

## ARTICLE III.

THE TRIAL OF CHRIST:<sup>1</sup> A DIATESSARON WITH DISSERTATIONS.

BY HENRY C. VEDDER, OF THE EXAMINER'S EDITORIAL STAFF, NEW YORK.

DIATESSARON.<sup>2</sup>

AND immediately, while he is still speaking, cometh Judas Iscariot, one of the twelve, and with him a great multitude with swords and staves, and with lanterns and torches, having received the band and officers from the chief priests and scribes and pharisees and elders of the people. Then the band and the captain and the officers of the Jews took Jesus and bound him.

And they led him to Annas first, for he was father-in-law to Caiaphas, who was high-priest that year. Now Caiaphas was he who gave counsel to the Jews that it was expedient that one man should die for the people.

And they that had laid hold of Jesus led him away to Caiaphas, the high-priest, where the chief priests and the scribes and the elders assembled. The high-priest then asked Jesus of his disciples and of his doctrine. Jesus answered him: I have spoken openly to the world; I ever taught in the synagogue and in the temple, whither all the Jews resort; and in secret have I said nothing. Why askest thou me? Ask them who heard me what I have said unto them. Behold! they know what I said. And when he had thus spoken, one of the officers who stood by smote Jesus with the palm of his hand, saying, Answerest thou the high-priest so? Jesus answered him: If I have spoken evil, bear witness of the evil; but if well, why smitest thou me? Now Annas had sent him bound unto Caiaphas, the high-priest.

Now the chief priests and the whole Sanhedrim kept seeking<sup>3</sup> for false witness against Jesus, in order to put him to death, and found none.

<sup>1</sup> A brief section recording the *arrest* of Jesus is prefixed to the account of the trial. The reason will appear in the sequel.

<sup>2</sup> The translation is that of the A. V., changes being made only when greater faithfulness to the Greek demanded them. The Greek text followed is that of Tischendorf's eighth edition.

<sup>3</sup> ἔζητουν.

For many kept testifying falsely<sup>1</sup> against him, yet their testimony agreed not. At last there came two and bare false witness against him, saying: We heard this fellow say, I will destroy this temple of God, that is made with hands, and within three days I will build another made without hands. But neither so did their witness agree. And the high-priest stood up in the midst and asked Jesus, saying: Answerest thou nothing? What witness these against thee? But Jesus held his peace and answered nothing. And again the high-priest asked him, saying, I adjure thee by the living God, that thou tell us if thou be the Christ, the Son of God! Jesus saith unto him: Thou hast said. Moreover, I say unto you, hereafter shall ye see the Son of Man sitting on the right hand of power, and coming upon the clouds of heaven. Then the high-priest rent his clothes, saying: He hath spoken blasphemy! What further need have we of witnesses? Behold! now have ye heard his blasphemy. What think ye? And they all condemned him, saying, He is guilty of death.

Matt. xxvi. 59-66.  
Mark xiv. 55-64.

And the men that held him mocked him; and some began to spit in his face and to blindfold him, and to buffet him, and to say unto him: Prophecy unto us, thou Christ, Who is he that smote thee. And many other things blasphemously spake they against him. And the servants did strike him with the palms of their hands.

Matt. xxvi. 67, 68.  
Mark xiv. 65, 66.  
Luke xxii. 63-65.

And straightway in the morning, as soon as it was day, all the chief priests held a consultation with the elders and the scribes and the whole Sanhedrim, and took counsel against Jesus, to put him to death. And they led him away<sup>2</sup> into the Sanhedrim, saying, If thou art the Christ tell us. And he said unto them: If I tell you ye will not believe; and if I ask you ye will not answer. Hereafter the Son of Man shall be sitting on the right hand of the power of God. Then said they all, Art thou then the Son of God? And he said to them, Ye say that I am. And they said, What further need of testimony have we? For we ourselves have heard from his own mouth.

Mark xv. 1.

Luke xxii. 67-71.

And the whole Sanhedrim rose up, and having bound Jesus led him away from Caiaphas to the *pretorium*, and delivered him to Pilate, the governor. And it was early. And they themselves went not into the judgment-hall, lest they should be defiled; but that they might eat the passover. Pilate therefore went out unto them, and saith, What accusation bring ye against this man? They answered and said, If he were not a malefactor we would not have delivered him up to thee. Then said Pilate unto them, Take ye him and judge according to your law. The Jews, therefore, said unto him, It is

Matt. xxvii. 2.

Mark xv. 1.

Luke xxiii. 1.

John xviii. 28.

John xviii. 29-32.

<sup>1</sup> ἄψευδομαρτύρουσιν.

<sup>2</sup> ἀπαγαγον, Luke xxii. 66.

not lawful for us to put any man to death: that the saying of Jesus might be fulfilled, which he spake signifying what death he should die. And they began to accuse him, saying: We found this fellow Luke xxiii. 2. perverting our nation, and forbidding to give tribute to Caesar, and saying that he himself is Christ, a king.

Then Pilate entered into the judgment-hall again, and called Jesus. And Jesus stood before the governor, and the governor asked him, saying, Art thou the King of the Jews? Jesus answered, Of thyself sayest thou this, or did others tell it thee of me? Pilate answered: Am I a Jew? Thine own nation and the chief priests have delivered thee unto me; what hast thou done? Jesus answered: My kingdom is not of John xviii. 33-38. this world. If my kingdom were of this world, then would my servants be fighting that I should not be delivered to the Jews; but now is my kingdom not from hence. Pilate therefore said unto him, Art thou a king, then? Jesus answered: Thou sayest that I am a king. To this end was I born, and for this cause came I into the world, that I should bear witness unto the truth. Every one that is of the truth heareth my voice. Pilate saith unto him, What is truth? And when he had said this he went out again unto the Jews.

And the chief priests and elders accused him of many things, but he answered nothing. Then said Pilate unto him: Answerest thou nothing? Hearst thou not how many things they witness against thee? But Jesus yet answered him never a word, insomuch that the governor marvelled greatly.

Then said Pilate to the chief priests and to the people: I find no fault in this man. And they were the more fierce, saying: He stirreth up the people, teaching throughout all Jewry, beginning from Galilee to this place.

When Pilate heard, he asked if the man were a Galilean. And as soon as he heard that he belonged to Herod's jurisdiction, he sent him to Herod, who himself was also at Jerusalem at that time. And when Herod saw Jesus he was exceeding glad, for he had been for a long season desirous to see him, because he had heard of him, and was hoping to see some miracle done by him. Then he questioned with him in many words, but he answered him nothing. And the chief priests and the scribes stood accusing him vehemently. And Herod with his men of war set him at naught and mocked him, and arrayed him in a gorgeous robe and sent him again to Pilate. And the same day Herod and Pilate were made friends together, for before they were at enmity between themselves. And Pilate, when he had called together the chief priests and the rulers and the people, said unto them: Ye have brought this man unto me as one that perverteth the people; and behold! I, having examined him before you, have found no fault in this man touching those things whereof ye accuse

him — no, nor yet Herod, for he sent him to us; and lo! nothing worthy of death is done unto him. I will therefore chastise him and release him.

