

Jesus Before The Sanhedrin – The Legality Of Jesus’ Trial Under Jewish Law

(an article by Roy Schoeman based on a book by the Lemann Brothers that originally appeared in the March, 2005 issue of *Inside the Vatican*)

The past twenty centuries have seen a steady stream of Jews entering the Church, bringing with them their own particular gifts and talents, beginning, of course, with the twelve apostles (prudence prevents me beginning the list with the Blessed Virgin Mary and Our Lord Himself). Nineteenth century France had a number of prominent Jews enter the Church. Best known perhaps are the Ratisbonne brothers, one of whom, Alphonse, was converted on the spot by an apparition of the Blessed Virgin Mary. They went on to found an order in the Holy Land specifically to pray for the conversion of the Jews. Less well known, but equally distinguished, were the Lemann brothers. Jewish twins orphaned at a young age and brought up by relatives, they as teenagers entered the Church at the cost of their home, family, fortune, and almost of their lives (a fuller account of the Ratisbonne and Lemann conversions appears in my book *Salvation is from the Jews*). The Lemann brothers went on to found an orphanage, a home for the deaf, and several religious associations; to participate actively in the first Vatican Council; and to write over 60 religious and apologetic works, many of which used their deep knowledge of Hebrew language, scriptures, and laws, to illumine issues of the Catholic Faith. One of the most important of these was *Jesus Before the Sanhedrin*, in which they showed that the trial of Jesus before the Sanhedrin violated Jewish law in literally dozens of ways, any one of which would have sufficed to invalidate the final verdict.

The ire of the Lemann brothers was never directed towards the Jewish people, but rather towards the corrupt Jewish leaders of his time who, in order to preserve their own power and prerogatives, threw to the winds all Jewish norms of justice and railroaded through the condemnation of Jesus, thus depriving the Jews themselves, His own people according to the flesh and those to whom He first came (“I was sent only to the lost sheep of the house of Israel” – Mt. 15:24) the joy and grace of receiving their own Messiah. It was from the depth of their yearning that their coreligionists may finally throw off the blindness imposed on them by those unworthy authorities, that they wrote that work, from which the following is drawn.

The Sanhedrin

The Sanhedrin, or Grand Council, was the high court of justice and the supreme tribunal of the Jews. It was established at Jerusalem after the Babylonian captivity. It is the opinion of the rabbis that the assembly of the Sanhedrin was no other than the one that Moses himself had established. To pronounce this name before Israelites is to recall to their minds the most learned, the most equitable, and the most honorable assembly that ever existed....We shall endeavor, by the help of God, to tear the veil asunder, that our Hebrew brethren may at last know the truth. We shall make use of Jewish documents of the highest importance and the most unquestionable authenticity, to show how the dignity of this high tribunal was

abused by the immoral and unjust character of the men composing it. We, as sons of Israel, have studied the subject of Jewish legislation from its own sources, inquiring minutely into the legality of the proceedings of the Sanhedrin against Christ, and say, 'Behold the guilty! These are the men who have led the whole Jewish nation astray.'"

When was Jesus Condemned to Death ?

Even before Jesus was brought to public trial following his arrest in the Garden of Gethsemane, the Sanhedrin had already assembled three times in secret and rendered decisions which prove, beyond a doubt, that the death-sentence of Christ was determined upon even before his public accusation. The first such meeting was held in September of the year preceding the crucifixion. This fact is made clear by St. John the Evangelist in his account of Jesus healing the man born blind, when he states "for the Jews had already agreed that if any man did confess that he was the Christ, he should be put out of the synagogue." (Jn. 9:22) For only a solemn assembly of the Sanhedrin had power to pronounce such a decree of excommunication. In excommunicating Jesus' followers, they indirectly declared Jesus a false prophet, and hence subject to the death penalty. Is this not a proof, as Nicodemus had implied (Jn. 7:51), that they had already condemned him without having granted him a hearing or listened to a word in his defense?

The second such session of the Sanhedrin took place in the month of February, about four and a half months after the first session. The resurrection of Lazarus was the occasion that called the Sanhedrin into council at this time.(from Jn. 11:47-53)

So the chief priests and the Pharisees gathered the council, and said, "What are we to do? For this man performs many signs. If we let him go on thus, every one will believe in him, and the Romans will come and destroy both our holy place and our nation." But one of them, Caiaphas, who was high priest that year, said to them, "You know nothing at all; you do not understand that it is expedient for you that one man should die for the people, and that the whole nation should not perish". So from that day on they took counsel how to put him to death.

