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JEWISH WRITINGS

ON THE

TRIAL OF JESUS

by

Joel Schwartzman

Submitted in partial fulfillment

of the requirements for the

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Degree and Ordination

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Thesis Digest

This thesis will seek to investigate Jewish writings on the trial of Jesus since 1938. Understanding that there are many diverse topics and problems which fall under the rubric of the trial, I have chosen to limit and concentrate my research and writing on four basic areas: (1) Jewish views of the historicity of the data, principally from the Gospels, on the trial itself, (2) The various ways in which Jesus has been characterized in the trial literature, and specifically what effect these characterizations have had on the theories of the trial, (3) Jewish responsibility and culpability for the trial and death of Jesus as opposed to (4) the Roman responsibility and culpability for the trial and death of Jesus. Within each principal topic an effort is made to delineate all of the various viewpoints and trends in the scholarship and to show the areas of agreement and disagreement among the writers. Understanding that there are two basic types of writings done on the trial, those which pursue an indepth study of gospel and/or Tannaitic literature and those which are written as studies of history, major concentration has been on the former while, as much as possible, the latter has been included.

A description of the four areas afforded by this study is as follows:

(1) There is a consensus among Jewish writers that the evidence provided by the Gospels of Jewish and Roman culpability in the trial of Jesus is not historically reliable. Rather, it is tendentious and controversial, affording only speculative rather than factual conclusions.

(2) There is a direct relationship between the way in which Jesus is characterized, and the way in which he is thought to have been tried. The answer sought here is why Jesus would or should have come to the attention of Jewish leaders - and for what reason they might have felt it necessary to try him. Those who see Jesus as rebel conclude that he was a threat to the Jewish establishment and that, therefore, the Sanhedrin, or similar Jewish council, collaborated with the Romans as a grand jury to eliminate him. Those who see Jesus as a messianic figure tend to exonerate Jewish leadership, placing the onus squarely on the Roman procurator.

(3) No Jewish writer claims that the Jews, as embodied in the Sanhedrin or as a Temple committee or as merely a group of high priests, elders or scribes actually carried out the death penalty on Jesus. Rather, the dispute centers upon what the Sanhedrin was, if the Sanhedrin itself did, in fact, try Jesus, and if not and the Sanhedrin actually had nothing to do with Jesus, if another Jewish body, whatever its constitution might have been, tried Jesus and turned him over to the Romans. In short, the question here is what role did the Jews play in the Passion of Jesus and through what institution(s) might that role have been carried out?

(4) The actions of Pilate as they appear in the Gospels are highly questionable. The consensus is that the Roman procurator had the ultimate responsibility for the trial and death of Jesus. The characterization of Pilate is as a cruel and vicious tyrant who saw Jesus as just another Jewish troublemaker to be eliminated as had been so many others.

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The fundamental problem in approaching the trial of Jesus is the accuracy and consistency of the sources from which authentic data can be drawn. Those sources which speak of the life and death of Jesus are, indeed, few in number. The primary sources, all admit, are the Gospels themselves. But can their historicity be depended upon given the amount of self-contradictory evidence found therein? If not, how much of the Gospels include dependable pieces of history, and can that history be separated from that which is purely theological tendenz? In the words of Jules Isaac:

Shall we take the word of the Synoptics-Mark, Matthew and Luke? In those few hours (of the feastday or eve of the feastday) or few days, there would have been two trials of Jesus, a Jewish trial prior to the Roman trial; Jesus arraigned first before the Sanhedrin and condemned first by the Sanhedrin for the crime of blasphemy, then delivered to the Roman and condemned a second time by him, for a quite different crime (of messianism), under pressure from the Sanhedrists but with the support of the excited mob of people.

Shall we take the word of the fourth Gospel, John's? Only the high priests, Annas and Caiaphas, and their confederates are on the scene; Jesus is summoned first before Annas, then before Caiaphas, who delivers him to Pilate; no mention of the Sanhedrin; of a Jewish trial, of a Jewish condemnation; no mention of an excited mob of people. 'The Jews' who put pressure on Pilate, those Jews whom Pilate does not dare resist, are the high priests and their men, the Temple police.

Isaac, whose book, Jesus and Israel, was written in part during the Holocaust and whose main purpose it was to prove that the modern generation of Jews had nothing to do with the death of Jesus and should not be blamed or punished for same, sees the Gospels as

"prosecution evidence, written in a time when Christianity, in the process of de-Judaization, had no enemies more determined than the Pharisee doctors, the vanguard of official Judaism."²

Isaac is not alone in his charge that the Gospels were not historically reliable. Solomon Zeitlin stated in his book, Who Crucified Jesus?, "The Gospels are not primarily historical books. Their authors were not interested in the cold, historical facts. Not only were they not trained historians in our sense of the word, but the whole technique of writing history in Jewish tradition was that of tendenz, or interpretative narration."³ According to Zeitlin, the Gospels were written for different reasons and for different audiences; the Synoptic Gospels were written for the Jewish Christians, while the Johannine Gospel was written for the Gentile Christians.⁴ But most important concerning the trial and the Gospels is this observation:

There is no agreement, even in the Synoptic Gospels themselves, as to the manner of procedure at Jesus' trial.

According to Matthew and Mark, the scribes and elders were assembled in the house of the high priest, Caiaphas, and there Jesus was examined and indicted. According to Luke, Jesus was interrogated on the morning following his arrest when the elders, the high priests and the scribes assembled and brought him 'into their Sanhedrin.' Luke, however, does not mention that the high priest accused Jesus of blasphemy; Mark, on the other hand, does not record the crime which the high priest accused him of before Pilate. Luke does state that the accusation which the multitude brought against Jesus was that he perverted the nation,

and forbade the people to pay tribute to Caesar by saying that he himself was a Christ, a King.

In his writing, Paul Winter agrees with Zeitlin that:

For while they furnish us with information of a kind, the Gospels were not written for the purpose of guiding historians. The use which their authors intended for the Gospels was religious, not historical. When the evangelists wrote down their accounts of Jesus' trial, they did so not with a view to preserving a record of historical research, but in order to convey a religious message.

Winter goes on to say that, when speaking of the Gospels as primary sources for an investigation of the trial of Jesus, the word primary needs qualification:

They are primary sources insofar as they reflect the situation in which their authors-members of certain early Christian communities-lived, and as they express the beliefs current in these communities. They are not primary sources in the sense that they provide first-hand evidence of the events which they describe. They are direct evidence only for the significance attached to the actions, sayings, and the death of Jesus at the time the Gospels were written.

Yet, Winter seems to differ from Zeitlin when he states, "They may be used as a source of information on certain happenings in the life of Jesus, provided we examine how it came about that this significance was attributed to the events described, and the records themselves had originated."⁸

Even having written this, Winter denies purely dependable historicity to the Gospels when he writes:

Neither the tradents of early preaching nor the evangelists who succeeded them were interested in the events for the sake of their historical actuality. Their interest lay in different fields. What the Gospels tell us of the life, and in particular of the trial of Jesus is not a historical account of what actually took place, but is a representation of the manner in which the Passion of the Lord was interpreted in certain early Christian circles. Not written with any historical aims but with a religious one, the Gospels may affect the outward form of a biography, but they are much rather theological treatises, based on collective traditions and incorporating communal preaching about Jesus as it had developed over a period of several decades.⁹

Nonetheless, Winter does feel that the Gospels do contain elements of historical fact if we but know to read them. There are traditional units intermixed with theological tendenz.

Jesus was arrested as a Jewish rebel by Roman troops. After his arrest all four Gospels agree that Jesus was brought to the house of the high priest - why was Jesus not taken to a Roman jail? Because the Gospels are interpretive rather than factual.¹⁰ This is to say that the point of the Gospel account is to emphasize that:the Romans used Jewish offices to carry out necessary inquiries.¹¹

Winter remakes the point that the Gospels are interpretive rather than factual with reference to other details:

We do not know the exact day. The fact that all four Gospels place the trial either on the eve of Passover or on the day of the actual festival, makes it virtually a certainty that Jesus was arrested and tried around that time, but it might well have been a few days earlier or later. In their several reports, the Gospels are interpretive rather than factual. It would appear that one group of his followers drew a comparison between the death of Jesus and the slaying of the paschal lamb, and therefore had the moment of the crucifixion coincide with that event... All we can say for sure is that the trial and subsequent crucifixion¹² fell on a day close to the Passover.

Ultimately Winter's position boils down to this: What the Gospels tell us only provides us the views of Jesus' followers, not his own.

Once we realize that the assignment of a certain conflict to a particular section of the Gospel is part of the Evangelist's literary plan, we are aware that the present contexts of Jesus' disputations with his compatriots-including his denunciations of the attitude of various Jewish groups-allow of no historical deduction concerning the actual course of events. Reports of conflict, prior to the account of a decision taken by the Sanhedrin to apprehend Jesus and hand him over to the Romans, reveal the Evangelist's intention to prepare his readers for the ultimate denouement.¹³

Winter criticizes the form critic who attempts to authenticate, at least, the trial of Jesus and who thinks that he has found in it a valid historical unit of material. He writes:

If some account of the events immediately preceding Jesus' death had been drawn before anything was formulated concerning his teaching and activities, we would assume that such an account was handed on unchanged to subsequent generations and that its form, once fixed, was retained in outline during the¹⁴ process of oral and literary transmission.

But this is definitely not the case with respect to what has been handed down about the trial because:

Seldom is there in the Gospels such a variety of diverging and repeatedly conflicting accounts of the same events as in the narratives describing the arrest, trial, crucifixion and resurrection of Jesus.

Winter points out the absolute nightmare which the student, interested in the study of the trial, faces, and he further emphasizes the weakness of any claim for the historicity of the literature when he points out:

Successive stages in the development of the tradition, through which later forms had grown up from the earlier, now become coordinated. Thus the Gospels which have come to us contain no less than seven different descriptions of a scene of a judicial or quasi-judicial-character, together with five descriptions of a scene of the maltreatment and mockery of Jesus.¹⁶

Further on in this chapter we shall expand the discussion of what it was (beside history), that the Gospels were attempting to convey within their accounts of the trial...but on the subject of

their historical reliability, there are yet others who comment.

"The entire trial business is legendary and tendentious."¹⁷ So writes Dr. Samuel Sandmel. But, he continues in another article,

The point is not at all that I regard the Gospel material on the trial of Jesus as devoid of all historical basis, and as only a tissue of legend and of tendenz. The case, rather, is that I simply do not know how, as a historian, I can separate whatever may be the kernel of historical reality from the other material which I am convinced is not historically accurate. In short, I give up on the problem...one can know what is in the Gospels but one cannot know accurately about Jesus. That, of course, would apply to the trial as much as to other Gospel material.¹⁸

Robert Gordis, writing the introduction to a symposium on the trial in Judaism, agrees as he claims:

...that practically nothing is certain about the event. The background and the character of the accused, the nature of the charges, the identity of the prosecutors, the composition and authority of the court, the time and place of the trial, the substance of the verdict-virtually every aspect of the trial is unclear. Efforts to establish the historical basis of the trial are complicated by the paucity of the sources and the apparent contradictions among them. Basically they consist of the relatively brief and obviously tendentious accounts given in the Gospels, though what the precise tendencies are is, in itself, subject to controversy.¹⁹

Because of his assertion that Jesus cannot be found as an historical figure in a documented historical setting, Dr. Sandmel has been called an agnostic. We shall discuss this view in the

closing chapter, but given the preliminary statements, one might think that all Jewish writers on the trial were agnostics. Although each one disclaims the historicity of the Gospel accounts, nevertheless each does attempt, on the basis of material from the Gospels, to theorize about the trial of Jesus. However, this paradox of unprovable evidence is at the heart of a good deal of writing on the subject, making any such undertakings seem *prima facie* speculative.