Now at the feast the governor was wont to release unto the people a prisoner, whom they would. And they had then a notable prisoner, named Barabbas, bound with them that had made insurrection with him, who had committed murder in the insurrection. And the multitude coming up began to desire him to do as he was wont to do unto them. Therefore, when they were gathered together, Pilate said unto them, Whom will ye that I release unto you, Barabbas or Jesus, the King of the Jews, who is called Christ? (For he knew that for envy they had delivered him.) But the chief priests and elders persuaded the multitude that they should ask Barabbas and destroy Jesus. And Pilate answered and said again unto them, Whether of the twain will ye that I release unto you? And they cried out all at once, saying, Away with this man, and release unto us Barabbas. Pilate, therefore, willing to release Jesus, spake again to them: What shall I do then with Jesus who is called Christ, whom ye call the King of the Jews? And they cried out again, Crucify him, crucify him. Then Pilate said unto them the third time: Why, what evil hath he done? I have found no cause of death in him. I will therefore chastise him and let him go. And they were instant with loud voices, crying out the more exceedingly, Crucify him.

Pilate, seeing that he can prevail nothing, but rather a tumult is made, took water and washed his hands before the multitude, saying, I am innocent of this blood, see ye to it. Then answered all the people and said, His blood be upon us and upon our children. And Pilate wishing to content the people, released unto them him that for sedition and murder was cast into prison, whom they had desired; but Jesus he delivered to their will. Then Pilate therefore took Jesus and scourged him. Then the soldiers of the governor took Jesus into the common hall, called *pretorium*, and gathered unto him the whole band. And they stripped him and put on him a scarlet robe. And when they had platted a crown of thorns they put it upon his head, and a reed in his right hand. And bowing the knee before him they did homage to him and mocked him, saying, Hail, King of the Jews! And they spat upon him, and smote him with their hands, and took the reed and smote him on the head.

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

in him. The Jews answered him, We have a law, and by that law he ought to die, because he made himself the Son of God. John xix. 4-12. When Pilate therefore heard that saying he was the more afraid and went again unto the judgment-hall, and saith unto Jesus, Whence art thou? But Jesus gave him no answer. Then saith Pilate unto him: Speakest thou not unto me? Knowest thou not that I have power to crucify thee, and have power to release thee! Jesus answered: Thou hast no power at all against me, except it were given thee from above; therefore he that delivered me unto thee hath the greater sin. And from thenceforth Pilate sought to release him, but the Jews cried out, saying: If thou let this man go, thou art not Caesar's friend. Whosoever maketh himself king speaketh against Caesar.

When Pilate therefore heard these words, he brought Jesus forth and sat down upon the bema,<sup>1</sup> in a place that is called the Pavement, but in the Hebrew *Gabbatha*. When he was set down upon the bema, his wife sent unto him, saying: Have thou nothing to do with that just man; for I have suffered many things this day in a dream because of him. And it was the preparation of the passover, about the sixth hour; and he saith unto the Jews, Behold your King! They therefore cried out, Away, away, crucify him! Pilate saith unto them, Shall I crucify your King? The chief priests answered, We have no king but Caesar. Then delivered he him, therefore, unto them to be crucified.

#### DISSERTATION I.—CHRONOLOGY OF THE TRIAL.

To fix the exact order of the events narrated by the evangelists is not the easiest of tasks. The difficulty will be more apparent if the several accounts, briefly summarized, are placed in parallel columns:

MATTHEW.	MARK.	LUKE.	JOHN.
Jesus is led to "the high-priest," Caiaphas.	Jesus is led to "the high-priest." The Sanhedrim assembles. Jesus is tried, convicted, and insulted. In the morning the Sanhedrim reassembles and leads Jesus to Pilate.	Jesus is led to "the high-priest's palace," where he is mocked. At day-break the Sanhedrim assembles, and Jesus is led away to it. He is tried, convicted, and at once led to Pilate.	Jesus is led to Annas first. "The high-priest" examines him. He is led from Caiaphas to the <i>pretorium</i> of Pilate.

This certainly looks discouraging. Sceptical critics declare

<sup>1</sup> *ἐν τῷ βήματι*, in the judgment-seat. — A. V.

that these conflicting accounts cannot possibly be harmonized. On closer examination, however, many of the difficulties vanish. None of the writers pretends to give a complete account of the trial, but each one gives such items as especially impressed themselves upon his mind. Two questions only are at all difficult of solution: Where did the examination by the high-priest described by Luke take place? and, Does Luke describe the same trial as that recorded by Matthew and Mark?

The first of these questions is the harder to answer, as there is such a delightful difference of opinion among commentators and critics on this point. Many hold that the high-priest was no other than Annas, and that after this preliminary examination before him Jesus was led away to Caiaphas, before whom the real trial took place. So Meyer, Wieseler, Lange, Neander, Ellicott, Alford, Godet. Others are equally positive that we have no record of the proceedings before Annas, and that the preliminary examination was conducted by Caiaphas, the high-priest. So De Wette, Tholuck, Lücke, Friedlieb, Gresswell, Robinson, Gardiner. When so many and so learned doctors disagree, there seems to be no way for those of humbler pretensions but to examine the evidence on both sides, and to decide, with becoming modesty, each for himself.

The decision of this mooted point depends mainly upon the interpretation of two passages. The first of these is John xviii. 19: *Ὁ οὖν ἀρχιερεὺς ἠρώτησε τὸν Ἰησοῦν περὶ τῶν μαθητῶν αὐτοῦ καὶ περὶ τῆς διδαχῆς αὐτοῦ.* The other is John xviii. 24: *Ἀπέστειλεν οὖν αὐτὸν ὁ Ἄννας δεδεμένον πρὸς Καϊάφαν τὸν ἀρχιερέα.* Now whom does John call ὁ ἀρχιερεὺς, Annas or Caiaphas? The following reasons have been given for supposing that Annas is meant: First, that term is applied to Annas both before and after this (Luke iii. 2; Acts iv. 6). But this is hardly conclusive; for the question is as to John's usage of the term.<sup>1</sup> Secondly, John calls Caiaphas *ἀρχιερεὺς τοῦ ἐνναυτοῦ ἐκείνου* (xviii. 13).

<sup>1</sup> See Alford and Meyer, in loco. Compare also Andrews, *Life of Our Lord*, p. 486.

