thither, he would show them those sacred vessels which were laid under that place, because Moses put them there. So they came thither armed, and thought the discourse of the man probable; and as they abode at a certain village, which was called Tirathana, they got the rest together to them, and desired to go up the mountain in a great multitude together: but Pilate prevented their going up, by seizing upon the roads with a great band of horsemen and footmen, who fell upon those that were gotten together in the village, and when it came to an action, some of them they slew, and others of them they put to flight, and took a great many alive, the principal of which, and also the most potent of those that fled away, Pilate ordered to be slain.

“But when this tumult was appeased, the Samaritan Senate sent an embassy to Vitellius, a man that had been Consul, and who was now President of Syria, and accused Pilate of the murder of those that were killed, for that they did not go to Tirathana in order to revolt from the Romans, but to escape the violence of Pilate. So Vitellius sent Marcellus, a friend of his, to take care of the affairs of Judea, and ordered Pilate to go to Rome, to answer before the Emperor the accusations of the Samaritans, So Pilate, when he had tarried ten years in Judea, made haste to Rome, and this in obedience to the orders of Vitellius which he dare not contradict, but before he could get to Rome, Tiberius was dead.”

### **LEGAL PROCEDURE IN ROME AND IN PROVINCES**

At the trial of Jesus, Pilate did not observe the full legal procedure carried out in the courts in Rome, but he did imitate that procedure to a certain extent.

The following extracts from Hunter’s Roman Law, pp. 51 and 52, will help us to understand the procedure. “In Rome the magistrates sat in the Forum or Comitium, on their *curele* chairs, the lower magistrates on lower

seats (subsellia). In the provinces, the president imitated the form at Rome and sat in his court on a *curele* chair. Later on, the Courts came to be held in the Basilicas, which afterwards formed the model of many Christian churches. The proceedings were conducted with open-doors and the practice of setting up a screen before the Judge was severely reprobated in a constitution of Constantine.” (It is interesting to note that most of the Christopher Wren churches are basilican in character.)

The general course of procedure in the magistrates’ Courts at Rome was this. “The intending impeacher (it was now open to any citizens to prosecute) applied to the president of the Court that took cognizance of the charge to be brought, for leave to prefer an accusation (postulatio). If two or more persons made simultaneous application, a jury decided which of them should be the impeacher (divinatio). The impeacher then formally stated the name of the accused and the crime to be charged against him (nominis or criminis delatio). The accused was next cited before the Prator and the charge was preferred against him in person (citatio): upon which he was interrogated for the purpose of eliciting admissions, so as to narrow the issues to be tried (interrogatio); and a formal charge was then drawn up (inscriptio) and signed by the impeacher and his supporters (subscriptio). The judge then formally registered the name of the accused (nominis receptio) and appointed a day for the trial, which, unless fixed by the special law regulating the *quastio*, or varied by other special circumstances (such as difficulties in procuring the evidence), was generally the tenth day following. On the day of the trial, the jury was chosen by ballot from the available list, unless the special law regulating the *quastio* ordained otherwise: and, if any of them failed to appear when called, the judge had power to enforce their attendance or to punish their absence. If the impeacher did not appear, the accused was instantly discharged: but a fresh process might be instituted. If the accused did not appear, sentence was pronounced against him, late in the day, in terms of the special law of the Court. Both impeacher and accused might conduct their own case, or obtain the assistance of counsel and friends.

“On the conclusion of the evidence, the jury gave their verdict, at first openly, but after the *lex Cassia* (B.C. 1 37) by ballot. It might be expressed in any one of the three forms — Not Guilty (*absolvo*), Guilty (*condemno*), or Doubtful (*non liquet*). Equal votes were construed favorably to the

accused. In case of 'Doubtful,' the judge said 'amplius' ('Further', 'More Fully'), and the cause was heard a second time, or oftener (ampliatio), until the jury were able either to acquit or to condemn" (Hunter, pp. 58, 59).

In view of the fact that Jesus was accused before Pilate of treason against the Roman Emperor, the following extract from Hunter (p. 67) indicating that during Christ's lifetime on earth there was an increase in prosecutions for treason and that the crime was of an elastic character, is of interest: "The mantle of assumed moderation and humility fell from Augustus on the shoulders of Tiberius A.D. 14-37. Under him, however, the popular election of magistrates was transferred to the senate, which was further occupied in busily pronouncing sentence of death for the elastic crime of treason."

As we have seen, each procurator sent to Palestine was vested by the Emperor with absolute power of life and death. When trying a non-Roman citizen in his province he was not obliged to follow the procedure of the court in Rome. He had full discretion in the matter. He was judge and jury combined. No Jew had a right of appeal to Caesar unless he was also a Roman citizen. His life was absolutely in the hands of the procurator, who in addition to being judge was governor of the province and responsible for maintaining law and order therein. He was permitted and allowed himself complete discretion in all matters appertaining to the Jews. In practice the procurators were content for the provincials to govern themselves provided they did nothing to impinge upon the authority of Imperial Rome. The Jewish Law Courts were allowed to function and the procurators declined to try cases involving questions of Jewish law. But any conviction by the Sanhedrin on a capital charge had to be referred to the procurator for ratification or quashing. Sometimes the Romans would arrest a Jew and hand him over to the Sanhedrin for trial without any previous Roman trial (Acts 22:50) and sometimes the Jews would bring a Jew before the Roman judgment seat without any previous Jewish trial (Acts 18:12).

### **THE PRAETORIUM**

In the provinces, the Praetorium was always the quarters occupied by the Roman Governor. From Josephus (Wars, 11, 14, 8) we learn that the

Roman procurators resided in Herod's palace and took their seat in front of that palace on a raised pavement to pronounce judgment. Thus: "Now Florus took up his quarters at the palace; and on the next day he had his tribunal set before it, when the high priests and the men of power, and those of the greatest eminence in the city came all before that tribunal."

The pavement was an elevated spot with its floor adorned with the tessellated pavement of marble and colored stones, characteristic of the Roman buildings of this period, and especially of a Praetorium. The *bema* was a portable seat, chair or throne, placed upon this pavement for the occasion.

When Pilate was at his administrative headquarters at Caesarea, he lived in the palace of Herod. When he visited Jerusalem he had a choice between the fortress of Antonia, in which lay his legion of 6,000 men, and the magnificent palace of Herod. When he was accompanied by his wife he would no doubt choose to stay in the royal Herodian palace rather than in the fortress.

### **PILATE'S FUNCTIONS**

Did Pilate know that the Sanhedrin had already tried and condemned Jesus? Did Pilate try Jesus as a Court of "First Instance", or as a Court of Appeal? Did Pilate "review" the proceedings before the Sanhedrin with a view to quashing or confirming the Jewish" convictions"?

Lord Shaw (pp. 31-34 of his book) says: "What was the nature and the relation between these two — the Hebrew and the Roman Courts? It is a point of jurisprudence worth considering. The one was the Sanhedrin presided over by Caiaphas, the High Priest. The other was the Court of Pilate, the procurator of Tiberius, in the Praetorium, on the seat of Roman justice.

"To begin with, Caiaphas was not conducting a preliminary investigation as an examining magistrate. He was conducting a real trial under the forms and sanction of Hebrew law. Before the subjection of Palestine by Rome condemnation would have been followed not by sentence alone but by execution. But now Rome had intervened. After all, the accused was a subject of the Emperor,

and he and such as he should not die without the protection of the Emperor's representative and the warrant of the law of Rome. The one trial, a complete trial, was ended. The punishment of death was remitted elsewhere.

“But when Pilate accepted the remit, he did not do so as a Court of Appeal. Jesus Christ had made no appeal. Nor did Pilate act as a mere executive officer presiding over a tribunal of sentence. He could, and he was bound to, review the proceedings themselves which had brought the accused citizen to this pass. I declare that I think the nearest present-day analogy that can be found for his legal situation is the power of the Judicial Committee of the Privy Council in regard to crime within a dominion of the Crown. like, say, India. Over and over again the Committee has protested that it is not a Court of Criminal Appeal. Yet it has reserved to itself the fundamental right to prevent a violation of natural justice, as, for instance, by corruption in the judge, or such a denial of right as prevented the accused from his defense, or — I should presume — of trying as a crime what is not a crime.

“Pilate had this power; but he had undoubtedly more. He could not only hear both sides, but he could add to the sum of his knowledge by personal interrogation of the accused. I incline to think, further, that he could, in order to get to the bottom of the dispute, have convened witnesses before himself. Before ratifying the condemnation he had at least these rights: he stood free to review the whole proceedings, to decline execution of sentence, and to set the accused at liberty, declaring that he had done nothing worthy of death.

“Finally to this power of administering Roman justice and conserving the liberty of the subject were added the requirements of order which as a Roman administrator he was bound to consider. He was Judge and Secretary of State in one. Thus he was vested with a power of mitigation and mercy to the condemned. With him also lay the defense of public order against local violence, at the call of administrative safety — a review punctured by expediency. But beyond all question these administrative considerations could not,

dare not, be reached till the jural question was settled: was this man a guilty or was he an innocent man? If he were guilty he might be forgiven, or a mitigation of sentence made; but if he were innocent the stage of administrative expediency was not reached, the innocent must go free. If not, death was murder, and that quality attached not because a Governor was strong or a Governor was weak, but because he was wicked.

“This was the situation of Pontius Pilate, when in the early Passover morning he was confronted by the urgent remit of the hierarchy of Palestine, that he, in his Court, should sentence to death a prisoner whom they, in their Court, had convicted and condemned.”

Schurer (see pp. 187-188) observes: “There is a special interest attaching to the question as to how far the jurisdiction of the Sanhedrin was limited by the authority of the Roman Procurator. Inasmuch as the Roman system of provincial government was not strictly carried out in the case of Judea, as the simple fact of its being administered by means of a procurator plainly shows, the Sanhedrin was still left in the enjoyment of a comparatively high degree of independence. It had the power of finally disposing, on its own authority, of such cases as did not involve sentence of death (Acts 4:5-23; 5:21-40). It was only in cases in which such sentence of death was pronounced that the judgment required to be ratified by the authority of the procurator. Not only is this expressly affirmed with regard to the Jews in the Gospel of John (18:31) but it follows as a matter of certainty, from the account of the condemnation of Jesus as given by the Synoptists. Besides, a reminiscence of this fact has survived in Jewish traditions. But it is at the same time a fact worthy of note, that the procurator regulated his judgment in accordance with Jewish law.” Then by way of apology for Pilate’s action, he adds, “only on this assumption could Pilate have pronounced sentence of death in the case of Jesus. It is true the procurator was not compelled to have any regard to Jewish law in the matter at all, but still he was at liberty to do so, and as a rule he actually did so.”

Mr. Taylor Innes (pp. 75-81) says: “What was the relation of the two powers, the Jewish and the Roman, to each other at this time?”

This broad historical question lies at the root of the views which may be taken of the legal point — views which have sometimes been extremely contrasted. In the controversy between Salvador and Dupin, the former (true in this to the sad claim of some of his nation of old, ‘His blood be on us’) urged that the Sanhedrin had full authority to try even for capital crimes, and that their sentence of death required only the countersign or endorsement of the Roman Governor. His opponent held that the Jewish court had no right to try for grave, or at least capital, crimes at all; that their whole procedure was a usurpation; and that the only real or competent trial was that which we are about to consider” (*i.e.* The Roman Trial). “I have no intention of going into the great mass of historical investigation which has been accumulated on this confessedly difficult point. There seems no one consideration which is quite conclusive upon it. Whether it was legitimate or not for the Jews to condemn for a capital crime, on this occasion they did so. Whether it was legitimate or not for Pilate to try over again an accused whom they had condemned on this occasion he did so. There were certainly two trials. And the dialogue already narrated” (*i.e.* between Pilate and the Jews) “expresses with the most admirable terseness the struggle which we should have expected between the effort of the Jews to get a mere countersign of their sentence, and the determination of Pilate to assume his full judicial responsibility, whether of first instance or of revision. The reluctance of the Jews on the present occasion was no doubt prompted, not so much by their usual ecclesiastical independence as by their dread lest inquiry by Pilate should prevent his carrying out their scheme.”

### **JESUS BEFORE PILATE**

It was some time after daybreak that the chief priests led Jesus bound before Pilate. It seems that although the news of the arrest of Jesus and His “trial” by the Sanhedrin could not be known to many, a crowd had already begun to assemble before the Praetorium. Perhaps this was because it was an established custom that “at that feast the governor was wont to release unto the people a prisoner, whom they would,” and it so happened

that the Romans had in custody at that time “a notable prisoner, called Barabbas” (Matthew 27:15, 16). Now

“Barabbas. lay bound with them that had made insurrection with him, who had committed murder in the insurrection” (Mark 15:7).

No doubt he was a leader among the Zealots or Assassins, and had murdered a Roman. He would, therefore, be popular with a substantial section of the population; and those who sympathized with him and his activities would want to go to the palace to shout for his release. But when they arrived they found something vastly more important going forward. To their astonishment, the Great Prophet, Jesus of Nazareth, was on His trial. Only the day before, many of them had been searching for Jesus, particularly in the Temple, anxiously inquiring of each other, “What think ye, that he will not come to the feast?” They had retired to rest mystified at His disappearance. Now here He was before the judgment seat of Pilate being accused by the Chief Priests.