We see then, that at this second council the death of Christ was decided upon. In the September session his death was proposed only indirectly, but this time the sentence is passed, the high-priest having himself declared that it were better for one man to die! This sentence was pronounced without summoning the accused into council, without witnesses, and without making any investigation of his doctrines or his miracles. Neither was it pronounced because Jesus was found to be seditious or revolutionary, but because it was necessary to put a stop to his miracles, and thus destroy the peoples' belief in him. The sentence having been pronounced by the high-priest, it was ratified by the whole assembly "From that day on they took counsel how to put him to death." It is a settled question; there remains to be determined only the time and the manner of executing the sentence. Have we not here ample evidence that the condemnation of Jesus preceded his arrest and trial?

The third session was held about three weeks after the second, just two days before the Passion.

Now the feast of Unleavened Bread drew near, which is called the Passover. And the chief priests and the scribes were seeking how to put him to death; for they feared the people. Then the chief priests and the elders of the people gathered in the palace of the high priest, who was called Caiaphas, and took counsel together in order to arrest Jesus by stealth and kill him. But they said, "Not during the feast, lest there be a tumult among the people." (Lk. 22:1-2, Mt. 26:3-5)

We notice that at this gathering the question of the sentence of Christ is no longer debated. His death had already been determined upon at the second session. The only things that now remain to be settled are the manner of his death and the proper time for its execution.

Now let us sum up the decisions of the three councils. The first council, in excommunicating the partisans of Christ, denounced him as a false prophet, and consequently guilty of death. In the second council the question of whether he should die was proposed, and unanimously decided in the affirmative. In the third council his arrest and execution were appointed to take place at the first favorable opportunity. We now ask of every sincere Israelite if the trial of Christ was not a fearful mockery and a lie.

The subsequent trial of Jesus on the eve of the Passion entailed no less than 27 violations of Jewish law, any single one of which would be sufficient to nullify the verdict of the Sanhedrin. [note: for reasons of space not all of the 27 appear in this extract]

Violation 1: The court was prohibited from meeting to decide capital cases either on a Sabbath or feast-day, or on the preceding day:

“Court must not be held on the Sabbath, or any holy day.” – Mishnah, Betza, ch. v, #2.

“They shall not judge on the eve of the Sabbath-day, nor on that of any festival” – Mishnah, Sanhedrin, ch. iv, #1

Violation 2: A capital trial could not take place at night:

“Let it be tried during the day and suspended at night”. – Mishnah, Sanhedrin, ch. iv, #1. This is further expounded by Maimonides: “The reason why the trial of a capital offense could not be held at night is because a more thorough and searching examination can be made by daylight.” – Maimonides, Sanhedrin, ch. iii.

No session of the Court could take place before the offering of the morning sacrifice: “The Sanhedrin sat from the close of the morning sacrifice to the time of the evening sacrifice.” – Talmud Jerusalem, Sanhedrin, ch. i, folio 19; Talmud Babylonian ch. x, folio 88; also Mishnah Tamid ch. iii

Both of these prohibitions – that a capital trial could not place on the eve of a feast-day, nor at night -- were violated when the first part of trial of Jesus took place during the night preceding the start of the Feast of Passover, as is evident in all four

Gospel accounts (Jn. 18, Mt. 26, Mk. 14, and Lk. 22).

Violation 3: The witnesses must give their testimony separately, and in the presence of the accused. (based in part on the trial of Susanna in Daniel 13)

Violation 4: Before testifying, the witnesses must solemnly promise to tell the truth:

“The judge shall address each witness as follows: It is not conjecture, or anything you may have heard, that we ask of you...If you should cause the accused to be condemned unjustly, his blood shall cry for vengeance against you, and God will hold you accountable, even as he did Cain for the blood of his brother Abel.” – Mishnah, Sanhedrin, ch. iv, #5)

Violation 5: The judges must carefully weigh the testimony of each witness – Deut. xix. 18, Mishnah Sanhedrin ch. v, 1.

Violation 6: No testimony is valid unless the witnesses all agreed in each detail:

“If one witness contradicts another, the testimony is not accepted.” – Mishnah Sanhedrin, ch. v, #2., Maimonides Sanhedrin ch. xx.

It is impossible to reconcile these preceding five requirements with respect to witnesses with the Gospel accounts of the trial, for instance: “Now the chief priests and the whole council sought testimony against Jesus to put him to death; but they found none. For many bore false witness against him, and their witness did not agree. And some stood up and bore false witness against him, saying, “We heard him say, ‘I will destroy this temple that is made with hands, and in three days I will build another, not made with hands.’” Yet not even so did their testimony agree.” (Mk. 14:55-59).

Violation 7: The accused must not be condemned on his own confession:

“We have it as a fundamental principle of our jurisprudence that on one can bring an accusation against himself. Should a man make confession of guilt before a legally constituted tribunal, such confession is not to be used against him...our law never condemns on the simple confession of an accused party.” – Mishnah, Sanhedrin, ch. vi, #2. , Maimonides Sanhedrin.