Neander<sup>1</sup> considers this proof that John intends to make a distinction between Annas, the high-priest *de jure*, and Caiaphas, the high-priest *de facto*. On the other hand, it is certain that John nowhere calls Annas the high-priest, unless here. And we can hardly suppose that he applies that title to Annas here; for in the second of the two passages above quoted he expressly calls Caiaphas the high-priest, without any qualification whatsoever. The usage of Matthew is the same (xxvi. 57). We conclude, then, that the natural interpretation of John's language is clearly in favor of the supposition that the ἀρχιερεύς in question was Caiaphas, and not Annas. This conclusion is rendered only less than certain by the second of the two passages cited, which is rendered in the King James version, "Now Annas had sent him bound unto Caiaphas, the high-priest." The particle οὖν is wanting in the Textus Receptus; consequently, many have held that ἀπέστειλεν should be translated as a simple aorist, "Annas sent him bound," etc. This would make it necessary to regard the preliminary examination as having taken place before Annas. But, though many have held this opinion, few hold it now; for ἀπέστειλεν οὖν αὐτόν κ.τ.λ. is unquestionably the true reading. It has the support of  $\aleph$ , B, C (*pr. man.*), L, X,  $\Delta$ , the Syriac and Ethiopic versions, and is adopted by Tischendorf, Tregelles, and Alford. Moreover, the use of the aorist as a pluperfect is not infrequent.<sup>2</sup> Compare with the use of ἀπέστειλεν, ἔδησεν and ἔθετο in Matt. xiv. 8; and of ἔδωκεν, xxvi. 48; of ἠπήνητησεν, in John xi. 30; and of ἠτοίμασαν, in Luke xxiv. 1. Another corroborative circumstance is found in the following consideration: If the examination took place before Caiaphas, then Peter's denial also occurred there. This does away with the clumsy and improbable hypothesis that Annas and Caiaphas occupied different apartments in the same palace—a hypothesis to which those have been driven who hold the opposite view.

<sup>1</sup> Life of Christ (Am. ed.), p. 410, note.

<sup>2</sup> Vid. Winer, Grammar of N. T. Greek, p. 275, and Buttmann, p. 200. In classical Greek, vid. Thucyd. i. 102; Xen. Anab. i. 2. 24; Demos. (Reiske's ed.), 576. 18; Aristoph. Nub. 238. Cf. also Crosby's Greek Grammar, § 580.

There is something ludicrous in the statement, "Now Annas sent him away bound to Caiaphas," if the sending away consisted in a removal from one apartment to another in the same house.

We have now to answer the second question — Does Luke describe the same trial as that recorded by Matthew and Mark? It seems clear, from the statements of Matthew and Mark, that there were two sessions of the Sanhedrim — one during the night, and the other early in the morning. The preliminary examination before Caiaphas took place while the Sanhedrim was assembling.<sup>1</sup> When it had assembled a formal examination or trial was instituted, which Matthew and Mark describe at considerable length. At daylight the Sanhedrim reassembled, and after a brief examination Jesus was formally condemned. This scene is probably the one described by Luke, and is barely hinted at by Matthew. The similarity between Luke's account of the morning session and the descriptions that Matthew and Mark give of the night session has led many to suppose that there was really but one session. It is to be borne in mind, however, that Matthew and Mark state that at the night session the Jews attempted to find testimony against Jesus, and failed miserably. He was finally condemned out of his own mouth. When they reassembled in the morning to pass formal sentence upon Jesus, what could be more natural than that they should again ask him the fatal question, and that he should repeat substantially his former answer?

The most probable order of events, then, is as follows: Jesus is led to Annas, who sends him bound to Caiaphas; while the Sanhedrim is assembling Caiaphas examines Jesus; the Sanhedrim having assembled, Jesus is tried and condemned; a recess is taken, during which Jesus is abused by

<sup>1</sup> Cf. Matt. xxvi. 57 and Mark xiv. 53. Matthew says that the Sanhedrim assembled (*συνήχθησαν*), and proceeds at once to the formal trial. Mark says, with his usual accuracy, the Sanhedrim are assembling (*συνέρχονται*) when Jesus is brought to Caiaphas. It should seem, then, that this examination took place while the Sanhedrim was assembling, and so soon as a *quorum* got together the trial proceeded.

the rabble; in the morning the Sanhedrim reassembles, re-examines Jesus, passes formal sentence upon him, and leads him away to Pilate. The trial before the Roman governor presents no chronological difficulties of importance, and need therefore claim none of our attention at present.

#### DISSERTATION II. — LEGAL ASPECTS OF THE TRIAL.

The trial and execution of a man is a most awful scene. In it men solemnly discharge the most solemn trust committed to governments by God. It is obvious that so weighty a matter should be conducted decently and in order. No haste should deprive the accused of a fair opportunity of defence. No passion or prejudice should sway judge or jury, and so prevent an impartial verdict. The guilt of the accused should be clearly proved by trustworthy witnesses, and if a reasonable doubt of his guilt remain justice should be tempered with mercy. This is the ideal trial, of which the reality may indeed always fall short, but which every trial should as nearly as possible realize. This ideal is clearly recognized in the Jewish criminal procedure, as laid down in the law and supplemented in the Talmud, and as expounded by the ablest Jewish writers, both ancient and modern. Salvador, a Jewish writer, in his *Histoire des Institutions de Moïse et du peuple Hébreu*, gives two admirable chapters on the penal code of the Jews. According to him, there were four rules which were fundamental in Jewish criminal jurisprudence: (1) strictness in the accusation; (2) publicity in the discussion; (3) full freedom granted to the accused; (4) assurance against all dangers of errors of testimony.<sup>1</sup> In later times so completely was the accused hedged about by legal safeguards, that conviction in capital cases became almost impossible, and the saying arose that "the Sanhedrim which condemns a man to death, even once in seven years, is a slaughter-house."<sup>2</sup> A trial conducted according to the spirit of these rules could not fail of being a fair one.

But this was not all. Specific and minute rules were laid

<sup>1</sup> L. 365.