Having arrived at the Praetorium with ‘their prisoner’, the Chief Priests waited outside. It was the time of the Passover; they would not enter the heathen judgment hall lest they should be defiled — another example of “straining out a gnat and swallowing a camel.” Although, apparently, they hoped that Pilate would forthwith agree with their desire that Jesus should be put to death without inquiry, they came ready to perjure their souls by giving false evidence and to prefer charges some of which they knew to be false and unarguable; yet their religious scruples would not permit them to enter the heathen building during the Festival.

Pilate did not follow the procedure, usual in Rome, of fixing a future date for the trial and giving public notice thereof, he exercised the discretion undoubtedly vested in him to hear the case forthwith.

### **WHAT ACCUSATION?**

Respecting their scruples, “Pilate then went out unto them, and said, ‘What accusation bring ye against this man?’ They answered and said unto him: ‘If he were not a malefactor, we would not have delivered him up unto thee.’”

It would appear from Pilate's question and the insolent reply, that Pilate intended to try the case in due form of law, and that for some undisclosed reason the Jews had not expected him to adopt this attitude. They were taken aback. They appear to have expected a different kind of reception, as if they had reason to suppose that Pilate knew quite well why they brought Jesus before him and thought that all that would happen would be that he would ask them what they wished to be done with Jesus, whereupon their request would be granted without further discussion. Who had given preliminary notice of their intention to bring Jesus before Pilate and what had been said and perhaps agreed? What had Pilate been told about the case and by whom? Had Caiaphas interviewed Pilate? Pilate and Caiaphas were on good terms; they held office together for ten years. No matter how often the Jews might revolt, Caiaphas was not removed from office, as were his predecessors and Pilate seems never to have held him responsible for what occurred. Had Caiaphas visited Pilate after the Grand Consultation in the early morning and told him as much as he thought fit and no more of what had happened during the night? And did he impress upon Pilate his view that it was expedient for the Romans' as well as for the Jews that Jesus should die, and as soon as possible? Did Caiaphas report to the Sanhedrin that Pilate appeared to agree with this view of "expediency", and that when Jesus appeared before him no questions would be asked and that the governor would at once exercise his power and deliver Jesus to death forthwith? And that therefore all that the Chief Priests would have to say to Pilate was that they, as Rulers of the Jews, brought before him a Jew whose political activities rendered him worthy of death and that He should therefore die? Unless something of this sort took place it is difficult to understand the reaction of the Chief Priests to Pilate's question. Perhaps Pilate had given Caiaphas the impression that there would be no formal trial and that he would ask but few questions. But that on reflection, perhaps after consultation with his wife, he had decided that there must be a proper trial.

Whatever the truth and the fact was as to what, if anything, had taken place between Pilate and Caiaphas, when Pilate went out to meet the Jews, he made it plain to them that there was to be a formal trial; and in accordance with the Roman procedure he demanded, "What accusation bring ye against this man?"

It will be noted that there is nothing in the opening exchanges between the judge and the accusers which gives any hint that Jesus had already been tried by the Jewish Courts. Later on in the Gospel records it is stated that Pilate knew they had delivered Jesus “for envy”. It is not dirtiest to understand what Pilate’s reaction would have been if he had been told that the Sanhedrin had tried and condemned Jesus by night. He would, of course, be well aware of the fact that according to the Pharisaic law a trial by night on a capital charge invalidated the proceedings and on that ground alone he might have quashed the conviction. Pilate’s conduct throughout the trial seems to indicate that he was under the impression that no other trial had taken place; that having arrested Jesus and the charge being treason, the Jews had brought Him forthwith at the earliest moment before him. Further, Pilate’s question does not lend support to the view, so widely held, that Roman soldiers had taken part in the arrest. If they had, there would have had to be a charge and Pilate would know from the officer in charge of the Roman troops what that charge was. All he seemed to know at the beginning of the case was that this was another squabble between the Jews concerning some question of their law and that the Chief Priests were envious of Jesus.

To the insolent reply of the Chief Priests, Pilate replied: “Take ye him and judge him according to your law.” This observation also does not support the view that Pilate knew that the Jews had already tried Jesus; indeed, it suggests the contrary. Certainly the Jews did not reply. “We have already tried Him and convicted Him of blasphemy and we want that conviction confirmed.” Instead they answered, “It is not lawful for us to put any man to death,” a clear admission that the Romans had deprived them of the power to execute anyone condemned on a capital charge in their own courts; and, coupled with their previous statement, a request that Pilate would now give the necessary authority for Jesus to be executed by his officials.

### **THE CHARGES**

Realizing that Pilate was going to insist on a formal trial the Chief Priests began to accuse Jesus (Luke 23:2),

“We found this fellow perverting the nation, and forbidding to give tribute to Caesar, saying that he himself is Christ a King.”

“And when he was accused of the chief priests and elders, he answered nothing. Then said Pilate unto him, Hearest thou not how many things they witness against thee? And he answered him to never a word; in so much that the governor marveled greatly” (Matthew 27:12-14).

### **“PERVERTING THE NATION”**

Some have dismissed the allegation of “perverting the nation” as one which Pilate ignored; but Pilate in fact attached great importance to it. The way the Jews seemed to put the case before the Procurator was this: “He perverteth the nation by refusing to give tribute to Caesar, saying that He Himself is Christ, a King.” This view is supported by the fact that towards the end of the trial, when announcing for the second time that he found no fault in Jesus, Pilate said, “Ye have brought this man unto me, as one that perverteth the people.” This was, indeed, an accusation of treason, or at the least, sedition, and the other two accusations specified acts which the Jews relied upon as overt acts in treasonable activities, *viz.*, forbidding to give tribute to Caesar and claiming to be a king. The innuendo was that Jesus claimed to be a rival with Caesar for the allegiance of the people. Pilate would be aware that the Zealots openly and boastfully opposed the Roman occupation and refused to pay tribute; the Jews would know that one of the disciples of Jesus — Simon — was a Zealot. The Jews were holding Jesus up before the Procurator as an enemy of Caesar and hoped Pilate would associate Jesus with the malcontents.

### **WITCHCRAFT AND RELIGIOUS OFFENSES**

Pilate would also have to consider whether a charge that Jesus was “perverting the people” alleged an offense against the Roman laws in respect of religion and witchcraft. This would only be the case if the expression “the people” included Romans in Judea as well as Jews.

The Romans worshipped many deities. It is said that ancient Rome contained as many as four hundred and twenty temples and that in the dwelling of every wealthy family there was a private chapel in which they

worshipped their household gods. Their ministers of religion did not form a distinct order of citizens, but were chosen from the most virtuous and honorable men of the state. The teaching of “Christianity” to Romans in Judaea would be undoubtedly an offense against Roman Law. The Roman Law concerning offenses against witchcraft and religion are summarized in Hunter’s Roman Law, p. 1066, as follows:

“Prophets were to be beaten and expelled from the city; if they came back they were to be imprisoned or deported. Persons consulting with reference to the life of the Emperor were punished with death. Those who took part in the exercise of magical and diabolical arts were to be crucified; the magicians themselves, to be burnt alive. Even to keep books on the subject was a crime; the books were to be burned and the owners severely punished. Paul (a Praetorian prefect) says that persons introducing new kinds of worship, unknown to custom or reason, disturbing weaker minds, were to be punished, if persons of rank, with deportation; if not of rank, with death”.

Pilate seems to have been satisfied that the expression “the people” did not include Romans and the trial proceeded on the basis that it referred only to the Jews. This was obviously the intention of the accusers: Therefore Pilate ruled out of his mind any question of Jesus being accused of an offense against the religious laws of the Romans and he fastened upon the allegation that Jesus claimed to be a king. This allegation could only mean that the Jews were charging Jesus with the crime of treason that is, *majestas*, or, to give the full title *erimen laesae majestas*, *i.e.*, “high treason”. The implication of the accusation would also be that out of loyalty to Caesar they had arrested Jesus for the offense of treason, and having no power to try such an offense they naturally brought Him before the Procurator for trial.

It will be observed that they said not a word about having tried Jesus in their own Court and convicted Him of “blasphemy”; at no time throughout the trial before Pilate did they mention this fact or ask Pilate to “ratify the conviction.” Treason was a charge which Pilate alone could try and one he could not shirk. It was his bounden duty to investigate it and he proceeded to do so.

## TREASON

In both Roman and English law, treason is the breach of the duty to render allegiance. It is a duty which is always owed by a national to the country of his Birth and sometimes by an alien to a country not his own. The principal Roman statute on treason was the *Lex Julia Majestatis*, 48 B.C. This statute made it an offense to engage in any activity against the Emperor or the Commonwealth. It was liberally construed by the Roman Courts and in the time of Jesus almost any insult to the Emperor, or seditious activity, was regarded as treason. In particular, the dominion of Caesar being world-wide, no kings could reign without his consent, “Whosoever maketh himself a king speaketh against Caesar” (John 19:12). The penalty for treason was death and the memory of the convicted person was con-condemned even after death.

“In ancient times such an offense was called *perduellio*: under the Emperors, however, more generally *crimen laesae majestatis*.

“The crime of treason had certain peculiarities; there was no action or penalty for malicious prosecution and persons prohibited from being accusers could prosecute for treason. The defendant, of whatever rank, could, if necessary, be put to the torture. Slaves could be examined against their masters. The prosecution went on after the death of the accused, in order that the exchequer might obtain his property if he were found guilty” (Hunter, pp. 1065-6).

From the Roman point of view Jesus was an alien, but as a Jew living in Palestine, He owed allegiance to Caesar. Also when in A.D. 6 the Emperor agreed to the Jewish request to make Palestine a Roman Province, the Jewish nation, save some 6,000 Pharisees, expressly gave allegiance to Caesar (Ant. 17, 2, 4); thereafter, any breach of that duty by a Jew was treason.

## SEDITION

It is not always easy to distinguish between conduct which is seditious and that which is treasonable; the two offenses have much in common.

In English law, “Sedition embraces all those practices, whether by word, deed or writing, which fall short of high treason but directly tend to have

for their object to excite discontent and dissatisfaction; to excite ill-will between different classes of the King's subjects; to create public disturbance, or to lead to civil war; to bring into hatred or contempt the Sovereign or the Government, the laws or constitution of the realm, and, generally, all endeavors to promote public disorder. Or to incite people to unlawful associations, or assemblies, insurrections, breaches of the peace, or forcible obstruction of the execution of the law, or to use any form of physical force in any public matter connected with the State" (Archbold, *Criminal Practice*, 30th Edition, p. 1,128).

In Roman law there seems to have been even more affinity between treason and sedition than is the case in English law. Thus under the heading of "Offenses against Public Tranquillity" were cited "A seditious gathering or conspiracy"; "when an armed assembly takes possession of any public place". Under the heading "Offenses against the Public Force" were cited "Desertion by a soldier", "Soliciting or exciting soldiers to make tumult or sedition" (Hunter, p. 1,066). Apparently, all these offenses were both sedition and treason. It is noteworthy that although Barabbas had made "insurrection" (Mark 15:7) against Caesar, he was apparently charged with sedition, not treason.

## **TRIBUTE**

The payment of tribute to Rome from Judaea began in 63 B.C., when Pompeii settled the dispute between Hyrcanus and Aristobulus about the fight to the kingdom and made Judaea a tributary to the Republic, exacting from the people the sum of ten thousand talents (Ant. 14, 4. 5). The nation-wide refusal to pay tribute to Caesar which took place a few years after the Trial of Jesus was one of the precipitating causes of the great conflict which ended in the destruction of Jerusalem. We have already referred to the incident mentioned in Matthew 22, Mark 12 and Luke 20, which occurred only two days before the arrest when the Rulers tried to entice Jesus to say something about not paying tribute to Caesar which could be used in evidence against Him at His trial and we have noticed how signally they failed in the attempt. Therefore in accusing Jesus of "forbidding to give tribute to Caesar" they were saying that which to their certain knowledge was false. The New Testament and Josephus tell us of various taxes payable by the Jews, such as a poll-tax payable in

connection with the famous “census” (Luke 2:2) a property-tax, to which the High Priest Joazar induced the people to submit (Ant. 18. 1, 1.), a special house-duty in Jerusalem (Ant. 19. 6, 3); also the toll or customs referred to in Matthew 17:25 and Romans 13:7. Matthew and Zacchaeus were both tax-gatherers, the most detested class of the Jewish community. In addition to these taxes, each Jew had to pay a half-shekel towards the services of the Temple at Jerusalem (Exodus 30:13; 38:26; Matthew 17:24-27). The fact that Jesus consorted with such persons as Matthew and Zacchaeus and “publicans and sinners” generally was one of the reasons for the enmity of the Rulers against Jesus; but the reply of Jesus to such taunts was that He came “not. to call the righteous, but sinners to repentance” (Matthew 9:13). While the Judaeans were heavily taxed the Romans paid no direct taxation and this fact was a constant source of friction.

In these circumstances any Jew who went about “forbidding to give tribute to Caesar” would be guilty of treasonable or at least seditious activities.

### **THE INTERROGATION**

The charge of High Treason having been made in the presence of the Accused outside the Praetorium, the next step in the trial was the interrogation, the Examination of the Accused.