The list continues with the words of Haim Cohn. Certainly founding his words on those of Paul Winter, he writes:

For our purpose, there is nothing so relevant as the tradition surrounding the events that lead up to the crucifixion, but it is just in that context that the Gospels are full of contradictions, and many of the incongruities do not lend themselves to reconciliation. We are faced with the choices of a night trial before the Sanhedrin, an early morning trial, and no Sanhedrial trial at all.

Cohn goes on to raise certain fundamental questions - questions which strike at the very heart of the Gospels' authenticity. Why, for example, if Pilate had wanted to pardon Jesus, did he not proceed in doing so? And why would the people, the supposed multitude-listen to the priests whom they knew to be in the payment of Rome?

Joel Carmichael also comments in that vein and presents a solution:

After all, the devotion of Jesus' followers to him was enough to generate their faith in his Resurrection and Messiahship; it is inconceivable that they failed to retain a vivid though naturally painful memory of the crucial week in his tragic career. It is just this gap in recollection that is the most dramatic proof of the process we have referred to so often, that of the transformation of the entire view of Jesus' career by the perspective of his triumphant Glorification, which led to the obliteration of essential facts relating to his activity in Jerusalem, including his reason for going there. It is also surely the reason for the curious effect of anti-climax in the Gospel account of Jesus' entry into the city. Though unmistakably a Messianic demonstration in all four Gospels, there is an inexplicable gap both chronological and causal, between the entry itself, with its open defiance of the Romans, and Jesus' punishment. The chronological dislocation involved is evidently the handiwork of a later doctrinal transposition. Subsequent theological apologetics drained our documents of whatever facts their original versions might have contained, leaving the void we must cope with.²¹

Geza Vermes adds his comment:

Everything told about him originated, not in the Creed, but in the Gospels, and specifically-from the point of view of history-in the earlier Synoptic Gospels of Mark, Matthew, and Luke. Admittedly not even they were conceived as an objective record²² of events, nor even as popular chronicles.

Finally Haim Cohn points out one area of agreement among scholars, a possible explanation for the diversity in the Gospel accounts of the trial:

It is no longer seriously disputed that there was not available to the authors of the Gospels any testimony of eye-witnesses who were present at any of the stages of the arrest, trial or crucifixion of Jesus and gave a direct account of it.

Given the facts that there were no eyewitnesses, that the Gospels were indeed a collection of pericopes, apophthegms and tendenzenes, et al., there is little doubt why there might be no reliance on them by both Jewish and non-Jewish authors, especially pertaining to historicity of the accounts of the trial. Some writers, like Sandmel, give up trying to unravel the tangle of contradictions, while others, like Zeitlin and Winter, try to work with what they feel to be historically reliable material - that which cannot be doubted textually or logically. One conclusion which can now be drawn is that no one has adequately explained the numbers and varieties of accounts of the trial found in the New Testament; ergo, there is a plethora of fascinating speculative theories about what actually did take place. About the only ground of agreement is that there can be no agreement over the material that the Gospels provide us, possibly because the Gospels themselves are in such thorough contradiction, one with another, over nearly every detail of the trial.

If their purpose is not to explain what truly did happen, what then, were the aims of the Gospels and why did each Gospel attempt to present a different story of the trial? Winter and Carmichael have already provided us with one viable reason: that the Gospels were

primarily theological treatises and that therefore, each Gospel writer was more concerned with his depiction of Jesus that would cope with the problems of the writer's day and locale than he was in portraying actual history and the problems which Jesus himself might have faced. Charles Raddock elaborates as he writes:

Most of it (the New Testament) was filled with accusations against Pharisaic Jews, against the Sanhedrin, against the rabbis. The authors could not overlook Hillel's followers for not accepting Christ, for rejecting the Baptist, for debating the founder of Christianity, for ignoring the other Apostles. Moreover, instead of denouncing the Romans outright for persecuting pioneer Christians for crucifying them, from throwing them to the beasts, the authors depicted the procurator who had given the order to crucify Jesus as merely a coward and a dupe of the people. They did so to win favor with the Roman populace and Roman officials falling under the spell of the cult.

Most readers are familiar with New Testament references to Pharisees, Sanhedrin, Scribes. The New Testament includes defamatory remarks about the Saducees, too, who were opposed to the Pharisees no less than the Greek and Latin authors of the Christian Bible. The inferences the authors hoped to be drawn from these remarks was that the Jews alone were responsible for the crimes committed against the new faith.

The Sanhedrin, as already noted, from the time of Herod the Great, had no authority to behead, nor to instruct to behead, John the Baptist. Nor to crucify Jesus...Not under Roman rule. In the New Testament, however, they bore the brunt of it.²⁴

Thus far we have seen that the consensus of Jewish opinion would support the notion that the Gospels were written not as history

but as theology. This being the case, were there not other purposes the evangelists sought to fulfill in and by their biographies of Jesus? Paul Winter speaks of the difficulties that the Church faced under Roman rule at the time of the writing of the Gospels, and the consequences that that persecution had upon the trial narratives. In the future history of the Church "the more Christians are persecuted by the Roman State, the more generous becomes the depiction of Pontius Pilate as a witness to Jesus' innocence."²⁵ For example, Mark, writing in Rome, placed as little blame as possible on Pilate but portrays him:

As having been unwilling to pass a death sentence and as having recognized the innocence of the man whom Christians now worshipped. For this purpose Pilate had to be presented as acting under Jewish pressure against his own better conviction.²⁶

And Mark was not alone in his attempt to exonerate Pilate:

Not one of them (the Evangelists) is prepared to state plainly that a sentence of death was passed on Jesus by the Roman prefect. In Mark and Matthew we read that 'Pilate delivered Jesus to be crucified' - an oblique manner of reporting a judicial verdict. Luke and John are even more reticent. The former states that Pilate gave in to the demand of the Jews and allowed Jesus to be crucified while the latter goes so far as to say that Pilate relinquished Jesus to the Jews who themselves took him away and crucified him. All the evangelists are at pains to avoid putting on record the passing of a death sentence by the Roman chief officer. But the fact remains that crucifixion was a Roman punishment, not a Jewish one.²⁷

The logic of such a depiction was to persuade the present Roman ruler (s) to be more friendly to the Christian community (ies) by providing them the precedent of a docile Pilate who had been kind to Jesus and had even tried to save him. Both Winter and Zeitlin point out that with each successive Gospel, Pilate appears more genial to Jesus, until by the time of the Johannine Gospel, the Roman procurator is seen to be trying to turn Jesus over to the Jews to be crucified.

Winter also maintains that the Church's conflict with Rome was not the only one which the Gospels try to rectify. He contends that the Gospels were written from the crucifixion back into the life of Jesus - and much of the conflict presented as between Jesus and the Jews was rather a reflection of the conflict between the Church and the Jews at the time of the writing of the Gospels. Such conflict was then retrojected into Jesus' lifetime to provide solutions for present, ongoing struggles.²⁸ All the Marcan 'controversy stories', without exception, reflect disputes between the Apostolic Church and its social environment, and are devoid of roots in the circumstances of the life of Jesus.²⁹

As much as they were designed to cope with Jewish objections and antipathies, the Gospels were written to bolster the faith of the Christian community as it faced persecution both from the Roman and the Jewish quarters.

The combination of the story of Peter's Denial with that of Jesus' conduct at a fictitious session of the Sanhedrin is designed by the Evangelist (Mark) to

convey an exhortation to the members of the ecclesia to remain true to their convictions if and when faced by official inquisition. The report of an event of major consequence - the trial of Jesus is parenthetically inverted into the report of an event of minor consequence - Peter's wavering and his denial of the Lord - which betrays the narrator's artificial manner.³⁰

Another important goal that the Gospels had was to put an end to heresy and conflict within the Church itself. By recording the life of Jesus, the Gospels attempted a solidification of belief. And too, there was the need to explain the death of the hero figure and thereby, to show that ultimately the tragedy was necessary:

Foremost there was the cultic interest. Jesus' humiliation was seen as a prelude to his triumphant vindication. Early Christian preaching centered around the theme of the Messiah's suffering and exaltation. Hence the necessity of bringing tradition into line with a continuous and ever-deepening religious meditation. Here it may be noted that the more detailed, and specific, a particular evangelist's account of the legal proceedings against Jesus becomes, the lesser is the probability that his rendering follows the trend presented in early tradition, or corresponds to historical events.³¹

In writing specifically about Mark's intent, Winter summarizes much of the above material and then elucidates yet another force which motivated, at least, this Evangelist's account.

Besides the hortatory interest we discern an apologetic motive. The Second Evangelist-writing probably in Rome-wishes to emphasize the culpability of the Jewish nation for the death of Jesus, particularly its leaders; they, not the Romans, are to be held responsible for the crucifixion. It is not to be assumed that the Evangelist was moved by positively anti-Jewish sentiments; his tendency was defensive rather than aggressive. He was concerned to avoid mentioning anything that would provoke Roman antagonism towards, or even suspicion of, the ideals for which he stood. The materials from which the Second Gospel was made up had to a considerable extent developed in a Palestinian-Jewish ambit, but the Evangelist was addressing himself to a predominantly Gentile Christian community which was exposed to attack from pagan quarters. He came to realize that he should omit anything that might be taken to suggest to the mind of the reader that the case of Jesus, who had been put to death by a Roman procurator in Judaea, could be compared to any of the cases of capital punishment-innumerable as they were-that had been carried out by Roman authorities during the years 66-71 C.E. No grounds must be given for the inference that Jesus was in any way connected with subversive activities such as those which had resulted in the recent uprising. The Evangelist therefore contrived to conceal that Jesus had been condemned and executed on a charge of sedition. The arguments run that he was not arrested by Roman troops, not sentenced for political reasons by a Roman magistrate; but that his condemnation and subsequent execution was due to some obscure cause of the Jewish Law which, of course, would be devoid of relevance in the eyes of the Roman reader after the year 70 C.E. The insertion of the passage Mc 14:53b-55-64 into an old tradition so as to combine the record of Jesus' removal to the high priest's residence and of Peter's weakness in the face of personal danger with an account of Jesus' interrogation by the Jewish Senate, introduced by the Evangelist ad hoc-has its Sitz im Leben in the history of the ³²early Church, not in the history of Jesus' life.