<sup>2</sup> Mishna, Treatise *Makhoth*.

down for the conduct of the trial. These were afterwards embodied in the Mishna; and the passage, as quoted by Surenhusius, is so significant that it is subjoined nearly in full:

“Money trials and trials for life have the same rules of inquiry and investigation. But they differ in procedure in the following points: The former require only three, the latter three and twenty, judges. In the former, it matters not on which side the judges speak who give the first opinions; in the latter, those who are in favor of acquittal must speak first. In the former, a majority of one is always enough; in the latter, a majority of one is enough to acquit, but it requires a majority of two to condemn. In the former, a decision may be quashed on review (for error), no matter which way it has gone; in the latter, a condemnation may be quashed, but not an acquittal. In the former, disciples of the law present in the court may speak (as assessors) on either side; in the latter, they may speak in favor of the accused, but not against him. In the former, a judge who has indicated his opinion, no matter on which side, may change his mind; in the latter, he who has given his voice for guilt may change his mind, but not he who has given his voice for acquittal. The former (money trials) are commenced only in the daytime, but may be concluded after nightfall; the latter (capital trials) are commenced only in the daytime, and must also be concluded during the day. The former may be concluded by acquittal or condemnation on the day on which they have begun; the latter may be concluded on that day if there is a sentence of acquittal, but must be postponed to a second day if there is to be a condemnation. And for this reason capital trials are not held on the day before a Sabbath or a feast-day.”<sup>1</sup>

“If a man is found innocent, the court absolves him. But if not, his judgment is put off to the following day. Meantime the judges meet together, and, eating little meat and drinking no wine during that whole day, they confer upon the cause. On the following morning they return into court

<sup>1</sup> Mishna, De Synedriis, iv. 1.

[and vote over again, with the like precautions as before]. . . . . If judgment is at last pronounced, they bring out the man sentenced to stone him. The place of punishment is to be apart from the place of judgment (for it is said in Lev. xxiv. 14, 'Bring the blasphemer without the camp'). In the meantime an officer is to stand at the door of the court with a handkerchief in his hand; another, mounted on horseback, follows the procession so far, but halts at the farthest point where he can see the man with the handkerchief. [The judges remain sitting], and if any one offers himself to prove that the condemned man is innocent he at the door waves the handkerchief, and the horseman instantly gallops after the condemned, and recalls him for his defence."<sup>1</sup>

Most of these principles, as is admitted by modern Jewish writers, were as firmly established in Christ's day as when they were finally committed to writing in the Mishna. It only remains to inquire how far these principles were observed in the trial of Jesus. And it will not be amiss to consider, by way of preliminary, whether the Sanhedrim was in a frame of mind that made a fair trial a possibility. From an examination of the facts at our command, only one conclusion can be drawn. Early in the second year of Christ's ministry the Jews sought to kill him, and similar attempts were frequently made during the rest of his life (John v. 16; cf. vii. 1, 19, 20; viii. 40, 59; x. 31). John, especially, is very explicit on this point. The terrific denunciations which Jesus had launched at the hypocrisy of the pharisees had aroused their unbounded wrath. Their hatred had burned fiercer and fiercer, until, after the raising of Lazarus, they resolved to put him to death (John xi. 47-54). But Jesus was exceedingly popular. His teachings had taken deep hold upon the people (Luke viii. 40; Mark xii. 37; John xi. 48; xii. 19). Unless he could be rendered odious in the eyes of the multitude, the rulers well knew that any attempt against him would recoil upon their own heads. They accordingly sought pretexts against him in various ways.

<sup>1</sup> Mishna, De Synedriis, v. 5 and vi. 1.

They endeavored to embroil him with the Roman government by asking him if it were lawful to pay tribute to Caesar. Note the craft implied in Matthew's description of the scene: "Then went the pharisees, and took counsel how they might entangle him in his talk" (xxii. 15). Luke is even more explicit: "And they watched him, and sent forth spies (*καθέτους*), which should feign themselves just men, that they might take hold of his words, that so they might deliver him unto the power and authority of the governor" (xx. 20). Finally, during the passover they assembled and "consulted that they might take Jesus by subtlety (*δόλφ*, *by fraud*), and kill him. But they said, Not on the feast-day (*μὴ ἐν τῇ ἑορτῇ*) lest there be an uproar among the people" (Matt. xxvi. 4, 5). When Judas offered to betray his master, this objection was done away with. If the rulers could seize Jesus secretly, and try and condemn him upon some charge or other before the people could know what was going on, the ever fickle rabble might be persuaded to acquiesce in their action. So, at least thought the Sanhedrim, and the sequel proved the plan well laid. It is evident, then, that the Sanhedrim was not at all disposed to grant Jesus a fair trial. The case was prejudged. The verdict was already determined. The rulers had resolved to destroy Jesus, and the trial was but a trial for appearances' sake. The whole scene was a solemn farce.

An examination of the trial would be incomplete without a glance at the arrest of Jesus; for this arrest has a most significant bearing upon the after proceedings. The arrest was marked by secrecy and stealth. Midnight was selected as the most favorable time. This does not of itself prove the arrest to be illegal, because a legal arrest might have been made at night for the sake of avoiding an uproar among the people. But the *posse comitatus* was a mere mob (*ὄχλος*, Mark xiv. 43), armed with swords and clubs (*ξύλων*, Mark xiv. 43) which they had hastily snatched as they rushed along. To be sure, John says that Judas was attended by the band and officers, and this would seem to imply some sort of order, as "the band" undoubtedly refers to

the band of Levites who formed the guard of the temple.<sup>1</sup> The leader of the band John calls *χιλιάρχος*, *captain*. With this band came also the *ὑπηρέται*, or *officers*,<sup>2</sup> who were to make the arrest. But along with these—or rather, mingled with these—came a disorderly rabble, composed of the loungers about the temple and the “roughs” of Jerusalem. So little did the whole affair look like a legal proceeding, so much did it look like mob-law, that the disciples prepared to resist those who attempted to arrest Jesus. This they would hardly have ventured to do had the arrest been regular and legal. This view is still further confirmed by the fact that Peter was not arrested for his resistance to the officers, nor molested when afterwards recognized in the palace of the high-priest.

#### *The Preliminary Examinations.*

As only John mentions the examination before Annas,—and even he barely mentions it,—we may pass it by with the remark that such an examination was extra-judicial, if not illegal. Annas, we are informed by Josephus,<sup>3</sup> had been

<sup>1</sup> Many commentators have supposed that the phrase *λαβῶν τὴν σκείραν* is to be referred to a cohort of Roman soldiers, but there is no evidence in favor of such an opinion. To be sure *σκείρα* is everywhere else in the New Testament used to designate a Roman cohort, but in each case the word is qualified by the addition of some distinctive term (cf. Acts x. 1; xxi. 31; xxvii. 1). Of itself, the word is indefinite, meaning any band of armed men. Josephus uses *σκείρα* to designate the Levitical temple guard, which is referred to in the following Old Testament passages: Ps. cxxxiv. 1; 2 Kings xii. 9; xxv. 18; 1 Chron. ix. 17, 27 sq.; 2 Chron. xxxv. 8. The term *σκείρα* is applied to this guard in the Apocrypha: Judith xiv. 11; \*2 Mac. viii. 23. As for the terms *χιλιάρχος* and *στρατηγός* nothing could be plainer than that they are not used in a strict military sense. Josephus frequently uses them to designate the officers of the temple guard. Vid. Bell. Jud., ii. 12, 16; vi. 5. 3; Antiq. xx. 6. 2; cf. 1 Esdras i. 9 and 2 Mac. iii. 4, where apparently the same officer is called *προστάτης τοῦ ἱεροῦ*. If the band had been Roman soldiers the Sanhedrim must have applied to Pilate for them. This would have necessitated charges against Jesus. That the Sanhedrim had made no such application and brought no such charges is amply proved by Pilate's question on the following morning, “What accusation bring ye against this man?” He knew of no charge against Jesus up to that time. If, then, there were any Roman soldiers present—as is by no means unlikely—they belonged not to the *σκείρα* but to the *δχλος*.

