The Trial of Jesus

Charles A. Hawley
I look upon this audience as an array of judges, constituting a High Court of Appeal. I come before the court, holding a brief, largely legal in its character, in review of the most memorable trial in the history of the world.

The trial of Jesus was attended by so many noisy and turbulent manifestations of the malice of his enemies that superficial readers regard the proceedings as without legal form; an exercise of the unrestrained power of a mob; proceeding akin to the execution of the lynch laws of our western frontiers, and, alas! of late in other localities claiming at least a higher civilization. This is an erroneous view. Jesus was first tried before a court professedly acting under Jewish law; a system exact, definite, and just, and which, properly administered, furnished a protection to the accused more complete than any of modern times; a system which to this day gives character to the jurisprudence of the world.

He was ultimately condemned by a Roman tribunal under a legal system no less august, and which still forms an important part of the body of our modern law. And so it has been truly said "that two of the greatest and most enlightened systems of administrative and judicial polity that ever existed met and united in compassing the momentous tragedy of the death of the Son of Man."

It is therefore not inappropriate to review the arrest and trial of Jesus from a legal standpoint.

The discussion may be likened to an appeal from the judgment of Pontius Pilate, which sentenced Jesus to be crucified; and is intended to bring up for review all the preliminary proceedings,—the arrest, the examination before Annas and Caiaphas, the night trial before the Sanhedrim, the trial at daybreak, the hearing before Pilate and before Herod, as well as the last hearing before Pilate when final judgment was pronounced.

It is plain that we must put aside for the time all thought of the divine character of Jesus, and consider him as a mere man, resident in

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Judea, and like any other man, under the jurisdiction of its courts and amenable to its laws. The trial must be viewed from a legal standpoint, and its validity tested not by our notions of its propriety, but by the laws under which it was professedly conducted. The trial was of Jesus, the man; not of Christ, the Lord's Anointed.

By the Jewish laws pertinent to the present discussion, it was provided that unless taken in the actual commission of a crime no person could be arrested without a formal accusation. The sanhedrim, the Supreme Court of the Jews, had a place of meeting, which was not in the palace of the High Priest. Twenty-one members were required to be present in a capital case. The accused was presumed to be innocent until proved guilty. No one could be tried or condemned unless present. The oath administered to the witness was an adjuration "By the living God." It was the duty of the priest presiding to call the attention of witnesses to the value of life, and warn them not to forget anything they knew in the prisoner's favor. Counsel must be appointed for his defense. Evidence in his favor was to be freely admitted. No judge who had once spoken for acquittal could change to a vote for conviction. The votes of the younger members were taken first that they might not be influenced by their older associates. Capital cases required a majority of at least two to convict. A verdict of acquittal could be given at once; that of guilty could not be pronounced until a day after the conclusion of the trial. The trial in a capital case must be begun and held only during the daytime. No judicial procedure could take place on a feast day. If judgment of acquittal was not reached on the day the trial ended, the court was obliged to adjourn, for the judges who condemned were required to fast for a day before they pronounced judgment. In minor cases counsel could be heard on both sides; in a capital case, only for the accused. The accused could not be called to testify, nor made a witness against himself. He could not be convicted on the testimony of a single witness; at least two must testify in the presence of the accused, and agree together. Their testimony on this question of agreement was required to be scrutinized carefully and technically. Every rule that ingenuity could devise and every presumption was in favor of the accused.

These precise and technical rules illustrate the spirit of the Jewish law. It was a common saying that "the Sanhedrim was to save, not to
destroy life." Nor did the safeguards of the law end with conviction. The doomed man was led away to be stoned; but the court remained in session. An officer stood at the door with a signal flag. Another followed the prisoner and his attendants to the farthest point from which he cold see the signal. If any new witness came to prove the innocence of the convicted man the signal flag was waved; the attendant at the distant point hastened on, and recalled him for further hearing.

To these features of the Jewish law many more might be added, of less pertinency to the present discussion, but all going to show the humane spirit of their mode of procedure, and how safe from conviction, if its requirements were observed, any innocent person would be.

