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## ON THE TRIAL OF JESUS BEFORE THE SANHEDRIN

GEORGE A. BARTON  
UNIVERSITY OF PENNSYLVANIA

**M**ANY treatises have been written on this theme, and unfortunately many of them have not been composed in a judicial temper. Christian writers have too often been disposed to prove the Jewish Sanhedrin guilty of violating their own rules of procedure, and Jewish writers have too often been anxious, in order to excuse their kinsfolk, to prove the Gospels false. Fortunately now a more scientific temper is manifested in some quarters. Professor R. W. Husband in his book *The Prosecution of Jesus*, and Mr. H. Danby in his article "The Bearing of the Rabbinical Criminal Code on the Jewish Trial Narratives in the Gospels" in the *Journal of Theological Studies*, XXI (1920), pp. 51—76, have not only written in excellent temper, but by their scientific method, have put the matter in a new perspective. It is the purpose of this note briefly to examine certain points in the treatment of the subject by these two scholars and to make one or two suggestions.

Professor Husband has made it clear that the Romans did not maintain prosecuting officials in the provinces, that, if a crime was committed, it ordinarily went unpunished unless the native constabulary, or whatever corresponded to such officials, took the matter up and brought complaint against the criminal. In such cases, if the offence was of so serious a nature that the Romans did not permit the native authorities to deal with it, the Roman governors passed upon it. This point seems to be well made out. Husband therefore proceeds to argue that the Sanhedrin did not really put Jesus on a judicial trial, but simply

examined him in order to gain evidence on which to formulate a charge against him to the Roman Governor. On this point his conclusion does not seem to be so well founded, but we shall return to the subject again a little later.

Both Husband and Danby take the ground that a fair-minded historian should not weave together from all four Gospels a harmonistic account of the trial, and they agree in thinking that in the Gospel of St. Luke we probably have the most reliable account of the trial.

One would agree that an historical account should be based upon the Synoptic Gospels, but to reject the evidence of Mark, the earliest of these, in favor of Luke, seems an unwarranted proceeding. Luke modifies the last chapters of Mark quite freely and, though he had other sources, they were probably not earlier than Mark. His modifications of Mark in other respects are not of a nature to convince one that, for the events connected with the last days of Jesus, he is a better authority than Mark.

One must, therefore, believe that there were two hearings before the Sanhedrin, as the Gospel of Mark states, and that the first of them was held during the night. This did not, however, necessarily violate the legal procedure of the Sanhedrin, for the regulations as laid down in the Mishna and Tosephta come from a later period, and, as Danby has shown, they probably do not represent the practice of the days before the year 70 A. D., when the Sanhedrin had some real authority.

The Gospel of Mark would seem to be a source of information more nearly contemporary with the events than any other that we have. Personally I am much impressed by the arguments of Harnack and Torrey for the early date of the Acts, and the Gospels of Luke and Mark. If Acts was written during St. Paul's imprisonment at Rome, Mark, one of the sources of Luke, must have been composed as early as 50 A. D. and perhaps earlier. It was written while the Church was still a part of the synagogue. It is not, like the Gospel of John, pervaded by an anti-Jewish polemic. There is no reason to suppose that it was not the aim of its author to state events as nearly as he could as they happened. As many admit, there is much evidence that a good deal of its material comes from an eye witness of the events

described. Its account of the trial is, accordingly, worthy of great respect. It seems to me our best source of information as to Jewish practice for the period which it covers.

It should be borne in mind that in 30 A. D. the development of the Oral Law was in its infancy. Hillel and Shammai had lived as recently as the reign of Herod the Great, and, while it is evident that the traditional regulations which were afterward embodied in the Mishna were, on some points, such as the observance of the Sabbath and as to certain ceremonies of purification, fairly well developed, there is no certainty that the regulations as to the conduct of trials laid down in the tract *Sanhedrin* had taken the shape in which they appear in that tract. Indeed, as Danby has pointed out, there is much reason to believe that they had not. Those writers are, accordingly, in error, who claim, on the ground of the disparity between the accounts in the Gospels and the rules of procedure laid down in that tract, that the trial of Jesus was from the Jewish point of view, illegal.