Even as we recognize that this lengthy quotation involves a good deal of Paul Winter's own theory about the life and Passion of Jesus, we are nonetheless struck by the reasons he sets forth for the Marcan account of the trial; for Mark's is a general apologetic defense of the Church, demonstrating a need to shift the onus from the Romans to the Jews.

We need add only one other tendenz to those already mentioned: that the Gospels are attempting to show that Jesus' coming and Passion were all predicted and supported by the Old Testament. Dr. Sandmel sees Mark as a Gentile Christian, who - writing for Gentiles, purposefully does not include anything of the political that might have been part of Jesus' rise. He is therefore writing theologically not historically - and in doing so infuses his story with Biblical material.³³

Carmichael reiterates this point when he writes:

The Gospel writer is so indifferent to mundane history that he actually has a Roman governor express himself in a purely Jewish manner, with what amounts to a quotation from the Jewish scriptures, and in a version that in fact comes from the Greek translation of the Scriptures (the Septuagint) since that was the version the writers and editors of the Gospels themselves were familiar with. The mob naturally gives the counterpoint in its own fashion by completing the Old Testament reference: 'His blood be on us and on our children' (Mt. 27:25).

Sandmel again points to the attempt the Evangelists made to make their biographies of Jesus appear as a fulfillment of Old Testament tradition and custom:

The date of Passover, or its eve, was selected in order to equate Jesus with the sacrificial Passover lamb of the Bible. The church, by Mark's time, did not know when Jesus was crucified, but naturally chose a date which would make it seem clear that his death³⁵ was predicted in the Old Testament.

Finally, Haim Cohn makes these observations about the Gospels, their aims and goals:

Christianity would have jeopardized its very survival were it to have reported that Jesus had been found guilty of the capital crimen maiestatis and³⁶ duly tried and crucified with Roman Law.

Speaking of the trial in its broadest sense he says:

The story of it would have been simple and straightforward were it not for the fact that the evangelists, for theological and political purposes, had to shift the guilt for the death of Jesus to the Jews. For that purpose, they had to invest the Jews, whoever they were, with an impertinence toward the governor, and an influence upon him, that are so unrealistic and so unhistorical as to verge on the ridiculous; and they had to divest the governor of his last shred of dignity and all sense of responsibility.³⁷

In summation, then, we find that Jewish writers see the Gospels, at best, as reworkings of a historical event, and at the very least, pure theological and political constructions. That which can be said about any aspect of the trial of Jesus is subject to speculation and debate. Since there is no conclusive evidence aside from the Gospels

themselves that the trial took place as they report, the field of scholarly investigation shows a high degree of creative and fascinating speculation and theorization. The fact that the Gospels themselves demonstrate such a high degree of internal contradiction, controversy, and inconsistency gives rise to a plethora of hypotheses about who Jesus actually was, what role the Jews actually played in his Passion, what role the Romans themselves played, the nature of the Sanhedrin of Jesus' day, and what it actually was that led Jesus to his death. Yet, throughout the theorizing and the ingenious proposals of solutions which would harmonize and unify the Gospel puzzles, there remains a modicum of doubt: "What we struggle in vain to see is some genuine basis on which a wish to have Jesus crucified could rest."³⁸ But we are at a loss to explain fully what it was that actually occurred.

The words of Leo Baeck act to summarize and encapsulate the impressions of other Jewish writers who attempt to establish the authenticity of the Gospel accounts of the trial:

What each of the Gospels, taken as a whole, presents to us is rather what was believed, thought, wished, and desired by Christian communities under the guidance of authoritative teachers at the turn from the first to the second century. It is what they confidently considered the truth concerning the life and words of Jesus, all their opponents notwithstanding. What is foremost and clearest in our Gospels is not so much the religion and fate of Jesus as the conviction and course of the communities of that time. It was not first of all, and

certainly not alone, a tradition that determined and guided them, but at least as much a purpose. Men envisaged the past in the perspective of their own days and painted it with their own hopes and concepts. The men who wrote down these Gospels wanted to bear true and enduring witness of themselves, of that which the Christ meant to them and should to the exclusion of all else be valid in preaching and instruction - their own faith. The Gospels were meant to be a didactic work for the community which would preserve and spread the right and 'sound' faith.

FOOTNOTES

- 1 Jules Isaac, Jesus and Israel, trans.. Sally Gran, (New York, 1971), p. 396.
- 2 Ibid., p. 268.
- 3 Solomon Zeitlin, Who Crucified Jesus?, (New York, 1964), p. 101.
- 4 Ibid., p. 141.
- 5 Ibid., p. 151.
- 6 Paul Winter, On the Trial of Jesus, (Berlin, 1961), p. 2.
- 7 Ibid., p. 2.
- 8 Ibid., p. 2.
- 9 Ibid., p. 3.
- 10 Paul Winter, "The Trial of Jesus," The Jewish Quarterly, ed. Jacob Sonntag, (London, 1968), 16, pp. 31-37.
- 11 Ibid., p. 31.
- 12 Ibid., p. 32.
- 13 Paul Winter, The Trial of Jesus, p. 117.
- 14 Ibid., p. 5.
- 15 Ibid., pp. 5-6.
- 16 Ibid., p. 7.
- 17 Samuel Sandmel, A Jewish Understanding of the New Testament, (New York, 1956), p. 128.
- 18 Samuel Sandmel, "The Trial of Jesus: Reservations," Judaism, ed. Robert Gordis, (New York, 1971), 20: pp. 70-71.
- 19 Robert Gordis, "Foreward. The Trial of Jesus in the Light of History," Judaism, (New York, 1971), p. 6.
- 20 Haim Cohn, The Trial and Death of Jesus, (New York, 1967), p. xx.
- 21 Joel Carmichael, The Death of Jesus, (New York, 1962), p. 196.

FOOTNOTES

- 22 Geza Vermez, Jesus the Jew, (New York, 1974), p. 16.
- 23 Cohn, Op. Cit., p. xiii.
- 24 Charles Raddock, Portrait of a People (New York, 1965), I, p. 183.
- 25 Winter, On the Trial of Jesus, p. 59.
- 26 Winter, The Jewish Quarterly, p. 34.
- 27 Ibid., p. 34.
- 28 Winter, On the Trial of Jesus, p. 117.
- 29 Ibid., p. 125.
- 30 Ibid., p. 162, note 13.
- 31 Ibid., p. 52.
- 32 Ibid., p. 24.
- 33 Sandmel, A Jewish Understanding, pp. 129-31.
- 34 Carmichael, Op. Cit., pp. 36-7.
- 35 Sandmel, Op. Cit., p. 128.
- 36 Cohn, Op. Cit., p. xvii
- 37 Ibid., p. 189.
- 38 Sandmel, Op. Cit., p. 129.
- 39 Leo Baeck, Judaism and Christianity, trans. Walter Kaufmann, (New York, 1970), pp. 86-7.

Chapter Two

Who Was Jesus?

The preceeding chapter was an attempt to provide a Jewish perspective of the Gospels and to present the consensus among Jewish writers as to why there is such diverse opinion about the trial of Jesus. This chapter will begin to uncover and concentrate upon those differences, for it proposes to deal with the variety of characterizations which Jesus himself has received at the pens of scholars. Obviously, those who see Jesus as a rebel against Rome are going to interpret the Gospel accounts differently from those who see him as a prophetic or messianic figure who was the victim of circumstances. The different modes of characterization, then, will also necessarily distinguish between those who write polemically and those who write apologetically about Jewish involvement in and responsibility for the crucifixion of Jesus. The subject, then, is how Jewish writers have depicted the character of Jesus and what effect these characterizations have had on their theories of the trial. Underlying these questions is the often doubt-filled quest to determine who Jesus was and what actually got him into trouble.

There are several fascinating theories about the person, Jesus. The first one we shall call 'the theory of perceived rebel', developed and put forth by Paul Winter. Winter maintains that we can know virtually nothing about the way in which Jesus perceived himself; but, as he was perceived by the Romans, he was thought to be a rebel.

It is the non-biographical character of the Gospels which makes it almost impossible to ascertain the immediate cause of the arrest of Jesus. The movement which he initiated doubtless possessed political implications. The very fact that his followers saw Jesus' significance in messianic terms indicates the presence of political aspirations. Such sayings as are recorded in Acts 1:6, Mt 19:28 (Lc 22:30b) or Lc 19:27 exemplify the political concern of the disciples. Yet they do not prove anything about Jesus himself, the aims he entertained and the hopes he cherished. The fact that Jesus was crucified 'King of the Jews' is sufficient to demonstrate that political revolutionary tendencies were associated with 'the movement' already during the lifetime of Jesus. The evidence for the existence of political motives in the minds of the adherents of Jesus is stronger for the post than for the pre-crucifixion period. All the same, as Jesus was crucified on the ground of a charge of tumult or sedition, his activities must have had a political aspect ¹ for some people even before his death had taken place. But this does not mean that Jesus himself put forward political claims, or asserted his messiahship, i.e. his vocation to become Israel's ruler. It would have sufficed as a ground for the condemnation of Jesus if only a small section of his following had understood his preaching in a political sense, and if such a circumstance had come to the knowledge of the procurator.¹

When he discusses the arrest of Jesus, Winter goes further into the matter:

He was no revolutionary, prompted by political ambitions for the power of government; he was a teacher who openly proclaimed his teaching. He never announced the coming of his own kingdom, but preached the kingdom of God that comes without observation. Senseless though the arrest, cruel though the sentence was, the oldest of the Gospels preserved the reason for both: Jesus was arrested, accused, condemned, and executed, on a charge of rebellion.²

In this assertion Winter is supported by Solomon Zeitlin who characterizes Jesus as one who saw himself to be the messenger or messiah of God and who was proclaiming the imminence of God's kingdom. Yet in another publication, Winter returns to the position that, given the nature and origin of the Gospels, we cannot know if Jesus himself was a rebel or not.

We can say without hesitation that Jesus' followers cherished aspirations of Jewish national independence. We cannot say whether they were encouraged to such aspirations by Jesus himself. Only what his followers hoped, what they thought and expected, finds expression in the Gospels. What Jesus himself thought, what his aims were, what he asserted or what he expected, we simply do not know.³

Yet Winter claims that "none of the latter accretions which in the Gospels overlay the primitive original account, and none of the editorial modifications from the hands of successive evangelists, can hide or disguise the fact that Jesus of Nazareth was...executed on a charge of insurrection against Roman rule in Judea."⁴

Following Winter's line of argument, there are other Jewish writers who claim that the crux of the charge against Jesus was political, though again of Jesus' own intentions, we cannot know. Dr. Ellis Rivkin writes:

A political council, a sanhedrin, presided over by a high priest, Caiaphas, appointed by the Roman procurator, concluded that Jesus was a dangerous troublemaker, and turned him over to Pontius Pilate. The ultimate decision to crucify Jesus was made by Pilate. The Roman imperial system was thus responsible for the crucifixion. Its quarrel with Jesus was not that he denied the authority of the Pharisees, but that he had kingly ambitions of his own.⁵

Aside from the fact that Rivkin's statement is an adequate summary of the position of a number of Jewish scholars on the actual timetable and procedure of the Trial and one which we shall have occasion to cite again in future chapters, he is again positing the notion of the Perceived Jesus - not who Jesus actually was, but the type of person he was determined to be by the authorities which dealt with him.