A partial or biased judge could have had no place in such a system. Everywhere, under all systems, in all ages, a prejudiced or partisan court has been abhorrent to the idea of justice. The spirit of the Jewish law would debar a member of the Sanhedrim from sitting in a case where he was partisan or prejudiced. It demanded an impartial tribunal.

From this brief survey of the Jewish law and the Jewish court, let us turn for a hasty and rapid review of the proceedings in the case before us.

I. The Arrest.

The arrest of Jesus was illegal. He was not at the time actually engaged in the commission of any real or pretended offense against the Jewish law. There had been no accusation laid before the court. No one "had witnessed against him."

More, and worse than this: Jesus had publicly come up from Galilee; he had entered Jerusalem attended by a great retinue of followers; he had openly taught in the temple; opportunities for formal accusation and for apprehending him in the daytime on regular proceedings were ample. They were not availed of, because his enemies feared the people. And these enemies were to be his judges. At the house of the High Priest they conspired to kill him. This is the shameful record:

"Then assembled together the chief priests, and the scribes,
the elders of the people, unto the palace of the high priest, who was called Caiaphas.

"And consulted that they might take Jesus by subtlety, and kill him."

In pursuance of this conspiracy they bribed Judas to betray him into their hands. Some of them accompanied the officers who arrested him, without accusation or warrant, and then, instead of putting him "in ward until the morrow," as the law required in the case of a night arrest, they took him, bound, with indecent haste, to an illegal midnight examination.

II. Before Annas and Caiaphas.

The account in St. John alone says, "They led him away to Annas first." And there he seems to have been examined, struck by an officious attendant, and then sent bound to Caiaphas. If this be so, the proceeding has no shadow of legal justification. Annas was not high priest. He had been deposed by the Romans. Probably the Jews continued, in their contempt for Roman authority, to regard him as high priest; but he had no legal power, nor jurisdiction, nor authority.

It is difficult to clear up the obscurity of the narrative as to what took place, and whether it was before Annas or Caiaphas, or both; but whatever it was, if before Annas, it was wholly illegal, for he was not in office.

If it was before Caiaphas, he had no legal right to sit alone, for there was no such thing as a sole judge known to the Jewish law. He had no legal right to question the prisoner, and endeavor to make him testify against himself. Being one of the conspirators who sought to take Jesus by subtlety and kill him, he had no mortal right to sit in judgment upon him.

So that whether Jesus was examined before Annas or Caiaphas, or both, the examination was irregular and illegal according to Jewish law.

III. The Night Trial.

These unjust judges, morally disqualified by their partisanship and hatred, showed their malevolence by gathering in the night at the high priest's palace in anticipation of the unauthorized arrest. There,
in an unusual place, at an illegal hour, and during the feast of the Passover, they entered upon his trial. Their partisanship was at least a moral disqualification, and was so pronounced as, I think, to be a legal disqualification also, notwithstanding that "a court is usually the judge of its own prejudices." It would be a reproach upon the administration of justice anywhere, that judges should sit under such circumstances; and though it was tolerated in the days of Jeffreys and held to be legal, I do not think that a judgment of such a court would be permitted to stand under the humane and exact system of the Jewish law.

However that may be, the trial in the night and during the Passover was against the positive command of the law; every legal safeguard of the rights of the prisoner was disregarded or broken down; the court was organized to convict; no presumption of the innocence of the accused was permitted. Practically, the conspirators had condemned him in his absence, before his arrest. The witnesses were not cautioned as the law required. The court sought witnesses against the accused, and not in his favor. No counsel was appointed for his defense. The vote was not taken in the manner required by the law. The high priest expressed his opinion first, with a dramatic rending of his clothes to give emphasis to his illegal verdict. The verdict was given at once, when the law required the court to wait for a day, and spend that day in religious observations and meditation.