Pilate therefore re-entered the Praetorium, leaving the Jews outside, as they refused to enter, and sent for Jesus; Jesus and Pilate were thereupon face to face.

Pilate commenced the interrogation by asking Jesus “Art thou the King of the Jews?” to which Jesus replied, “Sayest thou this thing of thyself, or did others tell it thee of me?” This is as if Jesus were saying “In what sense do you use the word ‘king’? Are you asking as a Roman Judge if I claim to be an earthly king setting myself up in opposition to Caesar, or are you merely repeating a question put into your mouth by my fellow-countrymen who know quite well that I do not claim to be that sort of king? Before I can answer your question I must know in what sense you use the word king’.”

Pilate cleared up the point by his answer “Am I a Jew? Thine own nation and the chief priests have delivered thee unto me what hast thou done?” That is to say “I am repeating the charge as laid by your fellow-countrymen. You and they are Jews; you must know the sense in which they use the expression and you will understand that sense better than I who am a Roman. What exactly have you done?”

Having received this explanation Jesus thereupon entered his plea to the charge. It was a plea which English lawyers might regard as roughly comparable to a defense of “Confession and Avoidance “a common defense in a civil action. “In addition to or instead of denying the allegations made in the statement of claim, the defendant may in his defense set up an affirmative case, either by stating his version of the facts and showing that the plaintiff has no cause of action on the true facts, or he may plead in confession and avoidance and show that notwithstanding the facts stated by the plaintiff he has a defense.” (Bullen and Leake’s Precedents of Pleadings, 6th Edition p. 531.)

### THE DEFENSE

Jesus said in effect, “In answer to the charge, I ‘confess and avoid’; that is to say, I admit I made and do make the claim alleged against me; I assert that that claim, in the sense in which I made it, is true in substance and in fact. I do not, however, make the claim in the sense alleged by my accusers. I admit that I claim to be a king, but not the sort of king alleged by the Chief Priests. I make no claim to be a king, a rival to Caesar. I am not guilty of treason against the Emperor. I admit and assert that I have come to found a kingdom but not an earthly one; *My kingdom is not of this world if my Kingdom were of this world, then would my servants fight, that I should not be delivered to the Jews: but now, My Kingdom not from hence.*”

Pilate seized on the point of kingship and said,

“Art thou a king then? Jesus answered, Thou sayest that I am a king. To this end was I born, and for this cause came I into the world, that I should bear witness unto the truth. Every one that is of the truth heareth my voice. Pilate saith unto him, What is truth?” (John 18:28-38).

This then was the defense of Jesus to the charge of *majestas*. He claimed to be a king but He claimed no earthly kingship. The kingdom He came to establish was no earthly kingdom. It was a spiritual kingdom. It existed in the hearts and minds of men. It involved a particular “way of life” and attitude to God. It was not concerned with material things. It was a spiritual kingdom within an earthly kingdom. Caesar’s kingdom could continue and Christ’s kingdom could exist within that kingdom. It was “the kingdom of heaven” preached by John the Baptist, who also announced the advent of the king. He had never perverted the people by stirring them up against Imperial Rome. He had never forbidden to give tribute to Caesar, as his accusers well knew. He had taught the exact opposite (See Matthew 17:24-27; Matthew 22; 15-22). Those who gave allegiance to Him, could still render allegiance and pay tribute to Caesar. He had never sought to seduce one Roman soldier from his allegiance to Caesar. When He had healed the centurion’s servant (Matthew 8:5-15) He did not make it a condition of the healing that the centurion should resign his commission in the Imperial army. In making the accusation about forbidding tribute, His accusers, whose religious scruples would not allow them to enter the Praetorium during the celebration of a Jewish Feast, had committed willful and corrupt perjury.

### “WHAT IS TRUTH”

Pilate’s soliloquy “What is truth?” seems to indicate that at that stage of the proceedings, he was concerned to do right and justice to the Accused. Here was no “jesting” Pilate. He was plainly pressed by the anxiety experienced by every conscientious judge and magistrate in the discharge of his judicial duties, to know the truth of the cause before him. It has been well said that” Truth is justice in action “, and that “Truth is conformity to fact or reality”. Justice and truth have so close an affinity as to be almost indistinguishable. If justice be truth in action, then a judge or justice is required to seek to be the personification of truth in action. Jesus was “the Truth”. He alone personified “the Truth”. Pilate clearly wanted to know the truth of the case he was trying, hence his anxious inquiry — addressed to himself as much as to the Accused.

Pilate appreciated the explanation Jesus gave and as he reflected upon it he was convinced that Jesus was no traitor to Caesar. The defense prevailed.

Jesus was not guilty of the accusations made against Him, and he would so rule.

### **THE INTERRUPTED VERDICT**

Rising from his seat Pilate went outside the Praetorium where the Chief Priests and other accusers were waiting. In the meantime the crowd had no doubt swollen to huge proportions. By this time the news that the Great Prophet was on trial before the Procurator must have spread like wildfire throughout the city.

Pilate appeared before the crowd, followed no doubt by Jesus, guarded by His jailers, and announced his decision. "I find no fault in him ". It was a clear verdict of "not guilty", a verdict of acquittal. The judge had spoken, "*Absolvo*", "Not guilty". The trial was over. The Accused having been acquitted, it remained only for Him to be discharged.

### **MASS HYSTERIA**

The verdict of "not guilty" seems to have sent the Jews into a paroxysm of rage. It appeared to them that all their machinations had been defeated, that all their carefully-laid plans had miscarried. It was their fears, not their hopes, that were being realized. Jesus of Nazareth was supping through their fingers after all. While they had been waiting for Pilate's decision, they had busied themselves stirring up the multitude against Jesus. They met with considerable success.

The Praetorium rang with the cries of the multitude. The crowd was seized with mass hysteria. "The chief priests accused him of many things". Amid the shouts and the tumult, Pilate discerned a voice, crying "He stirreth up the people, teaching throughout all Jewry, beginning from Galilee to this place".

Pilate perceived a way of escape from his dilemma. The accused was a Galilean. He had committed the offenses complained of in Galilee as well as in Judea. Herod was Tetrarch of Galilee; he had come to the Feast and was close at hand. Apparently Pilate had previously offended Herod by killing some Galileans in the Temple. He would not increase this offense by dealing with this Galilean — either by condemning Him or releasing

Him. He would suspend his verdict and remit the case to Herod. In this way he would offend neither the Jews nor Herod. Whatever the fate of Jesus might be at the hands of Herod, he, Pilate, would not be responsible for it. Therefore, to Herod Jesus should go. “And. he sent him to Herod”.

### **THE REMISSION TO HEROD**

It is a nice legal point, whether Herod, Tetrarch of Galilee, could hold lawful Court in territory, *i.e.*, Judea, not in his jurisdiction, even though the offenses charged against the Accused were alleged to have been committed within his jurisdiction. However, Pilate had no objection to Herod trying in Judea an offense alleged to have been committed in Galilee; and if Pilate did not object there was nobody else who could. Pilate not only did not object but deliberately invited Herod to discharge his judicial functions within Pilate’s jurisdiction. This was an act of great courtesy and a very diplomatic gesture on the part of Pilate; it was received as such by Herod, with the result that the two “were made friends together” (Luke 23:12).

It is generally, but perhaps erroneously, supposed that Pilate sent Jesus to Herod for the purpose of enabling Herod to try the very charges Pilate had investigated and dismissed. Surely this cannot be so. Herod had no power to try offenses committed in Judea, which was Pilate’s jurisdiction; and Pilate had no power to try offenses committed in Galilee, which was Herod’s jurisdiction. What probably happened was that when Pilate heard the allegation that Jesus had been “teaching throughout all Jewry, beginning from Galilee” he decided to send Jesus to Herod, so that Herod might try the offenses alleged to have been committed in Galilee. He does not appear to have invited Herod to try offenses alleged to have been committed in his, Pilate’s, jurisdiction.

Pilate may well have thought that if he let Jesus go, after his verdict of “not guilty “, and it came to Herod’s knowledge that Pilate knew that allegations had been made that Jesus had committed offenses in Galilee as well as in Judea, and notwithstanding this knowledge had not concerned himself to send Jesus in custody before Herod, Herod would have been offended and the breach between them would have been widened.

## **JESUS BEFORE HEROD**

Accordingly, Jesus was brought before Herod Antipas, son of Herod the Great. Herod was Tetrarch of Galilee: the Roman Emperor would not allow him the title of “King”. He it was who murdered John the Baptist (Matthew 14:10). He it was who thought that Jesus might be John the Baptist risen from the dead (Matthew 14:2). He it was to whom Jesus referred as “that fox” when certain Pharisees came to Him and Said “Get thee out, and depart hence: for Herod will kill thee” (Luke 13:31, 32). “Herod the tetrarch heard of all that was done by [Jesus]: and he was perplexed, because that it was said of some, that John was risen from the dead; and of some, that Elias had appeared; and of others, that one of the old prophets was risen again. And Herod said, ‘John have I beheaded’ but who is this, of whom I hear such things?’ And he desired to see him” (Luke 9:7-9). His wish was now granted.

“And when Herod saw Jesus, he was exceedingly glad: for he was desirous to see him of a long season, because he had heard many things of him; and he hoped to have seen some miracle done by him. Then he questioned with him in many words; but he answered him nothing. And the chief priests and scribes stood and vehemently accused him” (Luke 23:8-10).

Once again Jesus had no answer for one asking questions out of idle curiosity. He did not condescend to hold converse with Herod. Nothing could have been more galling to Herod than the cold majestic silence with which his questions were received by the Prisoner at the Bar. Herod was infuriated at being so treated in the presence of his subjects and servants, and his fury revealed the meanness and smallness of his character when he

“with his men of war set him at naught, and mocked him, and arrayed him in a gorgeous robe, and sent him again to Pilate”  
(Luke 23:21).

## **THE TRIAL RESUMED**

The precise reason why Herod sent Jesus back to Pilate will probably never be known. It would appear that he, as much as the worst of the persecutors of Jesus, desired the death of Jesus. That he had no scruples

about putting to death anyone who withstood him is made clear from his murder of John the Baptist. He had no qualms about heaping insults in the most infamous way on Jesus. Why then did he not put Jesus to death when he had Him in his power? We may never know. But perhaps he did not see why he should help his old rival and erstwhile estranged friend out of an embarrassing situation, especially as his conscience, following the denunciations of John the Baptist, was probably giving him no rest. "Conscience doth make cowards of us all". Perhaps he did not want another murder on his hands; and no doubt he had a wholesome awe concerning the Great Prophet. Let Pilate resolve his own difficulties and he, Herod, would be an interested spectator. Or perhaps he thought that Pilate wished him to return Jesus to him. Apparently Pilate had omitted to make it clear to Herod that if he, Herod, found no fault in Jesus, the Accused should be discharged, as he, Pilate, had found Him "Not Guilty". There seems to have been some kind of misunderstanding between Pilate and Herod with the result that Pilate found himself once more face to face with Jesus and with the necessity of either releasing Jesus or acceding to the wishes of the Jews.

In these circumstances, Pilate resumed the trial from the point it had reached when he had been informed that Jesus had been perverting the people in Galilee. More than ever it was Pilate, the judge, not Jesus, who was on trial. The Accused dominated the amazing scene, while the harassed judge, relentlessly importuned and, finally, threatened by the angry mob, hurried to and from the Forum seeking for some way of escape.

It would appear that Jesus returned from Herod's residence to the Praetorium before His accusers. Perhaps they could not force their way through the surging multitude which by this time must have gathered. At last the accusers are again present. In full view of the multitude, and with his mind made up, Pilate ascended his Judgment Seat and probably having obtained some semblance of quiet he addressed the people generally and the Chief Priests and Rulers in particular as follows:

## THE SECOND ACQUITTAL

“Ye have brought this man unto me, as one that perverteth the people: and, behold, I, having examined him before you have found no fault in this man touching those things, whereof ye accuse him: No, nor yet Herod: for I sent you to him; and, lo, nothing worthy of death is done unto him, I will therefore chastise him, and release him” (Luke 23:13-16).

It will be noted that Pilate summarized all the allegations made by the Jews in the phrase “Perverteth the people”. That was really the sum and substance of the case sought to be made against Jesus. It was one way of describing a charge of High Treason — subversive activities directed against the Roman State.

So far the Jews had given no hint that they accused Jesus of any offense against their own laws. They knew their Pilate, just as Pilate knew his Jews. They fully appreciated that to make allegations of offenses against Jewish law would be fatal to their schemes; so at first they confined all their allegations to offenses against Roman law.

Clearly Pilate intended this to be his last word. It was the decision he had started to announce, or possibly fully announced, before he sent Jesus to Herod and which was interrupted by allegations that Jesus had been guilty of offenses in Galilee. This was without doubt to be the end of the trial and it was to end in an acquittal.

## BARABBAS

But no sooner had the crowd divined his meaning and intention than

“They cried out all at once, saying, Away with this man, and release unto us Barabbas: (who for a certain sedition made in the city, and for murder, was cast into prison).” (Luke 23:18, 19).

“Pilate saith unto them, What shall I do then with Jesus which is called Christ? They all say unto him, Let him be crucified. And the governor said, Why, what evil hath he done? But they cried out the more, saying, Let him be crucified” (Matthew 27:22, 23.)