<sup>2</sup> The *ὑπηρέται* seem to have corresponded closely in their functions to the Roman *licitors*.

<sup>3</sup> Antiq., xviii. 2. 2.

deposed from the priesthood some time previously, and had therefore no jurisdiction in the case.

To one accustomed to the methods of modern criminal jurisprudence there would seem to be nothing illegal in an examination by Caiaphas, the *de facto* high-priest. In France, in England, or in our own country, for example, an accused person on his arrest is taken before a magistrate, and an examination follows. If sufficient evidence is produced to render his guilt probable, he is committed for trial by the magistrate, or admitted to bail, if the nature of the offence permits it. If, on the contrary, the evidence is frivolous, or the prisoner's innocence probable, he is discharged at once. But in the Jewish law this was not the procedure. It was the right of the accused to be free from all investigation until he was brought to trial before the Sanhedrim. This is considered by Salvador one of the strong points of Hebrew law. He says: "The accused man is not submitted to secret examinations, in which through his trouble the innocent might furnish deadly weapons against himself."<sup>1</sup> It goes without saying, however, that if Jesus was to be subjected to an illegal examination, the high-priest was bound to see that it was fairly conducted. Caiaphas does nothing of the kind. He calls for no witnesses, but begins to question Jesus about his disciples and doctrine, hoping thus to find some pretext for an accusation. This well-laid plan is overturned by the straightforward, almost brusque, answer: "I have spoken openly to the world; I ever taught in the synagogue and in the temple whither all the Jews resort; and in secret have I said nothing. Why askest thou me? Ask them who heard me what I have said unto them; behold, they know what I said." In these words Jesus demanded, as was his right, that the accusations against him should be made good by competent witnesses. He declined to give evidence against himself. Irritated by this bold reply and its implied rebuke, one of the bystanders — an officer of the Sanhedrim, John says (xviii. 22) — smote Jesus in the face.

<sup>1</sup> L. 366.

This indignity was in clear defiance not only of the spirit, but of the letter, of Jewish law. On a similar occasion the high-priest commanded Paul to be smitten, when the apostle's fierce wrath flamed forth in a scathing denunciation: "God shall smite thee, thou whited wall: for sittest thou to judge me after the law, and commandest me to be smitten contrary to the law?" It may be pleaded that this was the act of a single individual, for which neither the Sanhedrim nor the high-priest can be held responsible. But was the officer who had so offended the majesty of the law by smiting an uncondemned person rebuked by high-priest or Sanhedrim? Their very silence approved the act. Let the reader picture to himself, if he can, a similar case in one of our own courts — the sheriff smiting the prisoner at the bar, and the court looking on in complacent and approving silence!

*The Trial before the Sanhedrim.*

The *time* of the trial was illegal. No point is more certain with reference to Jewish laws than that trials by night were strictly prohibited. The passages already quoted from the Mishna are quite sufficient to establish this point, and there are numerous others. Lightfoot quotes the following passage from the Talmud: "Judicia capitalia transigunt interdium, et finiunt interdium."<sup>1</sup> A gloss on this passage says: "Ne judicent vesperis Sabbati, nec vesperis diei festi." Schöttgen quotes the following: "Sessiones judicii instituendae sunt in mane."<sup>2</sup> With these statements all Jewish writers who have treated of this subject agree.<sup>3</sup> Maimonides says: "Judicia neque noctu, neque sabbato, peragere licitum erat — non inchoant judicia noctu."<sup>4</sup>

Again, the *place* of the trial is illegal. This night session of the Sanhedrim was held in the palace of Caiaphas. Of this fact the evangelists leave us in no doubt. But Jewish tradi-

<sup>1</sup> Gem. Babyl. Sanhedr. iv. 1, vid. Hor. Heb. in Matt. xxvii. 1.

<sup>2</sup> Hor. Heb. in John xviii. 28.

<sup>3</sup> Cf. Salvador, Livre iv. chapitre 2, Administration de la Justice, passim.

<sup>4</sup> Vide Gresswell's Dissertations, Vol. iii. p. 205.

tion, with one voice, affirms that no trial was legal, and no sentence valid, unless the trial was held and the sentence pronounced in the gazzith (גַּזִּית), or council-chamber, in the temple. So firmly was this custom established that it had all the force of a law, and "to migrate from the gazzith" is synonymous with losing the power of capital punishment. Thus Lightfoot quotes from the Talmud: "Quadraginta annis ante excidium Templi, migravit Synedrium, et sedit in Tabernis."<sup>1</sup> A gloss in this passage says: "Cum ergo non sederunt in conclavi gazzith, non judicarunt de iis [poenis] et sic cessarunt judicia ista mulctativa." Another gloss is substantially the same: "Non judicarunt de capitalibus in Synedriis inferioribus in aliqua civitate, nisi dum sederet Synedrium magnum in conclavi gazzith."

The *conduct* of the trial was grossly illegal. The Sanhedrim sought long and diligently for evidence, but found themselves unable to substantiate any valid charge against Jesus. Witnesses could be obtained in abundance,—witnesses only too ready to accuse the prisoner of more than one crime,—but, unfortunately, their testimony did not agree. Finally, there came forward two who testified that they heard Jesus say: "I will destroy this temple that is made with hands, and within three days I will build another that is made without hands." Yet even in this, as Mark significantly adds, the testimony did not agree. The evidence of the suborned witnesses was worthless. The plot of the pharisees proved an utter failure. So when the high-priest exclaimed, "Answerest thou nothing?" Jesus remained silent. There was no need of an answer; the confused and contradictory testimony confuted itself. Thereupon Caiaphas, enraged at the failure of the plot, fearful that Jesus might after all escape for want of evidence against him, as a last

<sup>1</sup> Abodah Zarah, viii. 2; Hor. Heb. in John xviii. 31. This passage is quoted here merely to illustrate a verbal usage. No opinion is intended to be expressed as to the accuracy of the historical statement. In point of fact, the statement is believed to be untrustworthy, and the reasons for this belief are given below in the third Dissertation.