But it was thought necessary that some of the forms of law should be observed, and so witness after witness was fruitlessly called. The case was growing desperate. At length two false witnesses came. The fact that they were false would not of itself make the judgment illegal. False witnesses and lawful judgments upon their testimony are among the infirmities of human administration. If the judges knew they were false,—that is another matter. But we are not told that they did. They testified to a statement something like one which we know Jesus made, though he was referring to the temple of his body, and not to the temple made with hands. They gave a garbled statement, as false witnesses usually do. It was not a lie out of whole cloth; but it was nevertheless a lie.

One of the records says that their testimony had the fatal defect of not agreeing together. But two other records seem to say that the two said the same thing. How, then, did they not agree? It may be
that their testimony is not given in full in the records that we have, and so that the discrepancy does not appear. Or it may be that they referred to two occasions on which Jesus said the same thing. That is, that two like but separate offenses were testified to, but the two witnesses did not agree together and testify as to one and the same offense.

But this difficulty is not of consequence, for Jesus was not convicted upon this testimony.

After it was given, the high priest said to him, "Answerest thou nothing? What is it which these witness against thee?" to which Jesus made no reply. If this was a call upon him to testify against himself, it was illegal. But if, as I think probable, it was an announcement that the prosecution rested its case, and Jesus could now enter upon his defense, it was highly improper. He should not have been called upon to defend himself when the case was not proved. It should have been promptly dismissed. Jesus knew this and made no answer.

But then the high priest proceeded, in solemn and formal phrase, and in direct violation of the law, to adjure and require Jesus to testify against himself. In response to this illegal inquiry, he put forth his claim to be the Christ, the Son of God. Thereupon, the high priest illegally pronounced his opinion, first, "He hath spoken blasphemy; what need have we of further witnesses?" and called for the judgment of the court. It was at once pronounced, without the delay required. Jesus was convicted of blasphemy, a capital offense against the Jewish law, of which the court had jurisdiction. But he was convicted, not at all on the testimony of the false witnesses, but upon his own, illegally extorted from him, convicted without delay, and in the night. That conviction, thus obtained, violated many of the provisions of the Jewish law, and had hardly the semblance of legality.

The Sanhedrim recognized its invalidity, and to cure one of its patent defects arranged for a morning session. There no witnesses were produced. Jesus was again illegally called to testify against himself, and on his own words again illegally convicted of blasphemy. Every provision of the Jewish law which was violated before was violated again, except the prohibition against holding court and rendering judgment in the night. The judgment of the council having been thus pronounced, he was taken before Pilate.
IV. Before Pilate.

It must be borne in mind that the Jews were under the dominion of the Romans. While the Roman emperor permitted the Jewish laws and their administration, and in minor cases their execution to remain in the Jewish courts, he took from them the power of life and death. It is doubtful if they could pronounce sentence of death; certainly no such sentence could be executed without Roman authority.

Some have thought it difficult to determine the nature of the proceedings before Pilate,—whether they were judicial, that is, in the nature of a trial; or quasi judicial or administrative, that is, the exercise of his discretion in confirming the judgment of the Jewish council. If the latter, he was guilty of a monstrous wrong; far though not obliged to enter upon any examination of the merits of the case, having done so, he was bound to do justice. And yet he condemned a man whom, after repeated examinations, he repeatedly and to the last pronounced to be innocent.

But I think it easy to show that the proceeding was much more than a mere matter of administrative routine; that it had a judicial character, and was in fact a trial. Many circumstances point to this conclusion.