From the Chief Priests' point of view it was a fortunate coincidence that at that Feast the Romans had bound in prison "a notable prisoner". No doubt he was awaiting trial by Pilate after the Passover, and had been remanded in custody until Pilate's arrival at Jerusalem. Or perhaps Barabbas was already under sentence of death.

Barabbas lay bound in prison with some compatriots who had revolted against the Romans and committed murder; presumably they were extreme Zealots, the terrorists of those days. Barabbas would therefore be a popular figure with his fellow countrymen. As his incarceration coincided with the Feast of the Passover and at that Feast it was the custom of the Procurator to release "whom they would" (Matthew 27:15) he stood a good chance of being set free. It was therefore an easy matter for the Chief Priests to stir up the people to demand the release of Barabbas instead of Jesus.

### **“WHAT SHALL I DO THEN WITH JESUS WHICH IS CALLED CHRIST?”**

For nineteen hundred years Pilate's question has reverberated in the hearts and minds of countless millions of human beings and each has had to answer for himself before the bar of conscience. It is a challenge none can escape. The multitude at the trial of Jesus chose Barabbas, the man of war, and rejected Jesus, the Mar. of Peace. Mankind in general has re-affirmed that decision, thereby crucifying Jesus afresh, with disastrous results to all.

### **PILATE'S WIFE**

And while Pilate was

“set down on the judgment seat, his wife sent unto him, saying,  
Have thou nothing to do with that just man: for I have suffered  
many things this day in a dream because of him” (Matthew 27:1- 9).

But little is known of Pilate's wife. According to tradition her name was Procula, and she was a convert to Judaism; she was canonized by the Greek Church. Perhaps she and Pilate had discussed the case before the trial started and having Jesus much on her mind she had dreamed about

Him. Upon awaking she scribbled a note to her husband and caused it to be sent to him while he was upon the Judgment Seat. No doubt she was now watching the proceedings from some convenient part of the building.

The Romans were most superstitious and attached great importance to dreams. They established a college of augurs, whose business it was to explain dreams, oracles and the like. The message Pilate received from his wife would undoubtedly make a deep impression on his mind.

### **THE WASHING OF HANDS**

“When Pilate saw that he could prevail nothing, but that rather a tumult was made, he took water, and washed his hands before the multitude, saying, I am ‘innocent of the blood of this just person’ see ye to it.”

The message Pilate received from his wife seems to have increased his determination to release Jesus. No doubt it would be impossible for his voice to reach beyond those nearest to him, so he performed a symbolic act which could be seen by those on the outskirts of the crowd and beyond reach of his voice — an act the meaning of which they could not mistake. Saying “I am innocent of the blood of this just person,” thereby using almost the identical expression contained in his wife’s message, he took water, and washed his hands in the presence of them all. As Procurator, Pilate must have been well acquainted with Jewish customs. He would know that when a murder had been committed and the offender remained undiscovered, it was the practice, as laid down in Deuteronomy 21:7, for the elders to wash their hands over the appointed sacrifice, saying “Our hands have not shed this blood, neither have our eyes seen it”. Those who heard his words or saw his action, understood its significance; its only result however, was to cause them to call down upon themselves a terrible curse, and not only upon themselves, but also upon their children.

### **“HIS BLOOD BE ON US, AND ON OUR CHILDREN”**

Yes, the furious crowd did not hesitate to call down a curse upon their children. History records the sequel.

In A.D. 70, forty years later, Titus destroyed Jerusalem. The Temple disappeared. The sacrifices ceased and have not been resumed to this day;

the High Priesthood disappeared, Josephus has recorded in great detail the horrors and desolation which came upon Israel. Over one million Jews perished in the slaughter. From that day to this the Jews have been scattered over the world. All that Jesus uttered but a few hours before His trial concerning the fate of Jerusalem, befell the Holy City.

“And when he was come near, he beheld the city, and wept over it, saying, If thou hadst known, even thou, in this thy day, the things which belong unto thy peace I But now they are hid from thine eyes. For the days shall come upon thee, that thine enemies shall cast a trench about thee, and compass thee round, and keep thee in on every side, And shall lay thee even with the ground, and thy children within thee; and they shall not leave in thee one stone upon another; because thou knewest not the time of thy visitation” (Luke 19:41-44).

### **SIEGE OF JERUSALEM**

When the battle for Jerusalem was at its height, the Roman General Titus—he who took part in the Roman campaign in Britain — did his utmost to save the Temple from destruction. As the battle approached the very gates of the sanctuary, the Jewish factions in the city were fighting each other as well as the Romans. They fought in the Temple itself. The Romans were horrified at the desecration. Titus, by his spokesman Josephus, promised to spare the Temple if they would vacate it. Josephus reports his speech to the Jews as follows: “Have you not, vile wretches that you are, put up this partition-wall, before your sanctuary? Have you not put up the pillars thereto belonging, at clue distances, and on it engraved in Greek, and in our own letters this prohibition, That no foreigner should go beyond that wall? Have me not given you leave to kill such as go beyond it, though he were a Roman? And now, you pernicious villains, why do you trample upon dead bodies in this Temple? And why do you pollute this holy house with the blood of foreigners and Jews themselves? I appeal to the gods of my own country and to every god that ever had any regard to this place (for I do not suppose it to be now regarded by any of them) I also appeal to my own army, and to those Jews that are now with me, and even to you yourselves, that I do not force you to defile this your sanctuary; and if you will change the place whereon

you will fight, no Roman shall either come near your sanctuary, or offer any affront to it' nay, I will endeavor to preserve you your holy house, whether you will or no."

As Josephus explained these things from the mouth of Caesar, both the robbers and the tyrant thought that these exhortations proceeded from Titus's fear, and not from his good will to them, and grew insolent upon it. But when Titus saw that these men were neither to be moved by commiseration towards themselves, nor had any concern upon them to have the holy house spared, he proceeded unwillingly to go on again with the war against them (Wars, 6. 2. 4). In the result Jerusalem and the Temple were destroyed.

### **THE SCOURGING**

Having declared Jesus to be innocent, Pilate ordered Jesus to be scourged. His chief concern now seems to have been to stave off a riot of the utmost gravity. The crowd sensed that they had him within their power. His previous encounters with the Jews had not enhanced his dignity. When they had protested against his violations of their sacred traditions by the introduction of the ensigns and had threatened them, they had called his bluff and he had capitulated. When they had rioted against the use of the sacred money in building the aqueduct there had been bloodshed. No doubt Pilate recalled that at the first Feast of the Passover after the death of Herod the Great there had been a riot in Jerusalem in which 3,000 Jews had been killed (Ant. 17, 9, 3). Now he had visions of an even worse riot. His legion in the neighboring fortress of Antonia was vastly outnumbered by the swollen populace.

In an attempt to please them, he handed Jesus over to the soldiery to be scourged. Artists have depicted the scene in the barracks. The procedure was for the victim to be tied to a short column, stripped to the waist and flayed. Jesus was scourged. "And the soldiers platted a crown of thorns, and put it on his head, and they put on him a purple robe, and said, Hail King of the Jews! and they smote him with their hands. And they. put. a reed in his fight hand: and they bowed the knee before him, and mocked him. and they spit upon him, and took the reed, and smote him on the head".

Truly,

“he was wounded for our transgressions, he was bruised for our iniquities: the chastisement of our peace was upon him; and with his stripes we are healed” (Isaiah 53:5).

### **BEHOLD THE MAN!**

After Jesus had been scourged and tortured by the soldiers, Pilate went out again to the mob and announced:

“Behold, I bring him forth to you, that ye may know that I find no fault in him”. Then came Jesus forth, wearing the crown of thorns, and the purple robe. And Pilate saith unto them, Behold the man! When the chief priests therefore and officers saw him, they cried out, saying, Crucify him, crucify him. Pilate saith unto them, *Take ye him, and crucify him: for I find no fault in him.*”

Now comes a new allegation. Apparently, it was not mentioned before; they kept it in reserve; it was indeed the cause of their bitter enmity against Jesus. Truth will out! It was a question of Jewish law after all and it frightened the Judge; he was filled with superstitious dread. The Jews answered him; “We have a law, and by our law he ought to die, because he made himself THE SON OF GOD.” There was still no mention of any proceedings in their own Court or that they had condemned Jesus for “blasphemy”.

It will be noted that Pilate now tells the Jews to take Jesus and crucify Him themselves. Pilate indicates that He is prepared to hand over Jesus, “this just person”, to the crowd to be done to death. Perhaps he said it only to test their reaction. He knew the Jewish reluctance to crucify anybody themselves, and perhaps he counted on a refusal of his offer. However that may be, the offer was in fact refused. This refusal seems to strengthen the view that the Chief Priests, though determined to put Jesus to death, shrank from doing so themselves. They wanted the foul deed done in the name of Rome. Crucifixion was almost unknown among them. Their manner of executing criminals, before they were deprived of the power to do so by the Romans, was by stoning. When a little later on they murdered Stephen, they stoned him. They wanted Jesus crucified because

that was the most degrading and insulting method of all; but they refused to do it themselves. Like Pilate they appear to have had a wholesome awe and dread of the Accused. And so, once again, as Jesus came forth, wearing the crown of thorns and on the point of collapse, they cried out “Crucify him, crucify him!. He ought to die, because he made himself the Son of God.”

### **PILATE RE-ENTERS THE PRAETORIUM**

“The Son of God.” This was a new accusation. It thoroughly disturbed the judge. First of all the Jews put Jesus forward as “a malefactor” — an accusation which conveyed nothing. When Pilate insisted upon definite charges, they became “perverting the nation”, “forbidding to give tribute to Caesar”, “claiming to be a king”. Now the accusation was, claiming to be “the Son of God”!

All that was superstitious in Pilate seems to have taken possession of his fevered imagination. He was trying One who claimed to be “the Son of God”. And he had just ordered this mysterious person, whom he knew to be a “just man”, to be scourged and tortured by his brutal troops. He must have time to think. He must interrogate the Accused again.

So, for the second time that morning, Pilate re-entered the Praetorium and was face to face with Jesus. Feverishly he asks, “Whence art thou?” but Jesus gave him no answer. Then making an attempt to preserve a show of dignity and authority he says, “Speakest thou not unto me? knowest thou not that I have power to crucify thee, and have power to release thee?” What a boast, bearing in mind that, notwithstanding he was the Governor, for the last hour or two, the common people and their Rulers had been insolently daring him to deny them their wish.

Whereupon Jesus, the tortured and uncomplaining One, fixing the harassed Judge with His serene gaze, in firm, calm, and authoritative tones replies, “Thou couldest have no power at all against me, except it were given thee from above”, adding, from His understanding and forgiving heart, “he that delivered me unto thee hath the greater sin”. As if to say, “I do not expect you a Roman, to understand; but, they, should understand.”

Pilate appears to have been reduced to silence, for he is not reported to have made any reply, by such truly royal and judicial behavior in such terrible circumstances. He was dumbfounded. The Accused was more judicial than the Judge! The magnanimity and authority of the reply must have cut him to the quick. He must have been overwhelmed with shame. A conflict seems to have raged within him. Different forces struggled for the mastery. His training as a Judge told him that the Accused was not guilty of any of the charges laid against Him; his judgment of men convinced him that Jesus was “a just man”; his appreciation of the situation satisfied him that the Jews had delivered the Accused “for envy”; his contempt for their habit of splitting hairs over the interpretation of their laws both irritated and bored him. His previous clashes with the common people warned him that if he persisted in thwarting their demands, there might be a riot in which blood would flow. His responsibilities made him fearful lest a riot should develop into an insurrection. His sense of expediency urged him to “content the people” by yielding to their demands. The insolent way they had defied him in the presence of this noble Accused angered him and injured his pride. His pagan superstition, coupled with his wife’s dream, made him reel from the act of condemning One who claimed to be “the Son of God”. He was at his wit’s end to know what to do. At last the struggle was over. Was he not a Roman Judge? Was it not his bounden duty to make it plain to the Sanhedrin and to the threatening mob that the fundamental basis of Roman Law was as embodied in the maxim:

***“Fiat Justitia, Ruat Coelum”***

“Let justice be done, though the heavens fall.” He would make this plain to all concerned. “And from thenceforth Pilate sought to release him” (John 19:12). As Peter said subsequently, Pilate was “determined to let Jesus go” (Acts 3:13).

### **PILATE BACK ON THE FORUM**

Leaving Jesus inside the Praetorium, Pilate went out again to the crowd and “sought to release Jesus”. His efforts were in vain. The Jews cried out, saying, “If thou let this man go, thou art not Caesar’s friend; whosoever maketh himself a king speaketh against Caesar”.

“When Pilate therefore heard that saying, he brought Jesus forth, and sat down in the judgment seat in a place that is called the Pavement, but in the Hebrew, Gabbatha. And it was the preparation of the passover, and about the sixth hour: and he saith unto the Jews, Behold your King! But they cried out, Away with him, away with him, crucify him. Pilate saith unto them, Shall I crucify your King? The chief priests answered, We have no king but Caesar”  
(John 19:12-15).

“And the voices of them and of the chief priests prevailed”  
(Luke 23:23).