In violation of this fundamental principle, Caiaphas directly asked Jesus to testify against Himself (Jn. 18:19), and when He refused, allowed Him to be struck (Jn. 18:22): “Why do you ask me? Ask those who have heard me, what I said to them; they know what I said.” When he had said this, one of the officers standing by struck Jesus with his hand, saying, “Is that how you answer the high priest?”.

Touchingly, Jesus’ refusal to respond to the question and thus give testimony against Himself was itself motivated by His reverence for the office of the High Priest. As St. Cyprien said “If he did it not it was because He was unwilling to dishonor the high-priesthood in the person holding that sacred office.” (St. Cyprien Epist. lv. Ad Corn.).

Caiaphas repeated his violation of the rule against self-incrimination later in the trial, when he imperiously demanded "I adjure you by the living God, tell us if you are the Christ, the Son of God." (Mt. 26:63) In adjuring Jesus, in the name of the living God, to declare whether he was the Son of God or not, Caiaphas was setting a snare for Jesus. Should he answer in the negative, he will be condemned as an perjurer, for such he has certainly claimed to be ; if in the affirmative, he will be condemned as a blasphemer. "And Jesus said unto him, I am" (Mk 14:61). Jesus respects on the lips of the high-priest the majesty of the name of God. He replies to the question, despite the malice which prompted it, on account of the sacred language in which it was clothed. He is not deceived by the dissimulation of the high-priest – far from it – but he is ready to do homage to the divine name, although knowing that in this instance it was basely employed to entrap him.

Violation 8: The expression of the judge toward the accused must be humane, and even kind, treating him with gentleness and respect. – Mishnah, Sotah, ch. i, #4.

Violation 9: The accuser cannot also be the judge: "If a... witness rise up against any man...then both...shall stand before the judges. – Deut xix 16-17

All of the Gospel accounts of the trial confirm the above violations, with Caiaphas acting as prosecuting attorney as well as chief judge. A number of additional violations are shown in the single passage Mt. 26:63-66:

"But Jesus was silent. And the high priest said to him, "I adjure you by the living God, tell us if you are the Christ, the Son of God." Jesus said to him, "You have said so. But I tell you, hereafter you will see the Son of man seated at the right hand of Power, and coming on the clouds of heaven." Then the high priest tore his robes, and said, 'He has uttered blasphemy. Why do we still need witnesses? You have now heard his blasphemy. What is your judgment?' They answered, "He deserves death.""

"Then the high priest tore his robes" -- not only was Caiaphas giving vent to his fury, but he was directly violating the religious law which strictly prohibits the high-priest's tearing his garments, even as a sign of mourning (Lev. 21:10: "And he that is high-priest...shall not rend his clothes.")). Tear thy garments, O Caiaphas! Before the day closes the veil of the Temple shall also be torn in twain, to signify that the Aaronic priesthood and the sacrifices of the Mosaic law have been abolished to make place for the eternal priesthood of the high-priest of the new covenant.

"He has uttered blasphemy!" -- This is yet another irregularity, since the charge was pronounced against the accused without having even inquired as to the reasonableness of Jesus' response to the high-priest's question. Simple justice required that this bold avowal by Jesus should have been examined with the utmost care. Order the holy books to be brought in, O Caiaphas! Read from their sacred pages the various attributes ascribed to the Messiah, and find out from the same source whether such could be appropriately applied to the person before you claiming to be the Son of God. If of all the characteristics and conditions ascribed by the prophets to the Messiah a single one be wanting in him, then proclaim loudly

and fearlessly that he has blasphemed. But to pronounce him a blasphemer without having given his statement even a superficial investigation, what iniquity!

“He has uttered blasphemy!” -- This statement virtually forestalls the decision of the other judges, thus violating the requirement that each of the judges must have the freedom to vote independently, and by a simple “I absolve” or “I condemn” (Mishnah, Sanhedrin, ch. v, #5). In his vehement utterance of a decision prompted not by justice but by malice, he precluded the possibility of his colleagues differing from him in their votes, for the decision of the high-priest was considered infallible authority among the Jews.

“That further need have we of witnesses?” -- What! A judge deny the necessity of witnesses, expressly and absolutely required by the law, in favor of self-incrimination, expressly forbidden by the law!