resort administers the Sanhedrim oath<sup>1</sup>: “*I adjure thee by the living God* that thou tell us if thou be the Christ, the Son of God.” Here is a flagrant violation of a fundamental maxim of all criminal jurisprudence. All civilized codes, at least, agree that a man is to be held innocent until he is proved guilty. No code of laws permits a judge to place the accused under oath in order to compel him to give testimony against himself. Jewish law and Jewish tradition are alike clear on this point. Two trustworthy witnesses, at least, were required for conviction — “At the mouth of two witnesses shall he that is worthy of death be put to death; but at the mouth of one witness he shall not be put to death,” wrote the great lawgiver of Israel (Deut. xvii. 6). “One witness is no witness,” says the Talmud; and Salvador distinctly says: “Our law never condemns on the simple avowal of the accused.” But the high-priest had resolved that, on one pretext or another, Jesus should be put to death. Justice had no place in his plans. Caiaphas has forced Jesus to do one of two things. He must answer in the affirmative, and criminate himself, or he must answer in the negative, and publicly renounce his Messianic claims. In the one case, the Sanhedrim will have a pretext for putting him to death; in the other, the Jewish hierarchy need fear no longer the pseudo-Messiah. To the adjuration Jesus responded: “Thou hast said” — a Hebraistic form of emphatic affirmation. He well knew that these words, in which he proclaimed his Messiahship and divinity, would be his death-sentence; nevertheless, the Everlasting sware by himself that he was the promised one who should redeem his people. For this, the watchword of redemption, Israel had longed and waited for many weary centuries; now it is heard only to be repudiated. That declaration to which saints and patriarchs had

<sup>1</sup> It is universally admitted that this was the usual form of administering that oath. By the simple yea or nay the witness took the oath upon himself, and swore by the living God that his testimony was true. Grotius says (in loco): *ἔξορκίζεω*, Hebraice *אִשְׁבַּח בְּיָהוָה*, modo est jurejurando adigere, interdum verum obsecrare. With this compare Michaelis, *Laws of Moses*, § 302, and Selden's chapter *De Juramentis*, in his book on Sanhedrims.

looked forward with yearnings unspeakable is reckoned a crime worthy of death. For, when the high-priest heard the answer, he rent his clothes in simulated horror, exclaiming: "He hath spoken blasphemy! What further need have we of witnesses? Behold, ye have heard the blasphemy. What think ye?" And the entire Sanhedrim shouted, with one voice, "He is אִישׁ מֵתָהּ (a man of death)."

The mockery and insults which ensued are so manifestly illegal, and so disgraceful withal, that Salvador says of them: "As to the ill-treatment which followed the sentence, *it was contrary to the spirit of the Jewish law*; and it is not in the course of nature that a senate composed of the most respectable men of a nation, who, however they might have been deceived, yet intended to act legally, should have permitted *such outrages* against him whose life was at their disposal. The writers who have transmitted to us these details, not having been present at the trial, have been disposed to exaggerate the picture, either on account of their prejudices or to throw greater obloquy on the judges."<sup>1</sup> It is enough for our present purpose that these acts are acknowledged to have been outrages, and are conceded to be illegal. It is not in our province to contend for the credibility of the Gospels; that is taken for granted.

We come now to the morning session. The Jewish law ordained that final sentence should not be passed upon a criminal on the same day with the trial. This wise provision was made, no doubt, in order that, if a trial had been held in haste or in the heat of passion, the Sanhedrim might have an opportunity to reconsider, and, if advisable, to reverse their first decision. This provision is laid down in the most explicit terms by the Talmud, and is recognized repeatedly in the works of Jewish writers on jurisprudence. "Judicia de capitalibus finiunt eodem die, si sint ad absolutionem; si vero sint ad damnationem, finiuntur die sequente," is one of the maxims of the Talmud.<sup>2</sup> A favorite saying among the

<sup>1</sup> Cf. Institutions du Moïse, etc. Livre, iv. ch. 3, passim.

<sup>2</sup> Moed. Katon., v. 1. Lightfoot, ubi supra.

rabbins was: "Beatus est iudex qui fermentat iudicium suum"; and a gloss explains this as meaning "qui iudicium moratur, et pernoctare facit, ut ventilet veritatem." Salvador even says that the judges were to postpone sentence until the third day. Notwithstanding their fiery haste, the Jews seemed to feel that some little show of complying with the legal forms was needful, and accordingly in the morning they led Jesus away into the council-chamber<sup>1</sup> to ratify their previous action. But this was only an evasion of the law. The Jewish day is reckoned from sunset to sunset. Therefore the trial held in the night and the sentence passed in the morning fell within the same day. This morning session, like everything else connected with the trial, was a farce—a pretence only of conforming to legal procedure. It is quite possible that the Sanhedrim would have dispensed altogether with the second session had not more summary proceedings been out of the question. It was impossible for them to take Jesus before Pilate until morning;<sup>2</sup> and this fact may have caused the delay, more than any lingering respect for legal forms. They "e'en made a virtue of necessity," as many other folk have been compelled to do.

As to the trial before Pilate, there needs no proof that sentence was finally pronounced without the slightest evidence of guilt, in clear violation alike of law and of justice, since Pilate himself said as much again and again.

### DISSERTATION III. — THE JEWISH AUTONOMY.

The trial of Jesus by Pilate gives rise to a question re-

<sup>1</sup> It has been generally supposed that the scene of the trial was not changed — that after the night trial was over Jesus was removed from the hall and mocked, and in the morning was led back (*ἀντιπαύου*) into the hall, where the Sanhedrim had reassembled. But Tischendorf, Tregelles, and Alford read not *ἀντιπαύου* (T. R.), but *ἀντιπαύου*, following x, B, D, K, T, etc. The *ἀπό* would seem to indicate that Jesus was led away to some little distance. It is most probable, therefore, that this morning session was held in the gazzith, or council-chamber of the temple. Cf. Gresswell's Dissertations, Vol. iii. p. 204.

<sup>2</sup> Sepp quotes (Leben Jesu, Vol. iii. p. 484), from Roman writers to prove that, according to Roman law, a night trial was illegal. Macrobius says: Magistratus post meridiem noctem auspicantur et post exortum solem agunt. Senatus consulta ante exortum solem aut post solis occasum facta, rata non esse. — Saturn, l. 3.

garding the Jewish autonomy after the Roman conquest. Did the Sanhedrim have jurisdiction over capital offences against Jewish law? With rare exceptions, commentators and historians have answered this question in the negative. At the very least, they have held that the jurisdiction of the Sanhedrim was only nominal—that the form of trial and condemnation might be gone through, but that sentence of death could not be executed without the Roman procurator's approval. It may therefore seem presumptuous to call in question so time-honored a conclusion; and yet, in this sceptical age, the mere antiquity of a theory goes for little. A new survey of the evidence for and against this particular theory can at any rate do no harm, and may lead us to clearer conceptions of the relations between the Jewish nation and their Roman conquerors. Let us first, then, examine the grounds for the opinion that at the time of Christ's trial the Jews had lost their autonomy, at least so far as the *jus gladii* is concerned.