Given the fact that the Jews of Jesus' period suffered under Roman rule and certainly aspired to be free of the foreign domination, it is understandable that the Jewish high priests, appointed by Rome and acting as a Roman gauge on the pulse of Jewish resentment and anti-Roman feelings, would have intercepted Jesus and perceived his actions as a threat to their positions and to Roman rule. G. George Fox comments in that light:

...It was a small number of Sadducean High Priests, minions of the Roman Procurator, not the Jews as a whole, that turned Jesus over to the Roman authorities, because they were afraid that he would be the center of an insurrection against the Roman power, with terrifying results for the Jews.⁶

Fox is of the opinion that Jesus, as seen through the Gospels, thought himself to be the Messiah and that it was his messianic activities which got him into trouble. The crowds he attracted, the proclamations he made, the activity in Jerusalem at the crowded Passover season, all made him a threatening figure to the ruling powers.

This is to say that Jesus was fully aware of the watchful eyes of the Romans and their hirelings, but nevertheless continued his activities, thereby virtually condemning himself.

Geza Vermes comments in a similar fashion:

All that is known for sure is that his whole interest was centered on Jewish affairs and that he had no great opinion of the Gentiles, but can this have been equivalent to a serious political involvement?

Zealot or not, Jesus was certainly charged, prosecuted and sentenced as one, and that this was due to his country of origin, and that of his disciples, is more than likely. It appears that in the eyes of the authorities, whether Herodian or Roman, any person with a popular following in the Galilean tetrarchy was at least a potential rebel.⁷

Whether or not Jesus saw himself as a rebel, Vermes maintains that some of his followers "appear to have been imbued with a spirit of rebellion and to have expected him to convert his religious leadership into the political role reserved for the royal Messiah."⁸

But for Vermes, like Winter, the question remains as to whether or not Jesus saw himself as the Messiah.⁹ Jesus may not have actively encouraged his followers; nevertheless, "they hailed him as a savior from Roman tyranny and as a harbinger of a new revelation, or apocalypse."¹⁰

David Flusser does not support the theory that Jesus was actually a rebel, however, he does shed light upon those who argue so:

It is hard to concur with those who affirm that Jesus was executed by Pilate not without some reason, as a political agitator, or even that he was the leader of a gang in the Jewish war of liberation against Rome. In addition to the trial of Jesus, the chief evidence cited in support of this affirmation is that Jesus preached the kingdom of heaven. 'Heaven' is a circumlocution for 'God' and people in general believed that when the kingdom of God came, Israel¹¹ would be freed from the yoke of Rome.

Flusser is one who claims that Jesus was tragically bound up in the events of his day.

Apparently Jesus was handed over to Pilate without a verdict and nowhere in the sources is a verdict by Pilate reported.

It would seem, therefore, that Jesus' tragic end was preceded by no verdict of any earthly judiciary. It was the outcome of the grisly interplay of naked spheres of interests, in the shadow of brutal antagonisms, and to outward appearance it had no real connection with the man Jesus and his cause.¹²

Whereas some Jewish writers maintain that what Jesus thought himself to be, a messiah figure, a zealot, a rebel, or prophet, is unknowable, there are others who claim that he very much knew what he was about and he actively determined the course of his ministry, including the events of his latter days. As opposed to those who see Jesus as an unwittingly ensnared victim, there are Joel Carmichael and Hugh Schonfield who see him as a politically astute manipulator and

rebel, one who led his people and his cause to Jerusalem and consciously constructed his last acts and scenes.

Carmichael sees Jesus as a rebel leader, who, impassioned by the incident of the Roman standards, led an armed insurrection into the city of Jerusalem, was arrested by the Romans and was executed by them as a rebel. Carmichael cites the activities at the Temple Mount as proof positive of Jesus' intent to rebel against both the established Jewish social order and the Romans who enforced that system.

The violence involved in the seizure of the Temple implies that it was deeply rooted in the social conflicts of the time, ideologized by religion as of course they were. The squeezing of the poorest classes by the middlemen interposed between them and the Temple hierarchy must have contributed to the explosive character of a movement that was bound to involve Jesus in a clash not only with the Romans¹³ but also with the Jewish aristocracy.

Carmichael continues and elaborates on the reasons he feels Jesus' actions at the Temple to have been military rather than messianic:

In short, Jesus must have had an armed force powerful enough for him to seize this vast edifice and hold it for some time, judging by his reference to the 'day after day he had spent 'teaching' in the Temple in his response to his captors, when he questions their coming out to seize him by arms. Mk 14:49.¹⁴

As opposed to those who write of an active involvement of the Jewish authorities, Carmichael places the onus of the trial of Jesus upon the two main antagonists: Jesus himself and the Roman procurator:

We are forced to the conclusion that Jesus came to his cruel death for reasons that in Roman eyes were eminently compelling. Even the sketchiest attempt to fill in the social background against which Jesus was executed highlights the hollowness of the 'misunderstanding' that is conventionally put forth to explain the crucifixion - that is, the notion that blind, ignorant men were bent on destroying a paragon of abstract and timeless virtue because he had a message beyond their comprehension.

However timeless Jesus' ethical message might have been - however timeless, that is, the ethical code of Judaism - he involved himself and his followers in an organized enterprise that had its roots in the circumstances of his own specific society. He had placed himself squarely in the long line of Jewish religious insurgents against the power of the idolatrous Roman state.¹⁵

From the Roman point of view, Jesus' being described on the cross as "King of the Jews" was a simple statement of fact; there was nothing otherworldly for them about it - it referred to a basic act of insurrection, which was punished as such.

Moreover, as we have seen, Jesus was entirely in harmony with the prophetic tradition, still alive in Israel, that had already completely spiritualized the relations of the Jews with their God.

Finally there is the character of Jesus which is constructed and illustrated in Hugh Schonfield's Passover Plot. To Schonfield, Jesus was a man working out his own destiny as Messiah, actively and artfully using the Sanhedrin, the Jews, the priests--even his own Apostles for his own preconceived, preordained plan.

He (Jesus) had what is called in Jewish jargon a yiddishe hertz, a Jewish warmth of benevolent affection. He was highly sensitive and a shrewd judge of people. In his make-up there was no ambition of self-aggrandisement: his recognition of himself as the Messiah-designate cannot be attributed to megalomania. He saw himself as the Servant.¹⁷

Perhaps the best overall summary of the character of Jesus as Schonfield saw him, comes from this passage:

The die was cast, and now there could be no turning back. Jesus had boldly and publicly committed himself in the way he had planned. He had accepted the plaudits of the Jewish multitude, chiefly his own Galileans, at the capital of the nation as their rightful ruler. By doing so he had made himself guilty of treason against Caesar. There can be no question about this. The action of Jesus had been intentional and deliberate, and he was fully aware that there could be only one outcome, his arrest and execution. He had contrived, without any show of force and in the most peaceful manner, to make a telling demonstration that he claimed to be the Messiah, forcing the Jewish governmental representatives into a position where they must proceed against him both in the interest of self-preservation and in duty to the Roman emperor, and to do so with the knowledge that he had identified himself to them as the heaven-sent king of Israel. In a masterly way he was bringing it about that the requirements of the messianic prophecies, as he interpreted them, would be fulfilled. The chief priests and elders might imagine that they were acting on their own initiative in meeting the threat created by Jesus, but in fact the plotting of the Galilean was progressively reducing them to puppets responding to his control.¹⁸

Ultimately the question of who Jesus actually was, which includes which purposes he himself brought to Jerusalem - whether they were ones of rebellion, or of proclaiming himself to be the Messiah, etc., cannot be adequately dealt with here. Scholarly research and debate over the meaning of such terms as 'Son of Man', 'Son of God', 'Messiah', and 'of the Davidic line' all are of relevance to this problem. Nevertheless, those who write about the trial, as often as not, found their theories upon who and what they think Jesus was.¹⁹ If, for example, Jesus was an active rebel leader, then Carmichael's conclusion of a Roman trial and conviction certainly follows. If, however, Jesus was a Messiah figure, then the solution of a Sanhedrin trial for blasphemy is the possible conclusion. In any case, as we have seen, Jewish writers feel they must base their accounts of the trial on some notion of Jesus' personality and activity. Whether this approach is based on the perception of others - of Jesus' followers as reported in the Gospels or of the Roman procurator as he was depicted through both the Gospels and through other sources such as Josephus or Tacitus - is not of unrelated importance.

As an added note, it is important to point out that each writer brought to light a slightly different conception of Jesus. Were there unanimity of opinion upon the validity of the Gospel representation of Jesus, there would also be a clearer view of the character of Jesus. But interpretation of the various events and levels of the Gospels, allows for the divergence of views as we have seen. Ultimately the confusion over the real person of Jesus derives from the contradictory evidence the Gospels themselves present us.

It is to the Jewish involvement and responsibility for Jesus' trial and death that we must now turn our attention, understanding that the writer's given impressions of Jesus and his movement undergird his theory of the trial.

FOOTNOTES

- 1 Paul Winter, On the Trial of Jesus, (Berlin, 1961), pp. 138-9.
- 2 Ibid., p. 50.
- 3 Paul Winter, "The Trial of Jesus," The Jewish Quarterly, ed. Jacob Sonntag, London, 1968), 16, p. 37.
- 4 Ibid., p. 34.
- 5 Ellis Rivkin, The Shaping of Jewish History, (New York, 1971), p. 73.
- 6 G. George Fox, Jesus, Pilate and Paul, (Chicago, 1955), p. 104.
- 7 Geza Vermes, Jesus the Jew, (New York, 1974), pp. 49-50.
- 8 Ibid., p. 51.
- 9 Ibid., p. 142.
- 10 Charles Raddock, Portrait of a People, (New York, 1965), I, p. 173.
- 11 David Flusser, Jesus, Translated by Ronald Walls, (New York, 1969), p. 83.
- 12 Ibid., pp. 128-9.
- 13 Joel Carmichael, The Death of Jesus, (New York, 1962), p. 161.
- 14 Ibid., p. 140.
- 15 Ibid., pp. 158-9.
- 16 Ibid., p. 162.

FOOTNOTES

17 Hugh Schonfield, The Passover Plot, (New York, 1965), p. 59.

18 Ibid., p. 114.

19 David R. Catchpole, The Trial of Jesus, (Leiden, Netherlands, 1971), catalogues the various views of both Jewish and non-Jewish writers within his historiography of the trial. He notes a number of Jewish historians and their characterizations of Jesus. But as this thesis deals mostly with those who write specifically about the trial, I did not include this large number of Jewish historians who mention Jesus and his role but do not concentrate their work on him and the Trial.