“What is your judgment” -- This question forms yet another irregularity, for nothing could have been more irregular than the calling for a public and general vote. The Mishnah says expressly “Let the judges, each in his turn, absolve or condemn” (Sanhedrin, xv, #5); but Caiaphas would have them vote en masse. (**Violation 10**)

They answered, "He deserves death." -- In this one sentence we find several irregularities. The first is seen in the precipitate assent of the other judges to Caiaphas' accusation of blasphemy, instead of first deliberating among themselves, as the law requires: "...the judges reassemble by twos, and proceed to reexamine the whole case." (Mishnah, Sanhedrin, ch. V, #5) (**Violation 11**)

The next is seen in the fact that the sentence was pronounced on the same day, whereas, according to law, it should have been deferred to the next day at least: “if a sentence of death is to be pronounced, it cannot be concluded before the following day” – Mishnah, Sanhedrin, iv, #1 (**Violation 12**)

Another is seen in the fact that the judges did not vote one at a time and in order, for it says in the Mishnah: “At each extremity a secretary was placed, whose business was to record the votes. One recorded the votes in favor of the accused, the other those opposed” – Sanhedrin, ch. iv, #8. (**Violation 13**)

When the trial was reconvened the following morning at dawn (Mk 15:1, Lk 22:66, Mt. 27:1) at least seven more violations were added. As it is described in Luke:

When day came, the assembly of the elders of the people gathered together, both chief priests and scribes; and they led him away to their council, and they said, "If you are the Christ, tell us." But he said to them, "If I tell you, you will not believe; and if I ask you, you will not answer. But from now on the Son of man shall be seated at the right hand of the power of God." And they all said, "Are you the Son of God, then?" And he said to them, "You say that I am." And they said, "What further testimony do we need? We have heard it ourselves from his own lips."

The convening before the morning sacrifice was a violation. No session of the Court could take place before the offering of the morning sacrifice: “The Sanhedrin sat from the close of the morning sacrifice to the time of the evening sacrifice.” –

Talmud Jerusalem, Sanhedrin, ch. I, folio 19; Talmud Babylonian ch. x, folio 88; also Mishnah Tamid ch. iii (**Violation 14**). No attempt was made to secure witnesses, but rather Jesus was immediately asked to incriminate Himself (**Violation 15**). Once again, contrary to law the sentence was pronounced en masse (**Violation 16**). No scrutiny was made of whether Jesus' claim might be true (**Violation 17**). The sentence was passed immediately, rather than being deferred to the next day (**Violation 18**), and passed on a feast-day (**Violation 19**). The sentence of death was pronounced in a place prohibited by the law, for it was passed in the house of Caiaphas, instead of in the court of the Temple known as the "Hall of Hewn Stones", which was the only place where a death sentence could legally be passed: "After leaving the hall of hewn stones, no sentence of death can be passed against anyonesoever." – Talmud Babyl. Abodah Zarah ch. i, folio 8, recto., also "A sentence of death can be pronounced only so long as the Sanhedrin hold it sessions in the appointed place." Maimonides Sanhedrin ch. xiv. (**Violation 20**)

Conclusion

Can any one honestly and sincerely reflect upon these things without being convinced of the utter lack of moral character in the judges, and the shameful injustice of their proceedings against Christ? And now, we ask, is not every Israelite bound by the highest principles of honor and justice to withhold his ratification of the sentence pronounced against Christ by the Sanhedrin until he has thoroughly studied the question, Who was Jesus Christ?

Nineteen hundred years have passed. The tumultuous passions of Christ's enemies have subsided. Yet this question continues to resound with a restless clamor in the ears of those of whom he once said: "Father, forgive them, they know not what they do."

As for ourselves, your own brethren after the flesh, we solved the question twenty years ago; and it is never without profound emotion that we turn to a certain page of God's Holy Word to which we desire to call your special attention. Meditate upon it. It will show you who the condemned one of the Sanhedrin was; it will also show you how the Jewish people, by repentance and faith in him, shall enter into the promised land of Christ's Church on earth (from Zechariah 12 and 13)

On that day the LORD will put a shield about the inhabitants of Jerusalem so that the feeblest among them on that day shall be like David, and the house of David shall be like God, like the angel of the LORD, at their head.

And I will pour out on the house of David and the inhabitants of Jerusalem a spirit of compassion and supplication, so that, when they look on him whom they have pierced, they shall mourn for him, as one mourns for an only child, and weep bitterly over him, as one weeps over a first-born. On that day the mourning in Jerusalem will be great. The land shall mourn, every family apart; and their wives

apart.

And if one asks him, 'What are these wounds on your back?' he will say, 'The wounds I received in the house of my friends.'" They will call on my name, and I will answer them. I will say, 'They are my people'; and they will say, 'The LORD is my God.'"

By this description, by these wounds in the hands and feet, how can you fail, O Israelites, to recognize the God-man, the Lord, the promised Messiah? Our fathers, it is true, have not known him, but their sons shall know him, and every one shall say unto him, "The Lord, my God."

Acknowledging him as their Savior, they will, in contemplating the wounds in his hands and his feet, shed bitter tears of repentance. At such a sight the whole earth will be moved; and all the families that remain shall join in their lamentations, "every family apart, and their wives apart."

We who have written these pages will not live to see the glorious day of Israel's redemption; but from heaven where we trust God will have graciously received us, we shall contemplate with joy unspeakable the gathering in of our people to the fold of Christ.