Josephus relates the following incident: After the death of Festus, Albinus was appointed procurator of Judea by Nero. Before his arrival Ananus, the high-priest, — whom Josephus describes as “a bold man in his temper and very insolent,” — convened the Sanhedrim, and brought before that body James the brother of Christ and others, who were condemned to death, and stoned. When Albinus arrived he caused Ananus to be deposed from the priesthood, on the ground, as Josephus states, “that it was not lawful for Ananus to assemble a Sanhedrim without his [the procurator's] consent.”<sup>1</sup> This is often quoted as settling the whole question. But observe, Josephus says nothing explicitly about the power of life and death, and this very silence furnishes a presumption that the Jews had not lost their autonomy. The misdemeanor of the high-priest was not that he put to death a criminal without the procurator's sanction, but that he assembled the Sanhedrim without such sanction. This is not a distinction without a difference; for Selden considers

<sup>1</sup> *Antiq.*, xx. 9. 1.

it probable that the procurator in the beginning of his rule sanctioned the assembling of the Sanhedrim once for all, and formally empowered it to try and punish all offenders against its own laws.<sup>1</sup> At all events, this incident is no very strong evidence for the theory that we are considering.

The Talmud is held to furnish more conclusive testimony on this point. Selden quotes from the Jerusalem Gemara: "Traditio. Quadraginta annis ante vastatum Templum, ablata sunt judicia capitalia ab Israele."<sup>2</sup> At best, this statement is only a vague tradition, which was not committed to writing for several centuries after the event it professes to record. But the Talmud is not even consistent on this point; for another passage, quoted by the same author, states that during this period the Jews employed no less than four distinct methods of capital punishment.<sup>3</sup> But grant that the statement is strictly true. The temple was destroyed in August 823 A.U.C. Forty years before was 783 A.U.C. Very many of the best chronological authorities adopt this as the year of Christ's death (so Wieseler, Friedlieb, Gresswell, Ellicott, Thomson, Andrews). This leaves a very narrow margin; for, in the absence of all records, who shall say whether it was earlier or later in that year than the Passover that the *jus gladii* was taken from the Jews? Besides, many eminent chronologists—for example, Browne, Sepp, Patritius—adopt the year 782 A.U.C. as the true date of Christ's death. If this be the correct date—and who shall say that it is not, when the whole subject is in so much doubt?—there is a whole year against the theory in question. In short, the passage from the Talmud is utterly worthless as evidence on this point. Selden, who is perhaps the highest single authority on the subject, concludes that we can only infer from the Talmud that during this period the procurator may sometimes have

<sup>1</sup> Selden, *De Synedriis et Prefecturis Juridicia Veterum Ebraeorum* (London, 1726), lib. ii. c. 15. 11.

<sup>2</sup> Lightfoot, *Hor. Heb.*, in *Matt.* xxvi. 3 and *John* xviii. 31.

<sup>3</sup> Selden, *ubi supra*. — Quod magis est dicendum de quadriginta illis excidium anteverterunt annis, quibus etiam quatuor poenae capitales in usu. Non penitus sublata sunt seu non prorsus desiere. And again: A die quo excisum est Templum, quamvis cessarit Synedrium, tamen non cessarunt quatuor mortes.

interfered with the Jewish autonomy. Friedlieb goes still farther, and decisively pronounces the statement of the Talmud incorrect, because Judea became a Roman province sixty years before the destruction of Jerusalem, and the Jewish autonomy was lost then, if ever.

The analogy of the Roman law is pleaded. M. Dupin quotes at some length from Roman law-writers to prove that the power of life and death "was a principal attribute of sovereignty, which the Romans always took great care to reserve to themselves, even if they neglected other things."<sup>1</sup> Tacitus speaks to the same effect: "Apud Romanos jus valet gladii; cetera transmittuntur."<sup>2</sup> Certainly M. Dupin makes out a strong case, but it is by no means without a flaw. We learn from Strabo that Marseilles did not lose its autonomy, and from the same authority we know that the Syrians lost the *jus gladii* only under the reign of Claudius, and then as a punishment for having put Roman citizens to death. Roman practice in this regard was not uniform; yet there is no doubt that the usual custom was as M. Dupin states. Hence the analogy furnishes a strong presumption — but, after all, only a presumption — that the power of life and death was lost to the Jews when first conquered.

The *locus classicus* of the theory we are considering is John xviii. 31: "Then said Pilate unto them, Take ye him and judge him according to your law.<sup>3</sup> The Jews therefore said unto him, It is not lawful for us (*ἡμῖν οὐκ ἔξεστιν*) to put any man to death." This is generally quoted with a triumphant air which implies that there is nothing further to be said. But are these words so conclusive as they are often

<sup>1</sup> *Jésus devant Pilate*, pp. 55-62. M. Dupin's principal authorities are Loiseau-Godefroy and Cujas.

<sup>2</sup> Ann. xv. 31.

<sup>3</sup> It seems hardly necessary to remark that these words ill accord with the theory that the Jews had not the *jus gladii*. Pilate takes for granted their power to punish Jesus. Still less in accordance with the theory are his words a little further on: "Take ye him and crucify him, for I find no fault in him" (John xix. 6). It has, indeed, been said that Pilate spoke these words mockingly; but the Jewish mob was hardly in a humor for Pilate to venture a sneer at their demands.

considered? Although the Jews had passed sentence of death upon Jesus, they dared not execute the sentence. "They feared the people." But a day or two before Jesus had entered Jerusalem amid the acclamations of thousands. His teachings in the temple during the passover week had made a profound impression. His adherents were both numerous and powerful, and the Sanhedrim dared not risk a collision with them. Moreover, Jewish law forbade the execution of a criminal during the feast.<sup>1</sup> To be sure, the Sanhedrim had already shown how little the rulers of the nation were bound by their own traditions and laws; but there were lengths to which they dared not go. To condemn Jesus upon a false charge of blasphemy, and so prejudice many against him, was one thing; to execute him during the most solemn feast of the nation, and draw down on their own heads the charge of sacrilege, was quite another. But, on the other hand, the Sanhedrim had strong reasons for wishing Jesus to be put to death without delay. If this pretended Messiah could be executed before the eyes of his followers, it would strike terror into them, and be the death-blow of this new heresy. So they fondly thought. Accordingly, they take him before Pilate, and prefer a charge of sedition. But Pilate finds in him no fault at all, and says, "Take ye him, and judge him according to your law." It was plain enough to the astute Roman that if Jesus was guilty of any offence at all it was against Jewish law, and so an offence which as a Roman procurator he had neither the right nor the disposition to judge. But the Jewish rulers, seeing their last chance slip from them, cry out, "It is not lawful for us to put any man to death" — for a political offence; and they press again the charge of sedition.<sup>2</sup> That this is the natural meaning of these words is proved by the whole context.