It is clearly the intent of St. Mark's narrative to state that during the night, after Jesus' arrest, "there came together unto him" (i. e. the high priest,) "the chief priests and the elders and the scribes" (Mark 14 53). If this was not a meeting of the Sanhedrin, it was certainly a meeting of the persons of whom the Sanhedrin was normally composed. When assembled, these people proceeded to examine witnesses against Jesus. They did not seek, as the Gospel of Matthew states, for false witness, for, had they done so, they would have coached their witnesses so that their testimony would agree. As will be shown below, the whole proceeding seems to have been the result of a sudden resolution and the testimony was not prearranged; it was simply that of persons who volunteered to testify.

The situation which presented itself had arisen out of the following circumstances. Jesus, from the beginning of his ministry, had excited the opposition of the Pharisees. His disregard for the traditions concerning the observance of the Sabbath, combined with his frequent denunciation of them on account of the formal character of their piety, had angered and embittered them. The Pharisees and the Scribes, who were

generally Pharisees, did not constitute the whole of the Sanhedrin. That body included the chief priests, who were Sadducees. The High Priest, Caiaphas, was a son-in-law of Annas or Anan, who had himself been High Priest from 6 to 15 A. D., and of whose sons no fewer than five held the high priesthood at different times.<sup>1</sup> One of these, also called Anan, was High Priest for three months during the Procuratorship of Albinus (62—64 A. D.), and, during his brief term of office, secured the condemnation and execution by stoning of James the brother of Jesus.<sup>2</sup> The elder Annas was, it seems, also the proprietor of "the bazaars of the sons of Anan", mentioned in the Talmud, which supplied, often at excessive prices, offerings to pilgrims, and also gained large profits by exchanging their money. It is believed by many that this elder Annas, after he was deposed from the high priesthood, continued for many years to preside over the Sanhedrin. If we are not mistaken, it was the Sadducean priesthood, over whom this Annas ruled as a sort of Ecclesiastical boss, that secured the condemnation of Jesus. To understand their motive, another event must be recalled.

On Monday of Passion week, Jesus, indignant at their extortion, had driven the sellers of sacrifices and the money-changers from the Temple. It is on record that these vendors of sacrifices once charged a gold denar<sup>3</sup> (about \$ 3.90) for a pair of pigeons, which they afterward sold for about 4 cts., the usual price at that time. It does not take much imagination to convince one that every pilgrim chafed under such profiteering. On the Monday when Jesus drove the traders from the Temple courts, the courts were probably filled with indignant pilgrims. Some of these were doubtless from Galilee and looked upon Jesus as the Messiah, but whether from Galilee or not, they would, under the circumstances, side with the popular champion and constitute a throng which rendered it impossible for the Temple guards to protect the traders. This interruption of their traffic at a time so near the festival, when large profits could be made, doubtless angered Annas and Caiaphas and the whole priesthood, but, for the moment, they were powerless to avenge themselves. Popular

<sup>1</sup> *Jos. Ant.* XX. 9, 1.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ker.* 1. 7.

feeling was too strong. So they waited for a more propitious time. It was at this stage of affairs that Judas, for motives which we can only conjecture, betrayed to the priests Jesus' Messianic secret—the fact which Jesus had guarded so carefully—and offered to make it possible to arrest Jesus. As others have conjectured, Judas probably did this on Wednesday afternoon or Thursday morning in connection with the purchase of a paschal lamb. This gave the house of Annas an opportunity to avenge themselves for the disturbance of their business, and also laid upon them the obligation, as officers in some degree responsible for keeping public order, to arrest Jesus since a Messianic claim was, they thought, treason against Rome. It was thus the Sadducean element of the Sanhedrin—the element least careful about the observance of traditional rules, either in religious matters or in the administration of justice—that was responsible for the arrest of Jesus and for his trial. Even if the rules of procedure laid down more than two hundred years later in the Mishna were then in their incipiency, (of which there is no certainty), the Sadducees would be the least likely carefully to observe them.