### **CRUCIFY HIM!**

Only a few days before, on Palm Sunday, as word went round that Jesus of Nazareth was passing by, great crowds had gathered to give Him a triumphal procession. The air was filled with joyful cries, “Hosanna to the son of David: Blessed is he that cometh in the name of the Lord; Hosanna in the highest”. Now no voice was raised in His defense. A complete reversal of popular feeling had taken place. Stirred up by the Chief Priests the crowd cried, “Crucify Him, crucify him”. Now they were angry, indeed, enraged with Jesus. They had trusted that the great wonder worker of Galilee was He who would have redeemed Israel from the foreign yoke; that at this Feast of the Passover, He would crown all His miracles by some stupendous and overwhelming sign that He was the long promised King-Messiah, their political and spiritual Savior. Instead, they saw One who appeared to be absolutely helpless in the hands of the Roman Governor. When the Chief Priests accused Him of many things, He answered nothing. They heard no impassioned defense; on the contrary He was silent. He was not even defiant. He was meek and mild. He made no complaint. He was a Man of Peace. Crowned with thorns, wearing a mock purple robe, scourged, jeered at, insulted, ridiculed and humiliated in every way by the rabble soldiery, He made no protest, but “as a sheep before her shearers is dumb, so he openeth not his mouth”. Clearly His kingdom was not of this world. As He stood before the multitude He did not answer to the description of the all powerful, conquering deliverer foretold by their prophets. They had no understanding of a “suffering” Messiah

also foretold by their prophets (see pp. 90, 145); they knew nothing of *two* Messianic advents (see pages 89-91.). They were looking for a national leader whom God would raise up from among their fellow countrymen “like unto Moses” (Deuteronomy 18:15; Acts 3:22); one who would be a great prophet, lawgiver, statesman and warrior, whose leadership, as in the case of Moses, would be divinely attested by supernatural signs, and who would deliver them from the Romans as surely and effectually as Moses delivered their forefathers out of the hand of the Egyptians at the first Feast of the Passover. Up to the time of His arrest, it had seemed to the multitude that Jesus of Nazareth was about to assume this national leadership. They felt that it was only a matter of time before the vital declaration would be made. All the signs pointed to this Feast of the Passover as providing the occasion for the momentous proclamation. The Palm Sunday enthusiasm showed that they were in the mood to receive it with acclamation — provided it was accompanied by some outstanding supernatural “sign”. But the sign was not forthcoming— not then. “The heavens were as brass”. Jesus had said that the “sign” would be His resurrection from the dead (Matthew 12:38-40); but even His disciples did not understand the meaning or significance of His words (Luke 18:31-34). In the mystery of Divine Providence the multitude were to help in providing the sign, for they were to be the human instruments to send Him to His death; and His death was the condition precedent to His resurrection. Now all their hopes were dashed to pieces. He saved others, Himself He could not save. They were stupefied by this sudden change in the fortunes of their Idol. Their stupefaction turned to bewilderment; their bewilderment to resentment; their resentment to anger; their anger to hatred and scorn. They despised Him (Isaiah 53:3) for His apparent helplessness after having raised their hopes so high; and because they despised Him, they rejected Him as yet another false Messiah and deceiver. The spiritual significance of the transaction upon which they were engaged was completely lost upon them. At this, the most momentous Passover in all their long history, they failed to see in Jesus the very Paschal Lamb (John 1:29; John 3:16; I John 2:1) who, by the sacrifice of Himself would bear away the sin of the world and thus perform the legal act by virtue of which an utterly holy God could grant a free pardon to all who accepted that sacrifice. Therefore to Pilate’s sarcastic questions sarcasm directed more against the accusers than the

accused— “Shall I crucify your King?” —they responded with furious cries of “Crucify him, crucify him”. They demanded His death and that without delay.

### **PILATE YIELDS**

Pilate had come forth from his last interrogation of Jesus determined to uphold the high traditions of Roman Justice and to persuade the Jews to accept his verdict of not guilty”. He was “determined to let Jesus go” (Acts 3:13). Then the chief priests let loose their final and fatal shaft. “If thou let this man go, thou art not Caesar’s friend”. The stab went home. Pilate saw the danger signal. He knew he was defeated. He appreciated the innuendo. The hint was too plain-to be mistaken. If he let Jesus go, the Jews would accuse him before his Emperor of *crimen lasae majestatis*, the very charge made against the Accused he was trying. The tables were being turned upon Pilate with a vengeance. If he let Jesus go, he would be accused of suffering a rival to Caesar. How could he hope to defend himself successfully on such a charge? It would be given in evidence against him before the Emperor that Jesus had admitted being a king. He would have no defense. It would be useless to explain to Tiberius that the Accused denied being the sort of king alleged by the Jews but claimed to be some other kind of king. A pagan Emperor would never understand that explanation. Yes, he would be without a defense and he would share the fate of all Roman officials who failed their Emperor; he would be ordered to commit suicide to purge his offense.

### **THE TRIAL ENDS**

And so, with the hypocritical cry of the Jews, “We have no king but Caesar” ringing in his ears, Pilate yielded. He collapsed, miserably, utterly, and hurtled down the slippery slope of self-interest and expediency to his destruction. He abandoned his high duty as Judge to do right and justice to the Accused without fear or favor, partiality, affection or ill-will; in an attempt to save himself from a charge of treason, he gave way to the clamor of the mob. Without rescinding his verdict of “not guilty” he gave sentence that it should be as they required; he “released Barabbas unto them, and delivered Jesus. to be crucified” (Mark 15:15).

In the final analysis it would seem that both Caiaphas and Pilate conceived themselves to be faced with the same problem: a problem in part a personal and in part a public one. Caiaphas envisaged that if Jesus were allowed to live, an insurrection would break out with disastrous results to the Jewish State; and in that case he and his colleagues would lose everything. So, before the trial commenced or even the arrest was made, he advised the Sanhedrin, “It is expedient for us, that one man should die for the people” (John 11:50).

Pilate appreciated that if he let Jesus live, he himself would be accused of treason and would forfeit his life.

Both Judges resolved their respective problems on the basis of expediency and self-interest: neither on the basis of “Justice for the Accused”.

We are constantly reminded in the Apostles’ Creed that Jesus “suffered under Pontius Pilate.” in truth, Caiaphas “had the greater sin” (John 19:11).

There is a belief, held throughout the centuries, and shared by Jew and Gentile alike, that the claim of Jesus of Nazareth to be the Messiah and Son of God was thoroughly and patiently investigated by the Jewish Supreme Court and rejected only after mature deliberation.

Our study should make it clear that there is no justification for this belief.

The Sanhedrin never investigated the claim of Jesus to be the Messiah and Son of God. The Sanhedrin directed all their efforts to securing that the claim was formally made and rejected in the Court “whence the law goes forth to all Israel”. Immediately Jesus made the claim, they denounced it as blasphemy; they dismissed the claim without a hearing.

The Sanhedrin merely used their Court as part of the machinery for putting Jesus to death. Pilate thrice declared Jesus to be “not guilty”, then washed his hands of the case and delivered Jesus to be put to death.

Yet Jesus was not the victim of a miscarriage of justice. Neither “legal” nor “natural” justice was done. Legal justice is man-made and can be lawfully altered by the State. Natural justice is the Birthright of every human being; it includes the right to a “fair” trial and an acquittal if not condemned; it is

universal, for it knows no territorial limits; it is fundamental to every system of jurisprudence.

Both the Jewish and Roman Courts professed to administer natural as well as legal justice. Neither did so in the case of Jesus; each Court denied Him both kinds of justice.

Justice was not done and was manifestly and undoubtedly seen not to be done.

JESUS OF NAZARETH, MESSIAH OF THE JEWS AND SAVIOR OF THE WORLD, WAS MURDERED

“And they took Jesus, and led him away” (John 19:16).

## CHAPTER 4

### THE SEQUEL PERSECUTION OF CHRISTIANS

THE DESCENT OF THE HOLY SPIRIT ON THE DAY OF Pentecost and the consequent conversion of thousands to the Christian faith was soon followed by a period of bitter persecution of Christians by both Jew and Roman. The counsel of the wise Gamaliel to his fellow-members of the Sanhedrin to refrain from lifting their hands against the Apostles was heeded for but a very short time, for the Sadducees were

“grieved that they taught the people, and preached through Jesus the resurrection from the dead” (Acts 4:2).

The challenging accusations of Stephen “cut them to the heart” (Acts 7); so they murdered Stephen and tried to exterminate the Church in Jerusalem, with the result that the Church was “scattered abroad throughout the regions of Judea and Samaria, excepting the apostles” (Acts 8). Surprisingly enough, one of the disciples of Gamaliel, Saul of Tarsus, became one of the leading persecutors of the Christians. He “made havoc of the church, entering into every house, and haling men and women committed them to prison” (Acts 8:3). Later, and after Paul’s dramatic conversion on the road to Damascus, Herod joined in the persecution (Acts 12) until he was smitten with sudden death. By this time Christianity was being preached to and received by large numbers of Gentiles, a fact which caused serious divisions among the Jewish Christians.

In addition to this more serious persecution by the Sanhedrin, the early Christians suffered greatly at the hands of the Romans, especially during the reign of Nero (A.D. 68):

### PAUL IN ROME

The arrival of the Apostle Paul in Rome (Acts 28) to stand his trial in pursuance of his appeal to Caesar, would bring Christianity to the personal notice of Nero, though we have no certain information that Paul was ever tried by that tyrant himself. By the time Paul arrived in Rome,

Nero had lost whatever appreciation of the greatness of his high office he had once possessed and was degenerate and dissipated to a degree. Probably he would not be interested in the case of the Apostle. There is no evidence that Paul's first arrival in Rome in custody resulted in a trial. The reference of Eusebius (*Ecclesiastical History*, 2, 22) to the matter is: "After defending himself successfully, it is commonly reported that the Apostle again went forth to preach the Gospel, and afterwards came to Rome a second time." It would seem that Paul was released from his first imprisonment — either for want of prosecution or after acquittal — before the great fire of Rome and that his second visit was after that tragic event. If this is so, the martyrdom of the great Apostle must have occurred some time between A.D. 64-68. Eusebius gives A.D. 68 as the year of the martyrdom, and Jerome A.D. 67.

### **THE FIRE OF ROME**

The great fire of Rome in A.D. 64 resulted in a terrible persecution of the Christians by Nero. It is one of the great questions of history as to whether this conflagration was not engineered, or at any rate increased in magnitude, by Nero himself. He was capable of any wickedness or cruelty. Nero placed the responsibility of the fire at the door of the Christians and caused large numbers of them to be arrested and subjected to unspeakable tortures. Some were dressed in the skins of wild beasts and worried by dogs. Others were crucified; many were attired in inflammable clothing, placed at intervals in Nero's gardens and set on fire as human torches, while the monster Nero drove around in his chariot. See Tacitus (*Ann.* 15, 44).

### **A.D. 30-70**

The physical absence of Jesus from Palestine in no way abated the enthusiasm of either His followers or His Jewish enemies for the restoration of the kingdom to Israel. The utter despair and gloom by which His disciples were overwhelmed at the time of His crucifixion was completely dispelled by His resurrection and re-appearance amongst them. After His ascension they looked confidently for His speedy return to earth in like manner as He ascended (*Acts* 1:9-11) when they expected they would be appointed to judge the twelve tribes of Israel (*Matthew* 19:28).

At the same time the non-Christian but intense nationalists redoubled their opposition to the Occupying Power. More incidents occurred between Pilate and the Jews culminating in the Mt. Gerizim affray (to which we have already referred at page 99) which resulted in the recall of Pilate to Rome and his disappearance from history. Shortly after Pilate's recall, Caiaphas was deposed from the High Priesthood, thus ending an uneasy partnership which had covered the whole of the period of Jesus' public ministry.

### ALBINUS

Seven procurators held office between the period which elapsed after the departure of Pilate and the advent of Albinus. They were Marcellus, A.D. 36; "King" Agrippa, A.D. 41; Cuspius Fadius, A.D. 44; Tiberius Alexander, A.D. 46; Ventidius Cumanus, A.D. 49; Antonius Felix, A.D. 53 and Porcius Festus, A.D. 60. It was after the death of Festus that the situation began to get really out of hand and anarchy to rear its head. The cruelty and corruption of Albinus and Florus contributed largely to this state of affairs. Bands of robbers — Sicarii — roamed the country holding citizens to ransom; even the servants of the High Priest took to stealing the tithes belonging to their masters; bribery and corruption were rampant. The last act of Albinus on hearing of his successor's arrival was typical of his misgovernment. When he heard that Gessius Florus was coming to succeed him "he was desirous to appear to do somewhat that might be grateful to the people of Jerusalem, so he brought out all those prisoners who seemed to him to be the most plainly worthy of death and ordered them to be put to death accordingly. But as to those who had been put into prison on some trifling occasions, he took money of them and dismissed them; by which means the prisons were emptied, but the country was filled with robbers" (Ant., 20, 9, 5).

### FLORUS

It was during the time of Florus that the building of the Temple was finished. The resultant eighteen thousand unemployed being in want, the people desired King Agrippa to rebuild the eastern cloisters. This petition the king refused but he acceded to their request that the city might be paved with white stone (Ant., 20, 9, 7).