The Jews did not ask for permission to execute the sentence of the council; that would have been followed by death by stoning, and their continued cry was for crucifixion. Pilate when he went out to them asked, "What accusation bring ye against this man?" words appropriate to the opening of a case, and not to its end. Another account says they began to accuse him, and a third uses the same words. Pilate, not knowing that they had already done so, told them to take him and judge him by their law. But they desired an execution under the Roman law. His sentence was a Roman sentence, and not a permission to execute the sentence of the Jewish law. Pursuant to Roman law his "accusation," written by Pilate, was displayed upon the cross. That accusation was not of the same offense for which he was tried in the Jewish court. When they brought Jesus before Pilate their accusation was not of the blasphemy for which they had convicted him. They accused him before Pilate of a political offense,—of treason against the Roman state. Their charge, pressed again and again, was not blasphemy, but that Jesus claimed
to be King of the Jews, and the false charge that he forbade giving tribute to Ceasar. They hypocritically pretended to be concerned for the interests of Rome, whose dominion they hated. It was this charge only to which Pilate gave attention. He called Jesus into his judgment hall, and asked him, "Art thou the King of the Jews?" This charge, so different from that preferred before the council, led Jesus to inquire, "Sayest thou this thing of thyself, or did others tell thee of me?" That is, does this come from the Romans or the Jews? Pilate questioned him at length, and was satisfied of his innocence. He sent him to Herod, who came to the same conclusion. Pilate announced his own deliberate judgment of acquittal. This was judicially pronounced, and could only be reversed on appeal. He told them that Herod was of the same opinion. Notwithstanding this, he illegally sought to appease the hatred of the Jewish accusers by scourging the innocent man. The decision to scourge him was also a judgment. That judgment was executed, and was a legal bar to further proceedings. Our maxim that no man shall twice be put in jeopardy for the same offense comes to us from the Roman law; and so properly "from thenceforth Pilate sought to release Jesus." He struggled long against the wily Jews. But at length, appealing to his love of office, and intimidating him by questioning his fidelity to the emperor, "If thou let this man go, thou art not Caesar's friend," at last they won him to their will. Pilate knew they had delivered Jesus for envy. He knew they hated Caesar. He knew that if Jesus had appeared as a claimant for the Jewish crown they would have welcomed him, and flocked to his revolutionary standard with enthusiasm; but he also knew that he held his great office by a feeble tenure, and so, having wrung from the chief priests who hated Caesar the strange avowal, "We have no king but Caesar," he delivered Jesus to be crucified.

Pilate had not even religious enthusiasm or hatred or malice, urging him on to his awful deed. It was "all hire and salary, not revenge." Jesus went to the cross, not because the Jewish council had convicted him of blasphemy, not because he was disloyal to Caesar, not because of anything charged against him in either court, but because of the unmanly fears of an ambitious and unscrupulous politician. Thus it was that "Jesus suffered under Pontius Pilate."
If the views which have been suggested are correct, the arrest of Jesus was illegal, his examination before Annas and Caiaphas in the night, and conducted by questions addressed to him, was unlawful. The Sanhedrin was a lawful court, and had jurisdiction of the offense of blasphemy under the Jewish code; but the trial therein violated many of the provisions of the law. Jesus was convicted at a court illegally obtained, by judges so hostile that they had no right to sit. He was brought before the Roman tribunal upon a totally different charge, and there, having been repeatedly acquitted, after judgment of scourging had been executed upon him, was thereafter illegally condemned.

And thus the Jewish council, the Roman tribunal,—under two great systems of jurisprudence which have long been the admiration of the world,—were prostituted to bring about a judicial murder.

I have read of a brave soldier to whom for distinguished gallantry in the field the emperor offered a sword inscribed “To the bravest grenadier of France.” But he declined the sword, saying there are no bravest among us; we all stand on a common level. Afterward, leading a forlorn hope, he fell with face to the foe. Then a unique and distinguished honor was given him. By an imperial decree his name continued to be borne upon the roll of his regiment, and every day at roll call, when his name was called, a sergeant stepped from the ranks and answered, “Died for France on the field of honor.”

So Jesus put aside every earthly honor, trod bravely every path of human suffering, laid down his life for the salvation of his people. The shameful scenes we have been discussing were but the gateway to his triumph; his death was not defeat, but victory. And those who believe on him, seeing the injustice of his condemnation, seeing that even Golgotha and the shameful cross were glorified by him, reversing the judgments of the Jewish and Roman courts, will forever and forever say when they hear his name. He died for us on the field of honor.