Chapter Three

The Jewish Culpability

The problem of the trial(s) and the culpability of the Jews for their alleged part in the trial and death of Jesus is an inordinately complex and involved one. And it is, as we have noted before, a direct outgrowth of the problem of the Gospels. The contradictory claims and charges against the Jews, specifically against those of the leadership who may have tried Jesus, have led to a tangle of theories about the trial procedure. Due to the variety of accounts of the Sanhedrin trial in more than one Gospel, questions are raised as to whether there was a Jewish trial at all. Other questions arise: Were the Jews even legally empowered to try Jesus? What might have been the makeup of a Jewish judicial body? What rules might it have followed? (for we know of the Sanhedrin from tannaitic literature, written well after the time of Jesus.) Did the Sanhedrin have the right to capitally punish Jesus? If so, why did they turn him over to Pilate? If not, why did any Jewish body involve itself with Jesus to begin with?

In order to get a thorough, though concise, overview of the issues, we would do well to first cite Jules Isaac: He presents the issue of a Jewish trial in the light of what others have written on the problem.

In the opinion of some historians - who reject the Gospel accounts in toto - the Sanhedrin had the most extensive jurisdiction in religious matters, the right of condemning to death and also the right of carrying out the execution...From this it is deduced that Jesus, having been

crucified and not stoned, was judged and condemned by the Romans, not the Jews. In the opinion of other historians, who accept some of the Gospel accounts and compare them with certain talmudic texts, the Sanhedrin lost the right to pass capital sentences, either (as in the Talmud) forty years or so before the destruction of the Temple, which occurred in the year 70, or... on the establishment of the Roman regime in Judea, which was in the year 6. Accordingly, Jesus would have been delivered by the Sanhedrin to Pontius Pilate, the procurator, who alone possessed the ius gladii, the 'right of the sword' or power over life and death. A third group of historians assume that the Gospel accounts correspond with historic reality: and their thesis is that the Sanhedrin retained the right to pronounce capital sentences, but under the control and on condition of the procurator's confirmation, he alone being empowered to carry out the sentence. This would explain the dual trial, Jewish and Roman, the double sentencing, its execution by the Romans, the nailing to the cross.

To tell the truth, if one holds strictly to the demands of sound historic method, none of the arguments put forth in any direction appears decisive, capable of producing complete certainty. The fact that the procurator had the ius gladii, which is not debatable, does not necessarily rule out that the Sanhedrin had power over life and death, particularly where a religious crime was concerned. The capital sentences invoked in support of the first theory are troubling facts, but it can be maintained, with help of the texts, that they were irregular. The talmudic texts, however categorical they may seem, are unreliable and contradict each other. And one is indeed forced to observe that the Gospel texts themselves...display serious divergences. Finally, if the condemnation brought down by the Jewish authorities was valid only after it was approved by the procurator,

it does not follow that a Roman punishment like crucifixion had to be substituted for the usual Jewish punishment in such a case, stoning.¹

Isaac now speculates on what really may have happened:

For lack of certainties, we are thus reduced to conjectures. The best grounded, by analogy, seems to be the following. Thanks to legal documents found in Egypt, we know today that in certain important cases, the prefect of Egypt...gave over to local authorities the task of investigating the matter; we can say that the same should have been true in Judea, and that consequently the Sanhedrin functioned in certain cases as a court of judicial inquiry, a grand jury. Such would have been² its role in the matter of Jesus of Nazareth.

The theory that the Sanhedrin was no more than a grand jury is a popular one, one which we shall have occasion to see again. Nevertheless, it is important to gauge the complexity of the issue as it has been debated, based upon the difficulties within the Gospels, from one writer to another. David Flusser compares the Gospel accounts, one to another, in an attempt to decipher the role and nature of the Sanhedrin.³

It has been pointed out earlier in this book that in the first three gospels the Pharisees are not mentioned in connection with the trial of Jesus; and it has also been suggested, on the basis of independent reports, that they could not have acquiesced in the surrender of Jesus to the Romans. If, then, there was a session of the Sanhedrin before the crucifixion of Jesus, it must have resembled very much the arbitrary assembly of distinguished Sadducees who condemned James, the Lord's brother, to death.

Was it an assembly of the Sanhedrin at all, that condemned Jesus to death? John knows

nothing about it, and in the whole of Luke - not just in his description of the Passion - a verdict of the supreme court is not even mentioned. Mark was the first to alter the ancient report; a session of the judiciary had to pass judgment. Then Matthew based his account upon Mark. According to Luke (22:66) the proceedings took place in the house of the high priest after that anguished night; 'in the morning Jesus was taken to their Sanhedrin.' According to Mark (14:53-65) and Matthew (26:57-68) the proceedings took place in the night itself; in the high priest's house 'all the chief priests and the elders and the scribes were assembled (Mk 14:53 cf. Mt 26:57). Later (Mk 14:55; Mt 26:59) the assembly suddenly becomes 'the chief priests and the whole council.' On the following morning-so writes Mark (15:1)- 'the chief priests, with the elders and scribes, and the whole council held a consultation; and they bound Jesus and led him away and delivered him to Pilate.' Matthew (27:1-2) omits 'and the whole council,' which he thought superfluous. Luke (22:26) and Matthew (26:59) explicitly mention the Sanhedrin only once; Mark mentions it twice (14:55, 15:1). Thus there are two possibilities. We may accept Luke's version, asking, however, on grounds of literary criticism, whether there was one or two sessions of the supreme court. Were, then, 'the chief priests and the elders and scribes' who hurried to the high priest's house after the arrest of Jesus, really the Sanhedrin? They appeared earlier (Lk 20:1) when, in the temple, they asked him about his authority to teach.³

Rather than citing a similar comparison of Paul Winter's that refers to the discrepancies between the Marcan and Lucan accounts, suffice it to say that he, too, recognizes the difficulties that the Gospel accounts present us when we approach them for an adequate record of the proceedings of the Jewish court and its encounter with Jesus.⁴

Ultimately, Flusser's position comes to a repudiation of any Sanhedrin trial of Jesus. He argues that the Gospel according to Luke shows that the Temple authorities (elders and scribes) did function to persuade the Romans that Jesus should be executed;⁵ yet,

...no coherent description of a juridicial procedure appears in any of the Synoptic Gospels. In the whole of Luke not only just in his description of the Passion, a verdict of the supreme court is not even mentioned.⁶

Paul Winter maintains that the Sanhedrin did have the power to try, convict, sentence and carry out a capital verdict against Jesus, but that Jesus was not condemned to death by the Sanhedrin.

A mere glimpse is offered of the course of its deliberations in the words of the high priests in Jn 11:48. But that some such meeting did take place before Jesus was brought to trial, may be asserted with confidence.⁷

The proceedings of the Sanhedrin were "motivated by apprehensiveness regarding Pilate's attitude to the spreading of public agitation. The arrest is counselled to serve as a deterrent to further expressions of popular discontent."⁸

Knowing that Caiaphas, the high priest, was, in fact, a hireling of the Romans whose position depended upon the favor of the procurator, Winter agrees with the theory that the high priest and his entourage were acting as a grand jury to bring charges against Jesus. His reasoning is as follows:

When considering the hostility displayed by the high priest and his coterie against Jesus, we should beware of getting things out of focus: the high priest and his staff played only a minor part in bringing Jesus to trial before Pilate. One might think of contemporary analogy and compare Kaiaphas' part with that of a native prosecutor who charges a native defendant for an offence under Emergency Regulations imposed by a colonial power, in a trial conducted before a Magistrate who bears the nationality of the sovereign country. To sum up the situation, Kaiaphas and his associates stood less for heroics than for reasonableness in their dealings with the Emperor's representative. Their attitude was one of political pliancy rather than of resistance.

Once Jesus was turned over to the Romans, the Sanhedrin no longer was responsible for the legal proceedings. They had fulfilled their purpose in turning the rebel over to the Roman procurator, thereby maintaining the peace.

Also in full agreement with the 'grand jury' theory is Hugh Schonfield. He writes:

There has been much learned discussion of the trial of Jesus, citing the rules of the Sanhedrin as they were ideally represented long after this body had ceased to function...in the case of Jesus there does not seem to have been a trial at all. The Sanhedrin met in special session that night not to try Jesus but to find grounds on which to formulate the indictment which would procure from the Roman governor the condemnation of Jesus to summary execution. This is plainly stated by Mark. It was not the theology of Jesus which was at issue or any offence against the laws of Moses: it was his political pretensions.¹⁰

Geza Vermes continues the inquiry and ends by coming to the same conclusion:

Whether there was a trial of Jesus by the supreme Jewish court of Judea in Jerusalem on a religious charge, and a subsequent capital sentence pronounced and forwarded for confirmation and execution by the secular arm, remains historically more than dubious ... If such a trial did take place, and if it were possible to reconstruct its proceedings from the discrepant, and often contradictory reports of the Gospels, the only justifiable conclusion would be that in a single session the Sanhedrin managed to break every rule in the book: it would, in other words, have been an illegal trial. Yet even those who are able to believe that a real trial occurred are compelled to admit that when the chief priests transferred the case from their court to Pontius Pilate's tribunal, they did not ask for their findings to be confirmed, but laid a fresh charge before the prefect of Judea, namely that Jesus ~~was~~ a political agitator with pretensions to being the king of the Jews. It ~~was~~ not on a Jewish indictment, but on a secular accusation that he was condemned by the emperor's delegate to die shamefully on the Roman cross.

To the list of writers who agree with the position we have cited above must be added G. George Fox. He reasons that seeing Jesus as a Messianic pretender, the high priests understandably were nervous about his activities.

Since they had not the legal right to try political offenders, and they did want Jesus out of the way because they feared him, they shifted their base to a religious issue using also his alleged royal pretension. Here they had a right to arrest and try an

offender, but not to inflict capital punishment. On the charge of blasphemy, they could try Jesus, and they did, and finding him guilty, could¹² and did hand him over to the Romans.

In contrast to what Fox has written, Joel Carmichael also wrestles with the question of Jesus speaking blasphemously: the fact that, after the Sanhedrin deals with Jesus on that charge, Pilate takes over with him on a charge which seemingly has no connection with blasphemy, leads Carmichael to this conclusion:

In any case the Sanhedrin is quickly disposed of in the Gospel account. When Jesus is handed over to Pilate a completely fresh trial begins, as though the whole matter were entirely outside the Sanhedrin's competence, as though, in fact, the Sanhedrin has neither tried the case nor decided it. Moreover, the charges themselves, as well as the character of the sentence, make the whole procedure quite different from the mere transfer of a heretic by a religious tribunal to the secular authority. Jesus was not remotely under the ban of the Jewish Law; nor were the charges leveled at him in different parts of the Gospel narrative relevant to the Jewish religion. He did not, in fact, blaspheme, even if it is true that he told the Jews he was the Messiah. Announcing oneself as the Messiah might be a criminal matter, as part of raising an insurrection, but it was not blasphemy, since the Messiah was expected to be a perfectly normal man inspired by God. In short, in spite of the use of the word 'blasphemy' none of the specific charges laid against Jesus in fact involved blasphemy, and so¹³ did not concern the religious authorities.