Gessius Florus, having succeeded Albinus, soon “filled Judea with abundance of miseries”. Like Pilate before him, he was accompanied by his wife—one Cleopatra (a great friend of Nero’s wife) and one “who was in no way different from him in wickedness”. His wickedness made the corrupt Albinus appear to the Jews, by comparison, as a benefactor. Josephus says that whereas Albinus concealed his wickedness, Florus “made a pompous ostentation of them to our nation, as never omitting any sort of violence, nor any unjust sort of punishment; for he was not to be moved by pity, and never was satisfied by any degree of gain that came his way; nor had he any more regard to great than to small acquisitions, but became a partner with the robbers themselves. For a great many fell then into that practice without fear, as having him for their security, and depending on him, that he would save them harmless in their particular robberies; so that there were no bounds set to the nation’s miseries; but the unhappy Jews, when they were not able to bear the devastations which the robbers made among them, were all under a necessity of leaving their own habitations, and of flying away, as hoping to dwell more easily anywhere else in the world among foreigners than in their own country. And what need I say more upon this head? since it was this Florus who necessitated us to take up arms against the Romans, while we thought it better to be destroyed at once, than by little and little” (Ant. 20, 9. 1).

The way in which Florus drove the maddened Jews to rebellion is told in great detail by Josephus. “He thought it but a petty offense to get money out of single persons; so he spoiled whole cities and ruined entire bodies of men at once, and did almost publicly proclaim it all the country over, that they had liberty given them to turn robbers, upon this condition, that he might go shares with them in the spoils they got” (Wars, 2, 14; 2).

When Cestius Gallus, president of Syria, visited Jerusalem at the Feast of the Passover, the three million Jews in the city complained to him that Florus was “the bane of their country”, but the appeal fell on deaf ears.

### **THE WAR BEGINS**

The war began in the twelfth year of the reign of Nero, and the seventeenth of the reign of Agrippa, in the month of Artemisius (Iyar) A.D. 66. Josephus says that “the occasion of this war was by no means

proportionate to those heavy calamities which it brought upon us". Bet-nice, sister of Agrippa, made a personal appeal to Florus to spare the Jews, but in vain. Even after the flame of sedition died down, it was re-kindled by Florus (Wars, 2, Chapter 15). Agrippa made a strong appeal to the Jews not to go to war with the Romans. The infuriated populace gave him but little heed and eventually drove him from the city. Later the Zealots attacked Agrippa's army and destroyed his palace. There were now two opposing Jewish factions; fighting broke out all over Palestine and Jews and Greeks killed each other on sight.

### **CESTIUS GALLUS**

Florus having lost control of the situation, Cestius Gallus, the legate of Syria, marched into Palestine. Eventually he reached Jerusalem and encamped on Mount Scopus. At first his attack on the city made some progress and owing to the divisions amongst the defenders he might have succeeded in capturing the city if he had pressed on, but being unaware of the strength of his position he called off the assault. Whereupon the defenders, taking heart, took to the offensive and the Romans fled with a loss of nearly 6,000 men. This defeat occurred on the 25th November, A.D. 66 (Wars, 2, Chapter 19).

### **VESPASIAN**

After this calamity had befallen Cestius, he sent ambassadors to Nero blaming Florus for the disaster. The victorious Jews for their part returned to Jerusalem to prepare for the renewed Roman assault which they knew to be inevitable and to appoint generals for their armies. One general so appointed was Flavius Josephus, the famous historian. Josephus was appointed Governor of Galilee.

Upon hearing the news of the defeat — the worst since the day when Varus lost the Roman legions in the forests of Germany—"a concealed consternation and terror" fell upon Nero. He appointed Vespasian to lead the Roman armies in Palestine. Vespasian arrived in the spring of A.D. 67 and opened his campaign. Eventually the armies of Vespasian and Josephus met face to face. Josephus put up a great defense at Totapata in Upper Galilee but after a long siege a deserter betrayed the defenders.

Josephus took refuge in a dry well leading to a cavern. In this hide-out, he and forty of the leading citizens of Totapata remained for some days. Then Josephus surrendered to Vespasian after narrowly escaping death at the hands of his own men (Wars, 3, Chapter 8).

The war continued and the capture of successive strongholds opened the way to the final assault on Jerusalem. Owing to events in Rome and Josephus' forecast that Vespasian would one day be Emperor, the Roman General was carefully nursing his troops. Moreover the population of Jerusalem was hopelessly divided against itself. Then came the news that the Emperor Vitellius was dead. Leaving his son Titus in command of the Roman army, Vespasian repaired to Rome where he was acclaimed as Emperor. (Wars, 4, Chapter 9).

### **THE BATTLE OF JERUSALEM**

The Battle of Jerusalem began in the month of April, A.D. 70 just before the Feast of the Passover. Already 250,000 Jews had perished in the fighting which preceded this battle. Notwithstanding the troubled times, Jerusalem was as usual thronged by pilgrims and Josephus tells us that the population was swollen to some 3,000,000 souls.

A reign of terror obtained in the city, for it was torn by dissension and strife. One of the contributing factors was that "there was also a bitter contest between those that were in favor of war, and those that were desirous for peace."

Before the battle ended the extremists killed all who advocated surrender and amongst others slain by their fellow-countrymen were the High Priest Matthias and the members of the Sanhedrin. Bands of robbers from the country "crept into Jerusalem, which was now become a city without a governor". Three main factions now divided the city between them, and each fortified its own sector not only against the Romans but against each other. John of Gischala, with some Zealots, held the porticoes and cloisters of the outer Court, with 6,000 men. Eleazor, son of Simon, was in possession of the Temple proper, with the Court of the Priests, with 2,400 more Zealots. Simon, son of Gioras, held the Upper City with 15,000 men (Wars, 5, Chapter 6). (A detailed description of Jerusalem and

the Temple as they then were is given by Josephus in Wars, 5, Chapters 4 and 5).

While Jew slew Jew as well as Roman; while the city was under bombardment by scorpions, catapults and ballistas; while the population suffered torments from pestilence, famine and thirst, the sacrifices continued to be offered in the Temple. And while the sacrifices were offered Jew killed Jew in the Sanctuary itself. We have already, at page 125, referred to the horror with which even the Romans viewed such sacrilege and of the unavailing attempts of Titus to spare the Temple from destruction. The defenses of the City were methodically reduced. First the walls (Wars, 5, Chapter 8) then the Castle of Antonia (Wars, 6, Chapter 2) next the Temple (Wars, 6, Chapter 4) and, finally, the City itself (Wars, 40, Chapter 8). After a siege of 143 days all resistance ended. Israel ceased to exist as a nation. Over 1,000,000 Jews perished in the slaughter. Tens of thousands were taken captive. The Temple worship ceased and has not been resumed to this day. The High Priesthood was destroyed. From that day to this the Jews have been scattered over all the habitable earth — but always with their faces turned towards Zion. Thus were the prophecies of Jesus, and the many ancient Jewish prophecies relating to these events, fulfilled.

## **JERUSALEM**

“And thus was Jerusalem taken, in the second year of the reign of Vespasian, on the eighth day of the month Gorpieus (Elul) (September 26) A.D. 70. It had been taken five times before, though this was the second time of its desolation; for Shishak, the King of Egypt, and after him Antiochus, and after him Pompey and after him Sosius and Herod took the city, but still preserved it, but before these the king of Babylon conquered it, and made it desolate, one thousand four hundred and sixty-eight years and six months after it was built. But he who first built it was a potent man among the Canaanites, and is in our tongue called Melchisedek, THE RIGHTEOUS KING for such he really was; on which account he was there, the first priest of God, and first built a temple there, and called the city Jerusalem, which was formerly called Salem. However, David, the king of the Jews, ejected the Canaanites, and settled his own people therein. It was demolished entirely by the Babylonians, four hundred and seventy-

seven years and six months after him. And from king David, who was the first of the Jews who reigned therein, to this destruction under Titus, were one thousand one hundred and seventy-nine years; but from its first building, to this last destruction, were two thousand one hundred and seventy-seven years; yet hath not its great antiquity, nor its vast riches, nor the diffusion of its nation over all the habitable earth, nor the greatness of the veneration paid to it on a religious account, been sufficient to preserve it from being destroyed. And thus ended the siege of Jerusalem.” (Wars, 6, Chapter 1).

In A.D. 133, when Hadrian stamped out a Jewish revolt, the Romans changed the name of Jerusalem to Aelia Capitolina. In A.D. 336, under Constantine, the Holy Sepulcher was discovered. In A.D. 366, in Julian’s reign, a vain attempt was made to renew the glory of the Temple. In A.D. 614 Chosroes II, King of Persia, took the city, and in A.D. 637 it fell into the hands of the Caliph Omar. In A.D. 1096 took place the first of the Crusades headed by Godfrey de Bouillon, he being incited thereto by the preaching of Peter the Hermit; the second was preached by St. Bernard in A.D. 1147; the third, in A.D. 1189, had among its members Richard Coeur de Lion, Philip Augustus of France, and Leopold of Austria; the fourth, in A.D. 1202, led to the founding of a Latin Empire in the East by Baldwin of Flanders; the fifth, in A.D. 1228, was commanded by Frederick II; and the sixth and seventh, in A.D. 1248 and 1270, were under St. Louis IX of France.

Four hundred years ago Palestine passed into the hands of the Turk but when, on the 11th December, 1917, General Allenby made his state entry on foot into the Holy City, Turkey had to quit.

“Pray for the peace of Jerusalem: they shall prosper that love thee.”

### **JEWISH INSPIRATION**

Speaking of the fanatical zeal by which the Jews were inspired in their struggle with the Romans, Josephus says, “What did the most elate them in undertaking this war, *was an ambiguous oracle that was also found in their sacred writings*, HOW ABOUT THAT TIME ONE FROM THEIR COUNTRY SHOULD BECOME GOVERNOR OF THE HABITABLE EARTH. The Jews took this prediction to belong to themselves in particular, and many of the wise

men were thereby deceived in their determination. Now this oracle certainly denoted the government of Vespasian, who was appointed Emperor in Judea. However, it is not possible for men to avoid fate, although they see it beforehand. But those men interpreted some of these signals according to their own pleasure, and some of them they utterly despised, until their folly was demonstrated, both by the taking of the city, and their own destruction.” (Wars, 6, Chapter 5, 4).

### **JEWISH TRADITION**

According to ancient Jewish tradition the ultimate purpose of Jehovah is that the whole world shall have one system of government; that the nations which have persecuted the Jews and not obeyed the law of God shall be destroyed; that the time will come when Elijah will blow the trumpet and the scattered Jews will be assembled from the ends of the earth; that then the Messiah will come, filled with the spirit of the Lord and the power of His might, and restore the kingdom to Israel, rebuilding Jerusalem and the Temple; that those nations which have not persecuted the Jews will become proselytes; that the world, being thus reformed, will accept the Messiah as King and Lord of all the earth; that a reign of universal righteousness, justice and peace will then be inaugurated and the brotherhood of man be an accomplished fact. (See Klausnet for a full statement and explanation of the tradition.) This tradition was and is based on the ancient Jewish prophecies.

### **THE SUFFERING MESSIAH**

The above-mentioned tradition ignores the ancient prophecies which speak of a “suffering” Messiah and His experiences; thus, to be born of a virgin (Isaiah 7:4) at Bethlehem (Micah 5:2); the massacre of the innocents (Jeremiah 31:15); to be called out of Egypt (Hosea 11:1); to be anointed with the spirit (Isaiah 11:2); the entry into Jerusalem (Zechariah 9:9); the betrayal by a friend (Psalm 41:9; Psalm 55:12-14); the desertion by His disciples (Zechariah 13:7); the price of the betrayal (Zechariah 11:12); the purchase of the potter’s field (Zechariah 11:13); the scourging (Isaiah 50:6); not a bone to be broken (Exodus 12:46; Psalm 34:20); the gall and vinegar (Psalm 69:21); the piercing of His hands and feet; the parting of

His garments, the casting of lots (Psalm 22); His poverty, suffering, patience and death (Isaiah 53).

### CHRISTIAN INTERPRETATIONS

Christians (who of course hold that a complete picture of Messianic events cannot be obtained without reference to the New Testament) hold beliefs somewhat similar to those of the Jewish tradition—or perhaps it is more true to say that some Christians hold somewhat similar views. For there are two schools of thought among Christians about the right interpretation to be placed upon prophetic Scriptures — the “literal” and the “spiritual” schools, respectively. To the “literalist” Christian, the Messiah of Jewish tradition is the same Jesus who was rejected by the Jews in c. A.D. 30; to him, the coming of the Messiah is the second advent of Jesus Christ, the Second Person in the Holy Trinity, and the sequel to His trial, death, resurrection and ascension.

By and large, those who think that the prophetic Scriptures should be interpreted along “spiritual” lines, treat references to Jerusalem as indicating heaven; the “kingdom” as meaning the kingdom of heaven; “My people” as meaning Christians (as distinct from Jews); “the coming of the Lord” as an event which takes place when a Christian dies; and promises concerning “blessings” as meaning spiritual and not material prosperity.