Under the circumstances Judas doubtless arranged to help them accomplish the arrest of Jesus during the late hours of Thursday night. This gave the Sadducean priesthood an opportunity to arrange for a quorum of the members of the Sanhedrin to be within call. This easily accounts for the night meeting of St. Mark's account. Those writers who have pictured the improbability of messengers being sent about Jerusalem to rout the revered members of the Gerousia out of bed in the small hours of the morning have, I think, failed to exercise the historical imagination.

As already pointed out, the whole arrangement was a hurried one. The witnesses called could not agree, and nothing could be established except at "the mouth of two or three witnesses".<sup>4</sup> The Gospels give but the most summary account of the proceedings, omitting doubtless many details. We are told, however, that finally the High Priest asked Jesus whether he were the Messiah, the Son of the Blessed, and, upon Jesus admitting

<sup>4</sup> Deut. 17 s.

that he was, the High Priest expressed his opinion that no further testimony was needed—an opinion in which those present (or a majority of them) concurred.

If this outline presents at all the real order of events and the motives which were at work, it is not difficult to understand the attitude of those members of the Sanhedrin who were Pharisees. Jesus' open opposition to the Oral Law had estranged them from him. They regarded him as religiously dangerous. Doubtless, too, many of them shared the opinion that it was politically dangerous to permit any one who made a claim to be the Messiah to be at large. It is easy to understand, therefore, that, while not active in securing the arrest of Jesus, they could not conscientiously make an active effort for his acquittal.

The fact that, after the night session of the Sanhedrin, which found Jesus guilty of blasphemy, and therefore guilty of death, the Sanhedrin was called together again in the morning, to confirm the sentence, indicates that there was already in existence a rule that no capital sentence was valid until it had been twice affirmed by successive sessions of the Gerousia. It is not certain that the rule that a day must intervene between these successive sessions had as yet been formulated. If it had been, one can understand why, with the feast so near, the fear that delay might cause a popular uprising led the Sadducean leaders to waive this regulation as, in this case, an unnecessary technicality. At all events there seems to be the best authority for saying that the assembly on the morning of Friday was the second session at which the Sanhedrin passed upon the condemnation of Jesus.

Objection to the accounts of the trial of Jesus have been raised on the ground that the Gospels represent the Messianic claim of Jesus as a religious offense when considered by the Jewish Gerousia, but, when they appear before Pilate, they treat it as a political offense. So far from being an objection, this representation is so true to the historical situation that it fits like a key in a lock. As reported in the Gospel of Mark, the question which the High Priest asked Jesus involved a claim to the sort of Messiahship described in the Enoch Parables.<sup>5</sup> At

<sup>5</sup> Especially Enoch chapters 46 and 48.

least it was so understood by the High Priest. On no other ground could it be called blasphemy. For this Galilean Carpenter to make such a claim was preposterous, they thought. For any mere man to make it, they would naturally regard as blasphemy. They were a religious as well as a civil body; and this is the religious aspect which would appeal to them.

From the point of view of the Roman government, however, such considerations had no weight. The Sanhedrin had been deprived of the power of administering the death penalty. That was in the hands of the Roman officials. If the sentence which they had reached before their own tribunal was to be carried out, it must be represented in a light that would secure favorable consideration by a Roman official. Messianism, in one of its aspects, was, at least as ordinarily understood, another name for revolution. When the Jewish representatives accused Jesus to Pilate, therefore, they naturally insisted upon this aspect of the case. It took no great degree of astuteness to do this; they would have been, from their own point of view, foolish had they done otherwise.

Such seems to have been in general outline the causes and the procedure of the trial of Jesus before the Sanhedrin. Putting aside all religious prejudice one cannot say that the men who conducted it meant to do gross injustice. They were, however, not saints. They were moved by very human motives, and the reputation of some of them as reported by their coreligionists, Josephus and the writers of the Talmud, was not savory. Nevertheless, similar motives working in officials of similar character have often caused as gross a miscarriage of justice in Christian courts as resulted in the trial under consideration. The great misfortune of the members of the Sadducean priesthood of the year 30 is that they happened to judge the most illustrious and the holiest Prisoner of all time.