All of the foregoing authors claim that, in fact, there was a group of Jews who did single Jesus out for Roman judicial action.

They perhaps disagree on the details of whether there was an official and actual trial, and upon what grounds Jesus was finally turned over to Pilate. Flusser, for example, denies there was a Sanhedrin trial and concludes that the men who turned Jesus over were a Temple Committee of scribes, elders and priests. Winter, Rivkin, Vermes and Fox claim, to one degree or another, that there was a Jewish trial and that the Jews of the council acted as a grand jury for the Romans.

There are others, however, who, together with seeing Jesus as a Pharisaic Jew, reject the notion of a Sanhedrin hearing altogether: they include S.W. Baron, B.J. Bamberger, E.L. Erlich, S. Umen, and Jules Isaac, whose view has already been cited. Charles Raddock denies any Jewish involvement at all.

In opposition to nearly every Jewish writer who has written about the Sanhedrin trial is Haim Cohn. His view is a novel one. Amid all the speculation over whether Jesus claimed to be the Messiah or whether he was a rebel, whether he was tried by a Jewish or Roman court; he comes with a different theory. He begins by pointing out that, in contrast to the theory that the Jews acted as a Roman puppet grand jury, there is not a scrap of evidence for the charge that Caiaphas was a traitor of that kind, or that any Jews said to have played a part in the Passion story were agents of Rome.¹⁴ Instead, Cohn sees the Great Sanhedrin as a body which acted to defend and uphold religious concerns and Jewish autonomy against the Romans. Of Caiaphas and his cohorts he writes:

Rather we shall place him and those who acted with him in the perspective of their political circumambience, and take it for granted that - from deliberate prudence as from natural instincts of self preservation - they conducted themselves in such a manner as thought best in the¹⁵ Jewish national and religious interest.

Cohn maintains that it was, indeed, the Great Sanhedrin that undertook Jesus' case. It did so as a council in charge of political affairs. The Sanhedrin had a choice of accepting the messiahship of Jesus and of bowing to his authority, or of maintaining its own authority and demanding Jesus' loyalty and submission. But as regards a trial, Cohn claims:

The Gospel report that the Sanhedrin sentenced Jesus to death upon hearing his 'blasphemy,' is certainly unhistorical. There was no blasphemy, and since there was no trial there was no sentence.¹⁶

Commenting upon the action of the high priest which has often been cited as proof that Jesus blasphemed, Cohn explains:

If the High Priest rent his clothes that night, it was because of his failure to make Jesus see his point and cooperate, and because of the impending doom. The assertion by Jesus that he was the true Messiah - while not constituting any criminal offense - amounted to a rejection of the offer made to him by¹⁷ the High Priest and the leadership.

As far as the Sanhedrin acting as grand jury for the Romans is concerned, Cohn writes:

From what we know of the relations between the Romans and the Jewish authorities in Judea, it is almost unimaginable that he would have asked the Sanhedrin, knowing, as he did, what its attitude was toward all things Roman....¹⁸

Thus, no Sanhedrin would have lent its support when called upon by the Romans to deliver a Jew into Roman jurisdiction. The fact is that all the Gospels are agreed that the Sanhedrin did not concern itself at all with any possible offense under Roman law. It concerned itself with what Jesus had said and done about the Temple, and with his messianic and doctrinal aspirations, subjects of no interest to the Roman governor.¹⁹

According to Cohn, there is no escaping the conclusion that it had not been in the hands of the Sanhedrin, or in those of the High Priest, to fix the timetable: the timing had been forced upon them. We have seen that the High Priest knew that Jesus was to be tried before the Roman governor early the next morning. The trial had been fixed beforehand to suit the governor's convenience.

The sanhedrin had no power, or any illusion of power, to prevent the Roman governor from holding a trial itself. Nor was it called upon to undertake, or interested in undertaking, any services preparatory to the trial before him. There can, I submit, be only one thing in which the whole Jewish leadership of the day can have been, and indeed was, vitally interested: and that was to prevent the crucifixion of a Jew by the Romans, and more particularly of a Jew who enjoyed the love and affection of the people.²⁰

Rather than trying Jesus, Cohn maintains that the Sanhedrin was acting in defiance of the Passover to save a life - to try to persuade Jesus from carrying on his messianic activities; for, they knew Pilate's nature and that Jesus would be sentenced to death were he not convinced to change his ways. In point of fact, the Gospels do not say that the Sanhedrin had already assembled and had unanimously found Jesus guilty of a capital offense. Rather as in the Gospel of John, the Jews refused to judge him. (Jn 18:31)²¹

Jesus, then, had to be persuaded not to plead guilty and witnesses had to be found to prove his innocence. And the High Priest did not wish to risk meddling with a Roman prisoner by himself - he therefore called a meeting to help save the recently arrested Jesus. Acting on the principle of Pikuach Nefesh, they came.²² The purpose was to provide Jesus with a judicial finding that all witnesses who had come forward to testify against him had been proved false and unreliable. Such a finding of the Sanhedrin was not, of course, in any way binding on the Roman governor.²³

The Sanhedrin had nothing to gain and everything to lose by handing Jesus over:

By delivering him (Jesus) to the Roman governor for trial or crucifixion, it would have confessed its inability or incompetence to maintain law and order among the Jews. Such an admission was exactly what the Romans would have hailed as a welcome pretext for depriving the Sanhedrin of the last vestige of its autonomy and establishing Roman jurisdiction throughout.²⁴

In discussing the two trial theory, Cohn maintains that the method of execution:

...would not amount to lawful carrying out of a Sanhedrial sentence, but on the one hand, would leave it unexecuted and on the other hand, constitute unlawful killing.²⁵

Nor could the Jews have convicted Jesus, and then asked for the Romans to carry out their wishes to execute him. Rome was their adversary and no Jewish body would turn a Jew over to them to be executed.

Important to remember in Cohn's theory was the fact that the Sanhedrin was a largely Sadducean group whom the populace did not support. The Sanhedrin, in trying to prevent the execution of Jesus and in trying to persuade him not to plead guilty to the Romans, for whom no witnesses were necessary to sentence Jesus to death, was attempting a popular decision so as not to further alienate the people. Under Roman law the accused's own utterance was sufficient to condemn him - and this admittance by Jesus, was what the Sanhedrin was attempting to forfend against.

Above all (Cohn's) theory demands the general dependability of both the historical tradition of a Jewish hearing and of some of its specific details. This dependability, coupled with speculation on what would insure the survival of the upper class are the ingredients of his ingenious construct.²⁶

It is also interesting to note the apparent agreement of Max Dimont with Cohn's thesis. He comments:

Does it not seem more probable that Jesus was arrested by the Jews to protect him from the Romans, who had never any compunction about crucifying one Jew more or less, that this protective arrest was to no avail, and that the Romans demanded that the Jews turn Jesus over to them for punishment? There is evidence in the Gospels themselves for such a theory. According to the Gospels, it was the Roman soldiers who scourged and tortured the body of Jesus. It took Roman fiendishness, not Jewish compassion, to press a crown of thorns on his head, and to hang the mocking sign, 'King of the Jews,' on his body.²⁷

We now turn our attention to what might be considered as an attempt to find a logical middle ground in the dispute over whether the Sanhedrin did, in fact, deal with Jesus, and how the Jews could have been, in any way, contributors to the trial process. Solomon Zeitlin proposes the theory that there were two Sanhedrins, one political and the other religious, extant in Jesus' time. It could not have been the religious Sanhedrin which tried Jesus, for as Zeitlin claims in a book review:

Dr. Blinzler's thesis that the Sanhedrin tried and condemned Jesus to death is historically untrue and is a travesty of history. The author has ignored all the tannaitic sources. These sources cannot be considered prejudicial since they do not refer to the trial of Jesus. From them we know definitely that the Sanhedrin did not hold sessions on holidays nor on the eves thereof. Furthermore the Gospels relate that the Sanhedrin was summoned, while from tannaitic literature we know that the Sanhedrin held sessions every day except on the Sabbath,

holidays and the eves thereof at a definite place in the Temple area. According to tannaitic law the defendant was summoned but not the Sanhedrin. The Sanhedrin had no legal grounds for condemning Jesus, since he did not curse God by the name of God. His utterance that he would sit on the right hand of Power was not considered blasphemy.

Crucifixion was not a Jewish method of capital punishment but a Roman. According to the Synoptic Gospels Jesus was scourged before he was put upon the cross. Scourging a person before he was put to death was not practical among Jews - it was a Roman punishment. Dio Cassius states that King Antigonus was scourged by the Romans before he was placed on the cross....The fact that the inscription Iesus Nazarenus, Rex Iudaeorum appeared on the cross indicates that he was crucified by the Romans. We learn from Suetonius that the Roman practice was to publish on the cross the reason for the execution. Thus it is clearly shown that Jesus was not condemned to death by the religious Sanhedrin. ²⁸ He was crucified by the Roman authorities.

The Sanhedrial body that did try Jesus, however, was the political Sanhedrin. Zeitlin claims that this body was made up of "Quisling" Jews who were in the service of the Romans, and who, as puppets, condemned Jesus.

Jesus was then led into the house of the high priest who, as we know, was the political representative of the Jewish people for the Roman authorities. In his house, the high priest, the elders, the scribes and the entire Sanhedrin were assembled. This Sanhedrin, unlike the religious Sanhedrin, had no definite place to hold sessions; it had no statutory

regulations, as the religious Sanhedrin had; it could be called to session any time of day or night, holyday or Sabbath.²⁹

In positing a political Sanhedrin, Zeitlin eliminates the problems of the rules by which the Jewish court of the religious Sanhedrin was governed. Zeitlin explains that the evidence for such a political body, in part, comes from Josephus who noted that King Herod often called a political Sanhedrin which purpose was to try those his jealous insanity had brought into conflict with his murderous will. Here in the case of Jesus:

Apparently the high priest so presented the case to his Sanhedrin that Jesus, who claimed to be the Messiah, the 'King of the Jews,' should be delivered up to the Romans. Jesus was not held to be so important and worthy that, on account of him, an entire people should be destroyed, since he was regarded as a sinner who used abusive language against God.³⁰

Finally, Zeitlin states:

Thus it is quite clear that Jesus was arrested and brought before Pilate as a political offender against the Roman state. The accusation made against him was that ³¹he claimed himself to be the King of the Jews.

In criticizing Zeitlin, Dr. Samuel Sandmel raises a more general doubt about the whole matter of the Jewish trial of Jesus:

Indeed, one can approach the trial of Jesus, as some Jews have, as though it is basically historical but wrong in its details; such seems the approach of Solomon Zeitlin in Who Crucified Jesus? He contends that there were two Sanhedrins, a religious and a political one, and that it was the latter, not the former, which condemned Jesus. But is it not equally possible that the whole trial matter is without historical foundation and that to quibble about this or that bit of procedure quite irrelevant? That a Christian writer in Mark's time could speak of a Sanhedrin can fall short of confirming that Jesus stood trial before it; and the fictional embellishments added by Luke and Matthew to Mark may well be the clue to³² the fictional character of Mark's account.