Perhaps the chief difference of interpretation among the two schools concerns the manner in which universal peace and the brotherhood of man is to be achieved. The view of the “literalists” would appear to be that that state of affairs will be brought about by the sudden appearance of Jesus Christ in the heavens in great power and glory when He will descend upon the Mount of Olives, seize the reins of world government and inaugurate the Millennium; this view is based upon such Scriptures (to mention only a few) as Isaiah 2:2-4; Zechariah 8:22, 23; Zechariah 14:1-15; Matthew 24:29-31; Matthew 25:31-46; 2 Thessalonians, 1 and 2; Revelation 2:26; and Revelation Chapter 20. The other school thinks that the Millennium will be brought about by the gradual evangelization of the world, the “leaven” of the Christian faith “leavening the whole lump” *i.e.* the world (Matthew 13:33) until a point is reached when “the earth shall be full of the knowledge of the Lord, as the waters covet the sea” (Isaiah 11:9).

Whether or not either school be correct, the fact remains that throughout the Centuries the “Jewish question” has played a prominent part in world history. It is the question as to when, if at all, the Jews will live as a nation in undisputed possession of “The Promised Land”.

### **EXTENT OF PROMISED LAND**

The Promised Land is usually thought of as being the comparatively small tract of territory known as Palestine but in truth it is a much larger area. Thus in Genesis 15:18 we read:

“In the same day the Lord made a covenant with Abram, saying, Unto thy seed have I given this land, from the river of Egypt unto the great river, Euphrates.”

This larger area forms a substantial part of what is commonly referred to today as “The Middle East”.

### **THE PROPHEPIC PLAN**

The literalists, while admitting that the meaning of some Scriptures is not obvious, claim that even if the prophecies couched in figurative and symbolic language be excluded, there remains a broad residue of Scripture in plain and unmistakable terms, the substance and effect of which is: that God has a plan for the world in which, of all nations, the Jews will play a most important part; and that that part will be the sequel to the rejection of the Messiah, Jesus Christ by Israel in *c.* A.D. 30.

According to the “literalists”, the Scriptures show the action of God in history past, present and future; that the ultimate purpose of God is that the whole world shall have one system of government; that that system will be a righteous one; that all nations will render allegiance to one supreme ruler; that that Ruler will be Jesus Christ; that at that time the Jews will become the most important nation on earth; that they will be at the head of a great League of Nations, all rendering homage to Jesus Christ; that Christ will rule with a “rod of iron” brooking no opposition; that His reign will endure one thousand years and will in fact be the much spoken of and longed for “Millennium” — a thousand years of peace on earth; and that the prelude to all this will be the return of the Jews to the Promised

Land (see for example Jeremiah 31:10; Isaiah 11:11, 12; Joel 3:20; Amos 9:14, 15; Ezekiel 37:15, 22; Ezekiel 34:12, 14, and Ezekiel 39:23) as a nation, but in unbelief in Jesus Christ, *i.e.*, they will return on national and historic grounds and not because they want or intend to accept Christ as their King-Messiah, or because they repent of their forefathers' and their own rejection of Him (see Ezekiel 36:24-28 and Jeremiah 32:37-41). The "Literalists" further say that the Scriptures show that after the return of the Jews to Palestine, the Jews will give allegiance to a false ruler or messiah (Daniel 7:25; II Thessalonians 2); and that when they withdraw that allegiance there will be a persecution against them which will excel in severity all previous persecutions (Daniel 12:1; Matthew 24:14-22); that they will be delivered from this persecution by the personal second advent of Jesus Christ (see for example Zechariah 12:9; Zechariah 13:6; Ezekiel 39:23 and Acts 1:11); that then, and not until then, they will reverse the national verdict of *c. A.D. 30* by acknowledging Jesus Christ as their Messiah (Zechariah 12:10-14 and Isaiah 25:9); that Christ will then, at Jerusalem, judge the nations in respect of their attitude to the Jews during their great tribulation, rewarding those who befriended them and punishing those who ill-treated them (see for example Zechariah 14:1-16; Matthew 25:31-33 and Revelation 2:26); that at this time Jesus Christ will be proclaimed King of all the earth (Isaiah 2:2-4; Revelation 20); that Jerusalem will be the center of world government — an international city — and it, and the rebuilt Temple, will be the spiritual center of the world (see for example Zechariah 8:20, 23; 9 to; 24:16, Isaiah 24:23; Micah 4:1-7; Psalm 72:8-11; I Corinthians 6:2; and Revelation 11:15, etc., etc.).

### **THE BALFOUR DECLARATION**

It is not within the scope of this study to embark upon a consideration of the Scriptures dealing with these matters or to discuss relevant world events. We recall, however, the terms of the famous Balfour declaration issued on behalf of the British Government in 1917. "His Majesty's Government view with favor the establishment in Palestine of a national home for the Jewish people, and will use their best endeavors to facilitate the achievement of this object, it being clearly understood that nothing shall be done which may prejudice the civil and religious rights of existing

non-Jewish communities in Palestine, or the rights and political status enjoyed by Jews in any other country.”

### **JEWISH DETERMINATION**

In the month of July, 1947, the acting Chief Rabbi issued a message to Jews. It stated that Jews all over the world would again commemorate by fasting and prayer the anniversary in the Jewish calendar of the destruction by the Romans nearly 1,900 years ago of the Temple, the sanctuary of Israel’s faith. The thoughts of mourners would turn to the 6,000,000 slain, and to the hundreds of thousands of survivors in Europe to whom only Palestine afforded deliverance from their bitter humiliation, sufferings and wanderings. “They, as we have learnt in these last months and days, are ready to make every sacrifice, undergo every hardship, and brave every peril to reach their goal where, we know, they are eagerly awaited by brothers and sisters in the land of Israel.”

### **RE-BIRTH OF A NATION**

On the 14th day of May, 1948, the Birth of a Jewish State of Israel was proclaimed at Tel Aviv at an assembly of members of the Jewish National Council. The proclamation said:

“We members of the National Council, representing the Jewish people in Palestine and the Zionist movement of the world, met together in solemn assembly on the day of the termination of the British mandate for Palestine, and by virtue of the natural and historic right of the Jewish people and by resolution of the General Assembly of the United Nations, hereby proclaim the establishment of a Jewish State in Palestine to be called ‘Israel’.”

The proclamation also said:

“As from the termination of the mandate at midnight to-night and until the setting up of duly elected bodies in accordance with the constitution to be drawn up by the Constituent Assembly not later than October 1, 1948, the present National Council shall act as the provisional Government of the State of Israel. The State will be open to all Jewish immigrants, will promote the development of

the country for all its inhabitants, will be based on the precepts of liberty, justice and peace taught by the Hebrew prophets, will uphold full social and political equality for all its citizens without distinction of race, creed or sex and will guarantee full freedom of education and culture.”

The proclamation appealed to the United Nations to assist the Jewish people in building their State, and sought admission into the United Nations. It called upon the Arab inhabitants of the “State of Israel” to return to ways of peace and promised them full and equal citizenship and representation in the State bodies and institutions. Peace was also offered to the neighboring Arab peoples.

The declaration concluded: “With trust in Almighty God we set our hand to this declaration in the city of Tel Aviv on this Sabbath eve, the fifth day of Iyar 5708 (according to the Jewish calendar) May 14, 1948.”

At the time of writing the fate of the State of Israel is still in the balance.

### **A RE-TRIAL?**

Notwithstanding the passage of nearly two thousand years, signs are not wanting that the conscience of more than one devout Jew is uneasy about the treatment meted out to Jesus of Nazareth and, in particular, concerning the whole circumstances attending His trial.

One symptom of this stirring of uneasy consciences is to be found in the action of a certain Jewish lawyer of Denver Colorado, USA, who, it is reliably reported, on the 26th March, 1929, called together a number of leading Jews “for the purpose of discussing and deliberating upon the organization of a Jewish Society for the promotion of the Divine mission of Israel. In furtherance of that purpose, this Society will in due time select a representative who shall proceed to Jerusalem to confer with our brethren there, who will thereupon issue a call to all Israel throughout all the nations of the world, for the assembly of our Great Sanhedrin at the Holy City of Jerusalem, to review the jurisdiction, judgments and decrees of the Sanhedrin acting at Jerusalem during the power and dominion of Rome, and especially to consider and review the life and trial of Jesus of Nazareth. And the Great Sanhedrin, after the impartial reception of

evidence appertaining thereto, and after hearing every argument that may be presented by all competent Christian as well as Jewish scholars learned upon the subject, and after due and careful deliberation shall render a true decision and righteous judgment therein and thereby promote the spiritual welfare of all Israel throughout the world. May the Lord God guide and bless our acts and deliberations serving to promote these matters to a good and righteous conclusion.” This letter was signed by the lawyer as chairman of the Organization Committee. He is also said to have stated in a letter to one of the judges who admitted him to the Bar: “The conquest of Jerusalem by Great Britain is the inspiration of this movement. After ten years of constant conferences with our brethren there, with representative Jewish laymen throughout our country, I proceeded last year to have further conferences with our brethren there, and the enterprise was launched. It will now go forward, not dependent on the actions or the life or death of any man or men. I pray I may live long enough so I may have the opportunity of appearing as one of counsel before the Great Sanhedrin.”

To a Colorado professor he wrote: “We have tentatively decided that the Sanhedrin shall be made up of twenty-three Rabbis of great learning and piety; twenty-four scientists and scholars of outstanding attainments and twenty-four practical, hard-headed business men, possessed of keen analytical minds. At least three years will be taken to form the Sanhedrin, seven years for the reception of evidence and four years for cool deliberation.”

### **THE TRIAL CONTINUES**

There is a sense in which the trial of Jesus continues to this day and will continue to the end of time. It was not only an actual but a symbolic trial. Mankind itself was on trial. Not only Jesus but His judges, His accusers and the multitude of spectators consisting of Jews, Romans and Greeks — a cross-section of humanity — were on trial. The Jews were engrossed with the glories of the Temple and their national destiny; the Romans with the might, majesty and power of Imperial Rome, the Greeks with the intellectual and cultural superiority of Athens. They all rejected Christ — and the love of God which gave Christ — and chose Barabbas — the intense nationalist. So has it ever been. Those who refuse to acknowledge

the claims of Christ condemn themselves, for they choose the evil and reject the good; they grasp the shadow and lose the substance. Today, as always, the Cross of Christ both condemns and saves mankind. Jesus was the symbolic as well as the representative man. He personified goodness, righteousness and truth. Arrayed against Him were the forces of evil — religious bigotry, love of material power, narrow nationalism, the cynicism of the intellectuals and human selfishness. Might appeared to triumph over right. Few, if any, of those who took part in the tragic events of the 14-15th day of Nisan (April, c. A.D. 30) realized that Jesus embodied the force that could transform the world. None had any consciousness that Jesus was ushering in a new era, a new way of life and attitude to God founded on a realization of the Fatherhood of God and the brotherhood of regenerate man — with Himself as “the Way.”

The persecutors of Jesus did not realize that in crucifying Him they also crucified mankind, or that the results would be felt throughout the centuries. Men and nations are at enmity with each other because they are at enmity with God — and to their own detriment; for they deprive themselves of the happiness which comes from enjoying the fullness of the earth, the fruit of their labors and a conscience void of offense towards God and man.

In the words of Sir Stafford Cripps, “The one hope for the future of world civilization lies in the way of life which Christ has taught us. No inventiveness or ingenuity of men, no power of arms or force of wealth, no material gain or economic advance can save the world if it turns its back on the love of God. If man neglects the things of the spirit and puts aside the full armor of God, he will seal the doom of the future generations.”

When will mankind heed the words of Jesus: “seek ye first the kingdom of God, and his righteousness; and all these things (necessary material things) shall be added unto you”?

The choice before the world is still:

## **CHRIST OR BARABBAS**

# FOOTNOTES

## THE HEBREW TRAIL

- <sup>1</sup> The quotations in this volume are made from the edition of the Mishna by Surenhusius (Amsterdam, 1672); and especially from the chapter or tractate *De Synedriis*, in the fourth of its twelve volumes. I accept the Latin translation of the editor, and have only occasionally verified a word of the Hebrew original
- <sup>2</sup> The Mishna (*De Synedriis*, 10:3) lays down the startling principle, “Gravius peccatur circa verba scribarum, quam verba legis.” As an enthusiastic and admiring translator paraphrases it, “He who teaches against the Pentateuch is not condemned to death, for all men know the Bible. But if he teaches against the doctors, he is condemned” (Rabbinowicz, *Legislation Criminelle du Talmud*, Paris).
- <sup>3</sup> Mishna, *Capita Patrum*, 1. 1. The same order of precedence is observed in the chief saying of their great representative, Simon the Just: “On three things stands the world — *on law*, on worship, and on charity” (*Cap. Patrum*. 1- 2)
- <sup>4</sup> Salvador, *Inst. de Moise*, 1-365.
- <sup>5</sup> Mishna, treatise *Makhoth*.
- <sup>6</sup> Mishna, *De Synedriis*, 6-5.
- <sup>7</sup> The third edition, in two volumes (Michel Levy Freres, Paris), is that here quoted.
- <sup>8</sup> Valerius Gratus, Pilate’s predecessor. See Josephus, *Antiq.* 18. 2. 1; 20. 9. 1.
- <sup>9</sup> “Like flies on a sore,” was the comment of the Emperor Tiberius on the rapid succession in which one high priest after another alighted upon Jerusalem during his reign.
- <sup>10</sup> It depends partly on whether the word ἀπέστειλεν in John 28:24, means “sent” or “had sent.” See a full discussion of it in Andrew’s *Life of our Lord*.