<sup>1</sup> Says the Talmud: *Non judicant die festo.* Lightfoot, *ubi supra.*

<sup>2</sup> There is no ground for the usual assertion that the Jews prepared a double charge against Jesus when they brought him before Pilate. Not one of the Evangelists mentions any charge but that of sedition. That was the only charge over which Pilate had jurisdiction, and it was the one offence over which the Jews, from the nature of the case, could have no jurisdiction. Had the Jews

To sum up: We find in favor of this theory only a strong presumption, supported by evidence more or less unsatisfactory and inconclusive. Still, the presumption is so strong, and the evidence as a whole so weighty, that, unless some positive evidence against it is forthcoming, the theory must stand. Let us now examine the opposite theory, that the Jews at this time possessed the *jus gladii* in capital offences against their own laws.

Certain passages are cited from Josephus which seem inconsistent with any other theory. On one occasion, we are told, Herod was summoned before the Sanhedrim to answer for having executed a Jew without the approval of that body.<sup>1</sup> But if the Sanhedrim had not the right to execute the sentence of the law, surely they had no right to call any one to account for so doing. After the death of Herod, we find in Josephus no intimation that the Jews were deprived of the power which they evidently possessed during his reign. He does inform us, however, that the Jews desired to be joined to the province of Syria, and to be governed by a procurator, because they hoped for greater freedom under the Roman rule than under that of Herod's tyrannical sons.<sup>2</sup> Their wish was granted. Had they been disappointed in their hope, — in other words, had they been deprived of their autonomy, — it is inconceivable that Josephus should not have recorded the fact. Again, we are expressly told that the Jews did possess the power of life and death in certain cases. Gentiles who entered the inner court of the temple were put to death.<sup>3</sup> The Essenes adopted a Draconian code, and punished every offence against the law of Moses with death.<sup>4</sup> The Sadducees were "very rigid in judging all offenders, above all the rest of the Jews."<sup>5</sup>

stated that Jesus was condemned on the charge of blasphemy, and requested Pilate's approval of the sentence, then we might infer that the Jews no longer possessed the *jus gladii*. But instead they prefer a wholly new charge — an offence against Roman, not Jewish law. This is another incidental proof that they possessed the power to execute their sentence, but dared not exercise it.

<sup>1</sup> Antiq., xiv. 19, 3 and 4.

<sup>2</sup> Bell. Jud., vi. 2. 4.

<sup>3</sup> Antiq., xx. 9. 1. (cf. Life, § 34).

<sup>4</sup> Ibid., xvii. 9. 4; cf. 13. 1.

<sup>5</sup> Ibid., ii. 8, 9.

Various passages in the Gospels strongly confirm this view. In warning his disciples of the persecutions they must undergo, Christ said, "They will deliver you up to councils" (*εἰς συνέδρια*), i.e. for punishment (Mark xiii. 9). How often, too, are we told that "the Jews sought to kill Jesus" (John v. 18; vii. 1, 25, 26, et al.). This was not mere mob-violence; for on one occasion the Sanhedrim itself in solemn conclave came to the same resolution (John xi. 47-53). When the woman taken in adultery was brought before Jesus, he takes for granted their power to punish her: "*He* that is without sin among you, let him first cast a stone at her."<sup>1</sup>

There are indications in the Acts plainly in favor of the theory that the Jews possessed the *jus gladii* during the lifetime of the apostles. Early in the history of the church at Jerusalem we find the Sanhedrim resolving to slay the disciples of Christ, until dissuaded for a time by Gamaliel (Acts v. 33 sq.); and the martyrdom of Stephen shows that they were not long in carrying their resolution into practice. To be sure, this execution was irregular, but it does not seem to have been illegal, for the procurator took no notice of it. The life of Paul also furnishes several cases just in point. He himself says: "And many of the saints did I shut up in prison, having received authority from the chief priests; and when they were put to death I gave my voice against them" (Acts xxvi. 10). These words can only mean that the saints were put to death by the Sanhedrim, and that Paul as a member of that body voted against them. When Paul was rescued from the Jews in the temple by Lysias the Roman centurion, the latter justified his action in a letter to Felix as follows: "This man was taken of the Jews, and should have been killed of them; then came I with an army and rescued him, having understood that he was a Roman" (Acts xxiii. 27). Now if the Jews had not the power of life and death, their action was illegal in any case, and Lysias was

<sup>1</sup> It weakens this argument very little to reply that this passage is of doubtful genuineness. For, granting that the passage is an interpolation, it was interpolated very early, when the historical fact in question must have been well-known, and the interpolator evidently had no idea that the Jews had been deprived of the power to punish this and all other offenses against the Mosaic law.

bound to protect Paul, whether he was a Roman citizen or not. The fact that Paul's Roman citizenship is assigned as the reason for his rescue implies that had he not enjoyed that privilege the Jews would have been left to deal with him according to their own laws. Later, when Festus proposed to give Paul up to the Sanhedrim to be tried by that body, Paul appealed to Caesar (Acts xxv. 11); but wherefore, if the Sanhedrim had neither power to condemn him to death nor to execute the sentence?

While any one of these instances, taken singly, would not suffice to establish the fact that the Jews enjoyed their autonomy at this time, yet taken together they form a chain of proof not easily to be broken. It is one of those points where the evidence is hardly clear enough to warrant a positive decision. Possibly, as Selden thinks,<sup>1</sup> the truth may lie between the two theories. It is not unlikely that the powers of the Sanhedrim and of the procurator were not strictly defined — now one, now the other, may have prevailed, according as the procurator was a firm or a mild ruler. But, at all events, we are warranted in asserting that the time-honored theory that the Jews had utterly lost the *jus gladii* lacks any decisive confirmation.

In studying these closing scenes in the life of our Lord, we have been often reminded of the marvellous fulfilment of the words of the prophet: "He is despised and rejected of men. . . . He was oppressed and he was afflicted; yet he opened not his mouth: he is brought as a lamb to the slaughter, and as a sheep before her shearers is dumb, so he opened not his mouth." While studying this trial of Jesus, more than ever before we have realized that we were standing in the presence of one who was more than man. Antiquity lavished praises upon the manly bearing of Socrates during his trial and death. But as we have read and as we have written, not once, nor twice, but many times, has leaped unbidden to our lips that immortal saying of Jean Jacques: "Oui, si la vie et la mort de Socrate sont d'un sage, la vie et la mort de Jésus sont d'un Dieu."

<sup>1</sup> De Synedriis, etc., ubi supra.