Sandmel maintains that, historically, the trial can neither be affirmed or denied. There is no tangible evidence left us. He goes on to raise a number of disturbing questions with regard to Jewish involvement in the trial procedure.

How authentic are accounts of a trial which contains so many contradictions and differences, such as two trials by the Sanhedrin in Mark, against one in Matthew and Luke, and none in John? What confidence can there be in Luke's version which alone in the Gospel narratives makes Herod Antipas present in Jerusalem for Pilate to send Jesus to him? Did the trial and execution, as Mark, Matthew, and Luke relate, take place on Passover, which is against all Jewish practice and, hence, against all likelihood? Or was it the day before Passover, as John relates, at a time of the day later than the other accounts relate and without the darkening of the sun? Cannot one discern the palpable devices by which Pilate is portrayed as reluctantly giving in to Jewish malevolence? Can the fact that the crucifixion was a Roman punishment, not a Jewish

one, be so glossed over as to exculpate the Romans entirely, as Christian literature does, and not absolve the Jews at all? What shall we make of the circumstance that the Gospel accounts clarify to us why Romans would will the death of Jesus, but leave someone like me uninformed, even mystified, as to why Jews would have willed it? The Gospels show me no persuasive basis on which Jews as Jews would have leveled an accusation against a fellow-Jew; all that I read in the Gospels is a vague charge of "blasphemy," a charge unaccompanied by any broad effort to adduce relevant particulars.....I can understand the Roman motives; from the Gospels I detect no convincing Jewish motive. I believe that the shift of responsibility is patent, is motivated, and that we Jews³³ have been made to pay for what the Romans did.

So it is that, having investigated the Jewish writings on the Jewish involvement in the trial of Jesus, we must now turn to what has been written about Roman culpability.

FOOTNOTES

- 1 Jules Isaac, Jesus and Israel, trans. Sally Gran, (New York, 1971), p. 279.
- 2 Ibid., pp. 279-280.
- 3 David Flusser, Jesus, trans. by Ronald Walls, (New York, 1969), p. 116.
- 4 Paul Winter, On the Trial of Jesus, (Berlin, 1961), p. 28.
- 5 Gerald S. Sloyan, Jesus on Trial, (Philadelphia, 1973), p. ix.
- 6 David Flusser, "A Literary Approach to the Trial of Jesus," Judaism, ed. Robert Gordis, (New York, 1971) 20: p. 32.
- 7 Winter, Op.Cit., p. 41.
- 8 Ibid., p. 41.
- 9 Ibid., p. 125.
- 10 Hugh Schonfield, The Passover Plot, (New York, 1965), p. 140.
- 11 Geza Vermes, Jesus the Jew, (New York, 1974), pp. 36-7.
- 12 G. George Fox, Jesus, Pilate and Paul, (Chicago, 1955), pp. 104-5.
- 13 Joel Carmichael, The Death of Jesus, (New York, 1962), pp. 38-9.
- 14 Haim Cohn, The Trial and Death of Jesus, (New York, 1967), p. 36.
- 15 Ibid., p. 37.
- 16 Haim Cohn, "Reflections on the Trial of Jesus," Judaism, ed. Robert Gordis, (New York, 1971), 20: p. 21.

- 17
Ibid., p. 22.
- 18
Cohn, The Trial and Death of Jesus, p. 109.
- 19
Ibid., pp. 111-2.
- 20
Ibid., pp. 113-4.
- 21
Ibid., pp. 136-7.
- 22
Ibid., pp. 118-20.
- 23
Ibid., p. 122.
- 24
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- 25
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- 26
Gerald S. Sloyan, Op.Cit., pp. 6-7.
- 27
Max I. Dimont, Jews, God and History, (New York, 1962), p. 139.
- 28
Solomon Zeitlin, "The Trial of Jesus," Jewish Quarterly Review,
ed. Abraham A. Neuman and Solomon Zeitlin (Philadelphia, 1962-63) 53,
pp. 84-5.
- 29
Solomon Zeitlin, Who Crucified Jesus? (New York, 1964), p. 163.
- 30
Ibid., p. 164.
- 31
Ibid., pp. 165-6.
- 32
Samuel Sandmel, We Jews and Jesus, (New York, 1965), p. 122.
- 33
Ibid., pp. 139-40.

Chapter Four

The Role of the Romans

Having seen that the role of the Jews in the trial and crucifixion of Jesus was, at best, minimal, we now seek to investigate the Roman culpability in these events. What might have been motivating factors in the Roman decision-making process? Certainly there was the character of the Procurator himself, Pontius Pilate. Then, too, there was Roman knowledge of past conflict with the Jews. The desire to maintain control of and over any potentially volatile situation may well have led to actions which we today might deem extreme. Nonetheless, as Rabbi Milton Miller and Dr. Sylvan Schwartzman see the chain of events:

Naturally, word of Jesus' activities had come to the attention of the Roman authorities. It was a critical time for them. Jerusalem was overcrowded with Jewish pilgrims from all over Palestine, and their discontent with Roman rule ran high. The Romans knew from previous experience how easily the Jews could be stirred up into a riotous mob that might destroy their garrison in Jerusalem. From their point of view, then, anyone around whom the Jews might rally - especially one who spoke of himself as the Messiah or, as the Romans understood it, 'king of the Jews' - could serve to spark a mighty explosion. Therefore, Jesus was promptly arrested and charged with treason.

He was brought before Pontius Pilate, the Roman procurator or governor, who heard the charges against him. The official promptly condemned him to death as a revolutionary, self-styled 'king of the Jews.' According to the Roman practice of the times, Jesus was taken out and crucified. After his death, sympathetic Jews removed his₁ body from the cross and buried it in a tomb.

Although the Jews may have had some part in the proceedings,
nevertheless:

...the final authority for his (Jesus') execution rested solely with the Romans, and they were the only ones who had sufficient reason to fear him as the leader of a possible Jewish uprising. Hence their haste in taking him prisoner, finding him² guilty and binding him to the cross.

In reading other comments of Jewish writers on the trial, one finds an absolute consensus that it was Pilate upon whom the ultimate responsibility fell regardless of the minutiae of the events which preceded the Roman sentence. Solomon Zeitlin, for example, outlines the background of a quisling high priest directing a political pre-trial hearing for Jesus and then turning him over to a cruel and vicious Roman procurator. The conclusion he arrives at is this:

We have thus proved that the crucifixion of Jesus was committed by Pilate, the Roman procurator, not by the Jews. True, the high priest delivered Jesus to Pilate for trial but that was not alone by the will of the Jewish people. Political conditions which prevailed at that time in Judea forced some of the leaders to fight against their own brethren, and to help the Romans to destroy the real Jewish patriots. The Jewish people did not crucify Jesus.⁴

Thus Zeitlin answers the question posed in the title of his book, Who Crucified Jesus?, by replying, "the Romans!"

A superficial reading of the story of the Passion gives the impression that the Jews were responsible for the crucifixion of Jesus. As we analyzed the narrative of the trial and crucifixion against the background of the times, it became evident that the Jewish people were not responsible for the death of Jesus.

Jesus was crucified as the King of the Jews. The Jewish religious Sanhedrin and the people had nothing to do with the trial of Jesus. The high priest who actually delivered Jesus to the Roman authorities either was compelled to do so to save himself so as not to be accused of being an accessory to the rebels; or, most likely, Caiaphas, the high priest, played the role of a Quisling who proved ready to sell_{out} Judea to the Romans for personal gain.

To review and repeat what Geza Vermes has written, the very charges upon which Jesus had been brought before the Sanhedrin were not those which would have elicited a conviction and sentence from the Romans:

Yet even those who are able to believe that a real trial occurred are compelled to admit that when the chief priests transferred the case from their court to Pontius Pilate's tribunal, they did not ask for their findings to be confirmed, but laid a fresh charge before the prefect of Judea, namely that Jesus was a political agitator with pretensions to being the king of the Jews. It was not on a Jewish indictment, but on a secular accusation that he was condemned by the emperor's delegate to die shamefully on the Roman cross.⁶

G. George Fox solves the question in a similar fashion as he, in part, quotes Prof. Joseph Klausner's Jesus of Nazareth:

'Through fear of the Roman tyrant, those who were then the chief men among the Jews delivered up Jesus to this tyrant. No Jew took any further part in the actual trial and crucifixion: Pilate the 'man of Blood' was responsible for the rest.' (p. 349). To say that the 'Jews' crucified Jesus or that they were even responsible for his death by crucifixion, is grossly untrue.'

Fox then argues that the accusation that the Jews as a nation killed Jesus is far less accurate than that the Greeks as a nation were guilty of the death of Socrates. And should the present Greek people be held responsible? The conclusion is, how much less should the 'Jews' be held responsible for the death of Jesus!

We need only note that Bernard J. Bamberger and Ellis Rivkin hold that "the ultimate decision to crucify Jesus was made by Pilate. The Roman imperial system was thus responsible for the crucifixion."⁸

Haim Cohn, who denies that the Jews had responsibility for the trial and death of Jesus but were, in effect, actually trying to save him, makes this interesting observation with respect to the Gospels and their difficulty with the tradition that it was Pilate who was the culprit:

But the tradition that Jesus was, in fact, tried and sentenced by Pilate and crucified by Roman authorities was too solidly entrenched to be set aside and substituted by a simple tale of a trial and execution by the Sanhedrin. So some account had to be given of what had taken place at the notorious trial before Pilate, but processed in such a manner that ⁹ Pilate would appear blameless of the upshot.

Elsewhere Cohn points out:

The fact that John does not follow the versions of Mark and Matthew which do place the onus on the Sanhedrin for Jesus' trial, shows that the Sanhedrin conducted no trial and pronounced no sentence. Were the case otherwise John¹⁰ certainly would have used it to whitewash Pilate.

Cohn holds that Jesus was, in large measure, responsible for his own death; in refusing to heed the warning given him by the Sanhedrin's members, he set the Roman juridical procedures against himself. The Jews knew, and tried to impress upon Jesus, that were Jesus to continue in his ways he could only run afoul of Pilate, convicting himself by his own admissions before the procurator. After all, the Romans did not require witnesses to convict, as did the Jewish court. The incriminating testimony of Jesus himself would be enough to get him executed. That Jesus was tried before Pilate and crucified by his order is known from a tract from Tacitus (Annales 15:44), but, Cohn points out, there are no Jewish sources as to the events which took place before the trial.¹¹ Nevertheless, according to Roman law:

...the law is that when a Jew, not being a Roman citizen, is charged with contempt of the emperor or other treasonable offense under Roman law, he must be tried by the Roman governor; and the charge of claiming to be king of the Jews, without seeking or obtaining the prior fiat or approval of the emperor¹², is one such treasonable offense.