- <sup>11</sup> Dupin objects that Annas was not a magistrate, and certainly that would add to the irregularity of interrogating the accused. But by Hebrew law the magistrate could not interrogate, while in France he does.
- <sup>12</sup> In Scotland the additional anomaly has existed, that the private and official examination may afterwards (in the option of the prosecution) be produced against the accused at his public trial, while it cannot be then used in his favor (see *The Journal of Comparative Legislation* for March 1899).
- <sup>13</sup> Un principe perpetuellement reproduit dans les ecritures hebraiques, resume deja les deux conditions de publicite et de liberte. On ne soumettait pas l'homme accuse a des interrogatoires occultes, ou dans son trouble l'innocent peut fournlr des armes mortels contre lui" (Salvador's *Inst.* 1-366).
- <sup>14</sup> Mishna, *Pirke Avoth*, 4:8
- <sup>15</sup> These words recall a very curious provision of the Mishna (*De Synedriis*, 7. 10) as to the *Mesith*, or private "seductor — *i.e.* laicus seducens laicum" — a phrase which is, no doubt, translated in the Gospel words, "deceiver of the people." In the case of such a one, who says privately, "Let us go after other gods," the rule as to laying no snares for the accused was for once suspended. The person attempted to be seduced might profess to acquiesce, and so hide other witnesses to overhear the *Mesith*, and testify against him.
- <sup>16</sup> Bynaeus (*De Morte Christi*) holds a twofold trial in the morning. But the view (recently repeated by Dr. Farrar) that Luke narrates a different scene from that given in nearly the same words by the early Evangelists is scarcely tenable.
- <sup>17</sup> Mishna, *De Synedriis*, 4. 1
- <sup>18</sup> We thus escape, in our present investigation, the extremely difficult and famous questions whether the Friday was the 14th or 15th Nisan, and on which day of that week the Passover was eaten. If the Friday was the 15th, it was the Passover or Feast-day, when it seems to have been unlawful to judge at all. Mishna, *Moed Katon*, 5. 2.
- <sup>19</sup> Mishna, *De Synedriis*, 5. 5; 6. 1.

- <sup>20</sup> “Beatus iudex qui fermentat iudicium suum” (*Gemara on Mishna, De Synedriis*, 100. 1).
- <sup>21</sup> A striking commentary on this graphic law will occur to English readers who remember the interposition of Daniel in the History of Susanna, verses 46-49.
- <sup>22</sup> “Proferre diem morti damnati nefas est” (*Mishna, De Synedriis*, 4. 1. Note 8, by Coecejus).
- <sup>23</sup> Even this is forbidden by another text in the treatise *Nidah*, and the jurists have had to settle the question of their relative authority.
- <sup>24</sup> The circumstance that this huge blot is ignored by Salvador makes it very unnecessary to notice in detail his defense of other parts of the supposed formal judicial proceeding. He narrates the trial and condemnation as taking place before a full meeting of the Sanhedrin, and adds (vol. 1-391): “Le conseil se rassembla de nouveau dans la matinee du lendemain *ou du surlendemain*, comme la jurisprudence l’exigeait, pour confirmer la sentence ou l’annuler.” This is mere invention of the facts.
- <sup>25</sup> *Mishna, De Synedriis*, 4. 5. “Intro vocatis terrorem incutiunt testibus” (2. 6).
- <sup>26</sup> *Mishna, De Synedriis*, v. 3-4. And see Lightfoot’s *Hor. Heb.*, Mark 14:56.
- <sup>27</sup> 2 Unless Mark, when he says their testimonies were οὐκ ἴσαι, means that they were not “adequate,” rather than not “accordant.”
- <sup>28</sup> Salvador’s *Institutions*, 1. 373.
- <sup>29</sup> There were gradations among false witnesses as among true — especially as they were consciously or unconsciously false. See Lightfoot on the Talmudic and technical meaning of the word, *Hor. Heb.*, on Matthew 26:60.
- <sup>30</sup> See also Josephus’ account of the trial of Zacharias the son of Baruch: *De Bello Judaico*, 4. 5-4
- <sup>31</sup> The Hebrew phrase, נָקַב שֵׁם יְהוָה seems to carry the same implication of offense and insult.

- <sup>32</sup> The canon law definition of blasphemy puts its original meaning last, and puts first that it is ascribing to God “*quod Ili non convenit.*”
- <sup>33</sup> Exactly as the charge against Stephen was in the line of his subsequent and sudden condemnation.
- <sup>34</sup> Too little studied in the ablest popular treatises of this century, *e.g.* in both Renan’s *Jesus* and *Ecce Homo.*
- <sup>35</sup> Which of these is the meaning of the Hebrew word translated ἰση μαρτυρια — an *even* testimony?
- <sup>36</sup> There seems to have been no advocate for the defense, known as *Baal-rib*, or Dominus Litis. — Friedlieb, *Archceol.* 87.
- <sup>37</sup> “They say their phylacteries,” says the Talmud (Berachoth, 1. 2), “from the first daylight to the third hour,” at which last time the “Lesser Sanhedrin” could meet, while the greater sat only “after the daily morning sacrifice” (*Maimonides on ch. De Synedriis*, 3). Luke seems to fix the first daylight as the time when they actually did “lead him into their council” — the Arraignment.
- <sup>38</sup> Mishna, *De Synedriis*, 1. 6. The quorum of the Sanhedrin was twenty-three.
- <sup>39</sup> “Tribus, pseudo-propheta, sacerdos magnus, non nisi a septuaginta et unius iudicum consessu iudicantur” (*Mishna, De Synedriis*, 1. 5).
- <sup>40</sup> But see Lightfoot and others.
- <sup>41</sup> The adjuration was of course equivalent to putting the accused upon oath, and indeed seems to have been the usual way in which that was done. See Selden’s chapter “De Juramentis” in his book on Sanhedrins, and the other treatises on the same subject in vol. 26 of Uginus’ *Thesaurus.*
- <sup>42</sup> Mishna, *De Synedriis*, 6. 2, note. So Cocceius · “Ita tenent Magistri, neminem ex propria confessione aut prophetiae vaticinio esse neci dandum.” And even Salvador: “Notre loi ne condamne jamais sur le simple aveu de l’accuse.”
- <sup>43</sup> Of blasphemy in this proper sense, the cautious rule of the Mishna must be understood: “Nemo tenetur blasphemus, nisi expressit nomen” (*De Synedriis*, 7. 5).

## THE ROMAN TRAIL

- <sup>1</sup> The name is still used in Scotland, having had there originally its old sense of “the deputy of a provincial judge appointed by him to look after money matters.”
- <sup>2</sup> “Crimen adversus populum Romanum vel adversus securitatem ejus” (Ulpian, *Dig.* 48. 4. 1). The origin of the name is plain. Cicero defines majestas as “magnitudo Populi Romani,” and the full name of the crime is “crimen laesae aut imminutae majestatis.” It is very adequately expressed by our word treason.
- <sup>3</sup> My kingdom is not of this *world*.” The word used is κόσμος not αἰών.
- <sup>4</sup> The apocryphal “Acts of Pilate,” after giving this conversation with much accuracy, adds a few sentences which, while they rather vulgarize the previous utterances, indicate a special application of the words of Jesus which may have occurred to the mind of the governor as he passed from their higher suggestions to announce his judgment in the cause:  
 “Pilate saith unto him, What is truth? Jesus said, Truth is from heaven. Pilate said, Therefore truth is not on earth. Jesus said to Pilate, Believe that truth is on earth among those who, when they have the power of judgment, are governed by truth and form right judgment.”
- <sup>5</sup> There is a curious historical question whether the wives of governors were at this time permitted to go down to the province with their husbands, which turns out in favor of Claudia Procula’s legitimate presence in Judaea.
- <sup>6</sup> Judex judicantium” (Goesius).
- <sup>7</sup> Ulpian, in the great age of Roman Law, an age somewhat later than that of Tiberius, explains that the crime of “majestas” was next to that of sacrilege. In truth, when the Caesar had become Divus, not only by apotheosis after death, but by the servile worship of a world while he was yet upon the throne, treason and sacrilege were not so much associated as united. And so the test proposed to later Christians by the tribunals often was, to adore the deity of Caesar.

<sup>8</sup> Tacitus, *Annales*, 3. 39.

<sup>9</sup> 1 Liberty, Equality, Fraternity (by James Fitzjames Stephen, Q.C.), p. 87.

<sup>10</sup> My view of his true character scarcely varies from that so tersely given by Dr. Ellicott: “A thorough and complete type of the later-Roman man of the world: stern, but not relentless; shrewd and world-worn, prompt and practical, haughtily just, and yet, as the early writers correctly perceived, self-seeking and cowardly; able to perceive what was right, but without moral strength to follow it out” (*Historical Lectures*, 6th ed. p. 350). Compare with Philo, in his letter on the Embassy to Caius.

<sup>11</sup> “If this should appear harsh [the assertion that Pilate’s duty was simply to maintain the Roman power] I would appeal again to Indian experience. Suppose that some great religious reformer. . . say, for instance, someone claiming to be the Guru of the Sikhs, or the Imam in whose advent many Mohammedans devoutly believe — were to make his appearance in the Punjab or the North West Provinces. Suppose that there was good reason to believe — and nothing is more probable — that *whatever might be the preacher’s own personal intentions*, his preaching was calculated to disturb the public peace and produce mutiny and rebellion; and suppose, farther (though the supposition is one which it is hardly possible to make even in imagination), that a British officer, instead of doing whatever might be necessary, or executing whatever orders he might receive, for the maintenance of British authority, were to consider whether he ought not to become a disciple of the Guru or Imam; — what course would we take towards him? He would be instantly dismissed with ignominy from the service which he would disgrace; and if he acted up to his convictions, and preferred his religion to his Queen and country, he would be hanged as a rebel and a traitor” (*Liberty, Equality, Fraternity*).

Of course a true parallel would rather be: Suppose the Guru or Imam were delivered to a British officer by his co-religionists on a charge of erecting a national system against the English Raj, and refusing to pay an English tax; that the officer, on personal examination, came to be satisfied that the man was innocent and the charge was false; that, to pacify the other priests, he proposed an intermediate punishment of one in whom he found no fault; that under great pressure brought against him to act contrary to his view he vacillated half a day; and that at last, on being threatened with a complaint to his official superiors which might endanger his place or promotion, he ordered his prisoner to torture or to death. Suppose all this, and suppose that the story came out fully on his arrival in London, in how many drawing-rooms would he be received?

But take it even that the case were not so bad. Assume that a British officer thought himself compelled to order for execution a native preacher whose "personal intentions" were not in the least hostile or seditious, because his preaching might in point of fact be, or had in point of fact been, dangerous to the English power, and because the example would have a good effect. This is about the best case made for Pilate. If done judicially, it would be a judicial murder. If done administratively, what ought it to be called? I believe there are few who would hold that mere "consideration" by a British officer, whether or not he should do such an act, would infer ignominy or disgrace to the service. I believe, on the contrary, that few British officers who considered it would, as the result, think themselves compelled or even entitled to do it. As to the farther question of becoming personally a disciple of a "higher form of morals" than any previously known (the immediate peace of the region being first cared for), there does not seem any other difficulty than what is dealt with in the text.

- <sup>12</sup> It is the same theory, conversely and *mutatis mutandis*, with Ultramontanism, and that not merely because in both the individual conscience is crushed under authority. “It appears to me,” says our author, “that the Ultramontane view of the relation between Church and State is the true one”(p.109), because, as is explained, Ultramontanes correctly hold that of the two powers one must be supreme, and the other must obey; and that there is no real distinction of a spiritual and a secular province in human life. The individual may thus have to obey the State even against his own religious convictions, but he and the State alike must obey the Church.
- <sup>13</sup> Liberty, Equality, Fraternity p.90.
- <sup>14</sup> “La seule chose a laquelle l’empire Romain ait declare la guerre, en fait de religion, c’est la theocratie. Son principe etait celui de l’etat laique; il n’admettait pas qu’une religion eut des consequences civiles ou politiques a aucun degre; il n’admettait surtout aucune association dans l’etat en dehors de l’etat. Ce dernier point est essential; il est, a vrai dire, la racine de toutes les persecutions. La loi sur les confreries, bien plus que l’intolerance religieuse, fut la cause fatale des violences qui deshonorerent les regnes des meilleurs souverains” (*Renan’s Les Apotres*, p. 351).
- <sup>15</sup> “La pretexte de religion ou d’accomplissement de voeux en commun est prevu et formellement indique parmi les circonstances qui donnent a une reunion le caractere de delit; et ce delit n’etait autre que celui de lese-majeste, au moins pour l’individu qui avait provoque la reunion” (p. 362).
- <sup>16</sup> Pliny had reported his own scruples in punishing capitally those who were merely accused of having been Christians, but not of any underlying crime. But he added: “Those who persevered in calling themselves Christians, when thrice interrogated and threatened, I ordered for execution, having no doubt that whatever the name might mean, this pertinacity and inflexible obstinacy deserved punishment.” The Emperor approved his course, remarking that no fixed rule could be laid down for all cases. “Do not hunt out the Christians; but if they are brought to you and convicted, they must be punished. Yet even so, if anyone denies he is now a Christian, and proves it by praying

openly to our gods, let his repentance be met by pardon for the questionable past.”