Cohn therefore concludes:

The truth is that Jesus was sentenced to death by the Roman governor, on his plea of guilty, and in accordance with Roman law. He could not have been 'delivered to the Jews,' for crucifixion or at all, not only because Jews were not allowed to attend the trial and could not have asked that he be delivered to them, but because no Roman governor would tolerate Jews interfering or intervening in a trial conducted by him, or carrying out a death sentence pronounced by him or taking part in its carrying out. It had been a Roman trial, resulting in a Roman sentence, carried out by Roman executioners.¹³

Paul Winter also concurs with those who lay the responsibility of Jesus' death at Pilate's feet. He reasons that it is Pilate who ultimately sentences Jesus, though the Gospels are reluctant to admit so. It is Pilate who orders the inscription for the cross. If the procurator had given Jesus up as the Jews' responsibility, to crucify him, then he would have been theirs to bury too and there would have been no need for Joseph of Arimathaea to have petitioned Pilate for the body.¹⁴

Winter points out that Jesus' death is recorded by two ancient historians:

Josephus and Tacitus record that Pontius Pilate, the Roman governor of Judea, condemned Jesus. Josephus explicitly mentions the mode of execution - crucifixion; Tacitus does not say in what manner the execution was carried out. However, neither the reason for the execution of Jesus nor the character of the penal proceedings which preceded it, is disclosed.¹⁵

Winter goes on to say:

In the tangled mess of evangelical accounts of Jesus' trial, one point stands out with clarity: he was arrested as 'a rebel,' accused before Pilate as 'King of the Jews,' found guilty as such, and executed as such. None of the later accretions which in the Gospels overlay the primitive original account, and none of the editorial modifications from the hands of successive evangelists, can hide or disguise the fact that Jesus of Nazareth was arrested, accused, tried, sentenced and executed on a charge of insurrection against Roman rule in Judaea.¹⁶

Furthermore, Winter points out:

Pilate is not asked to confirm a sentence for blasphemy; he is not even told that Jesus has been tried and found guilty of such an offense; and he acts throughout as a magistrate who is presiding over the first stage of judicial proceedings, not as one who has been called to confirm a sentence passed by some other court of law. He demands to know whether Jesus claimed to be the king of the Jews. The reply of Jesus, 'You have said it,' may be taken as an affirmation, though there are scholars who dispute this.¹⁷ In any case it is not a direct reply.

Perhaps the most telling argument is the one Winter gives at the close of this next quotation. Herein are echoes of the problems we confronted in the first chapter; nevertheless, Winter's conclusion is the most telling one with regard to the culpability of Pilate.

Not one of them (the Gospels) is prepared to state plainly that a sentence of death was passed on Jesus by the Roman prefect. In Mark and Matthew we read that 'Pilate delivered Jesus to be crucified' - an oblique manner of reporting a judicial verdict. Luke and John are even more reticent. The former states that Pilate gave in to the demand of the Jews and allowed Jesus to be crucified, while the latter goes so far as to say that Pilate relinquished Jesus to the Jews who themselves took him away and crucified him. All the evangelists are at pains to avoid putting on record the passing of a death sentence by the Roman chief officer. But the fact remains that crucifixion was a Roman punishment, not a Jewish one.¹⁸

Joel Carmichael adequately summarizes the quandry into which the Gospels place us:

The puzzle is this: though Jesus is evidently a pious Jew, as he shows by many of his remarks ...he falls out with other Jews on apparently religious grounds. They hate him, we are told, and plot his undoing. But he is finally executed, not by the Jews, as we might expect, but by the Romans.

Summed up, a Roman governor crucifies a Jew who is politically inoffensive for what is, at one point, said to be an offense against the Jewish religion. At another point an offense against Rome is also mentioned, but this is expressly declared to be imaginary. Yet it is ultimately for just this offense against Rome, as a pretender to power ('King of the Jews'), that Jesus is crucified.¹⁹

Finally to close this chapter, a modern newspaper article revealed an interesting request and the subsequent reply which summarizes the modern Jewish opinion:

Periodically one hears even of attempts to retry the case, such as that requested by an Orthodox Jew in Israel, Itzhak David, who asked that a court in Jerusalem exonerate Jesus of all charges. The Israeli Supreme Court was reported as ruling that the conviction and crucifixion were a 'historical, not judicial' matter and suggested that since a foreign military tribunal under Pilate had handed down the sentence of death, ²⁰ Mr. David put the issue to an Italian court.

FOOTNOTES

- 1
Sylvan D. Schwartzman and Milton G. Miller, Our Religion and Our Neighbors, (New York, 1963), p. 53.
- 2
Ibid., p. 60.
- 3
Solomon Zeitlin, Who Crucified Jesus? (New York, 1964), pp. 171-79.
- 4
Ibid., p. 179.
- 5
Ibid., pp. 171-2.
- 6
Geza Vermes, Jesus the Jew, (New York, 1974), pp. 36-7.
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- 9
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- 10
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- 11
Haim Cohn, "Reflections on the Trial of Jesus," Judaism, ed. Robert Gordis, (New York, 1971), 20: p. 10.
- 12
Cohn, Op.Cit., p. 174.
- 13
Ibid., p. 189.
- 14
Paul Winter, On the Trial of Jesus, (Berlin, 1961), p. 57.
- 15
Paul Winter, "The Trial of Jesus," The Jewish Quarterly, ed. Jacob Sonntag, (London, 1968), 16, p. 31.
- 16
Ibid., p. 34.

17
Ibid., p. 33.

18
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19
Joel Carmichael, The Death of Jesus, (New York, 1962), p. 196.

20
Gerard S. Sloyan, Jesus on Trial, (Philadelphia, 1973), p. xix.

CONCLUSIONS

Having lived with the trial of Jesus intensively for over nine months, I must say that the issues which surround the trial are very much clearer to me, although the answers are not. At the outset to this summary I would warn my reader that I shall not arrive at any startling conclusions; rather, I would deem it meritorious if I frame good and proper questions. Given the nature of the historical sources upon which writers have drawn, I doubt that convincing final arguments will ever be conceived. Then too, there is the fact that millions of people accept those documents as theologically, if not historically, reliable. However, given the contradictions and discrepancies contained within the Gospels, I am amazed that Jewish scholars actually have anything to relate concerning the life and death of Jesus. All of the scholars and historians included in this thesis have pointed to the unreliability of the Gospels as sources. Yet, save Dr. Sandmel, each feels free to hypothesize and speculate on problems inherent within the Gospels, drawing from the doubtfilled verses theories and conclusions which, just pages before, they claimed unsupportable by the nature of the Gospels themselves. This paradox has led to many hours of interesting, perhaps fascinating, reading - and perusal of theories built upon mere fragments of Gospel materials. But ultimately I must conclude that, along with Dr. Sandmel, I too find the theorization inconclusive, the historical facts of the trial being beyond recovery, overlaid and distorted by centuries of theological tendenz and politico-religious struggle.

Perhaps the overarching answer that I find illusive and troublesome is 'what did, in fact, take place?' This question involves other important issues: what was, for example, the relationship between Caiaphas, the high priest, and the Romans? In what state was the Jewish legal system and the Jewish court - the Sanhedrin - at the time of Pilate? Can we assume, as Zeitlin does, that the legal system posited in the Talmud was operable in Jesus' day? Can we determine the time of the trial, the occasion, the specific charges, the juridical procedure, the relationship of Roman authority to the Jewish, the exact sentence and its execution? According to the sources presently at our disposal, we cannot give definite answers. At best we are left with speculation.

Chapter Two is based upon the premise that the details of the trial of Jesus are often determined by the characterization of Jesus: the type of person he was, the role he was fulfilling; e.g., as Messiah, rebel or zealot. If one accepts certain Gospel material as valid, he attains one picture of Jesus. For example, Winter and Carmichael see Jesus as a rebel leader, who, with his following, came to Jerusalem to combat Roman influence over the masses of Jewry. Under Roman domination, the priestly-Sadducean group is included - it is seen as subservient to the Procurator's will. They act both to eliminate the threat of rebellion and to preserve the status quo, thereby also maintaining their political positions in the established order of the Romans.

It was Dr. Albert Schweitzer who said that each generation fashions its own image and character of Jesus. Perhaps for the age of the 1960's,

a time of civil upheaval and social change, the image of Jesus as idealistic rebel satisfied the need; perhaps this image is even somewhat accurate, for, as these and other Jewish writers are quick to point out, Jesus was crucified as 'King of the Jews,' a seemingly political title indicating that there were political overtones to his activities.

Nevertheless there are puzzling pieces within the Gospels which defy simple classification and interpretation. Whether Jesus actually claimed to be the 'Son of God,' the meaning of the phrase 'Son of Man,' the statement of Jesus before the High Priest that he would sit at the right hand of Power--all of these issues deserve further investigation and analysis. Then, too, there is the incident of Pilate's freeing Barabbas and the question of how and why such an enigmatic event should find its way into the Gospel narratives. These problematic items I deemed to be on the periphery of the trial issue and I therefore spent little effort on them. Nonetheless, they remain open issues shrouded in controversy.

Pertaining to Jewish involvement in the trial, there seems to be a consensus that some Jews, highly placed in the political spheres of the day, did, in fact, have an active part in the arrest and trial of Jesus. Notable exceptions to this view are Haim Cohn, Max Dimont and Hugh Schonfield, though Schonfield for different reasons. Cohn and Dimont claim that the Sanhedrin was trying to save Jesus from incriminating, and thereby condemning, himself before Pilate. In contrast to this view is the claim that the Sanhedrin or similar council of

Jewish authorities was acting as a grand jury for the Romans. However, no Jewish scholar claims that any body of Jews took part in the execution of Jesus. Crucifixion was clearly a Roman form of punishment.

This brings us to Pilate's role in the trial and crucifixion of Jesus. Save Schonfield, who sees Jesus as manipulating every figure of importance to achieve his own religious ends and who therefore is primarily responsible for his own death, every Jewish writer places the ultimate blame on Pilate, a vicious and cruel tyrant who had no regard for the lives of his subjects and who stamped out Jesus' life because he either was, or represented, a threat to Roman rule.

Before concluding, I must say a word about the Jewish consciousness of the tragic historical events which were to follow the trial of Jesus. For, every Jewish historian and scholar who has written on the trial has been aware of the awesome effects which the Gospels have had on Jewish life. Some, if not all, have attempted to show that Jewish involvement in the trial procedure was such that Christian claims against the Jews are unfounded and cruelly misguided. I, too, must submit that even if the priestly hierarchy and other Jewish leaders were involved in eliminating Jesus, that is no ground to condemn the entirety of the Jewish people. No one can claim that every Jew in the Jerusalem of Jesus' day, let alone in all of Palestine, had a part in the crucifixion. And if that is accepted as truth for Jesus' day, how much the more so should it be true of today's Jewry. To believe as Truth the accusations propounded in the Gospels against the Jews only subverts and confounds the

profundity of Jesus' own message. Whatever were the real and actual details of the trial, they cannot have been such as would have condemned an entire people to an eternal vindictive and revengeful slaughter. The facts will probably never be recovered, but surely this Truth must find credence.

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