CHAPTER THREE

THE TRIALS OF JESUS AND JEREMIAH

1. The Difficulties facing an Historical Account

Volumes have been written on the trial of Jesus. There are many apparent anomalies in the accounts of the trial and many problems from the viewpoint of the legal historian.¹

The problems are twofold, literary and historical: on the one hand, the gospel accounts themselves contain notable internal discrepancies; on the other, the story they tell is significantly at odds with contemporary law and practice, both Jewish and Roman.

As to the internal coherence of the gospels, just a few of many discrepancies may be noted:²

(1) The arrest: the Synoptic Gospels see the arrest as made by an armed crowd sent out by the Jewish authorities (variously described)³ alone, while John writes that the arrest was carried out by a cohort of Roman troops in company with “the officers from the chief priests and the Pharisees”.⁴

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² Still important is the study of Bickermann 1935.
³ Mark 14:43: “And immediately, while he was still speaking, Judas came, one of the twelve, and with him a crowd with swords and clubs, from the chief priests and the scribes and the elders”; Matt. 26:47: “While he was still speaking, Judas came, one of the twelve, and with him a great crowd with swords and clubs, from the chief priests and the elders of the people”; Luke 22:47: “While he was still speaking, there came a crowd, and the man called Judas, one of the twelve, was leading them…(52) Then Jesus said to the chief priests and officers of the temple and elders…”.
⁴ John 18:12: “So the band of soldiers (στρατεύματα) and their captain (χώριαρχος) and the officers of the Jews seized Jesus and bound him.” Cf. Winter 1974:ch. 5, noting that it is particularly remarkable that John has Jesus arrested by Roman military personnel, given the decidedly anti-Jewish feelings shown by John throughout. Indeed, John places the burden of responsibility for the death of Jesus on the shoulders of the Jews and exonerates the Governor completely. All the more striking, argues Winter, that he seems to preserve what may be an early and authentic tradition of the arrest by Roman troops. See also Winter on the relationship between John 18:12 and John 18:3: “So Judas, procuring a band of soldiers (στρατεύματα) and some officers from the chief priests and the Pharisees, went there with lanterns and torches and weapons”, the latter perhaps seeking to conflate the two traditions.
(2) The charge: while the charge in the Jewish hearing is ultimately blasphemy in *Matt.* 26:65 and *Mark* 14:64, in both accounts the condemnation is followed immediately by a contemptuous challenge to the prophetic status of Jesus: “Now, Messiah, if you are a prophet, tell us who hit you” (*Matt.* 26:68), suggestive of an account in which the charge had actually been false prophecy.5 No charge is mentioned in either Luke or John.

(3) Time and place of the Jewish proceedings: Mark and Mark have two phases of procedure before the Jewish authorities: at night, they led Jesus “to the high priest…And Peter had followed him at a distance, right into the courtyard (αὐλὴ) of the high priest (*Mark* 14:53–55, suggestive that this is the private residence of the High Priest, cf. *Matt.* 26:57–59); “And as soon as it was morning the chief priests…with the elders and scribes, and the whole council (ὁλὸν τὸ συνέδριον) held a consultation” (*Mark* 15:1, cf. *Matt.* 27:1). In Luke it is stated explicitly that Jesus was taken at night to “the high priest’s house” (οἶκος, 22:54), but the questioning does not occur then or there: “When day came…they led him away to their council” (εἰς τὸ συνέδριον, 22:66).6 John has Jesus taken at night7 first to the father-in-law of Caiaphas, Annas (himself a high priest), then to Caiaphas, then the following morning8 to the praetorium.

(4) Identity of the body conducting the Jewish proceedings: Mark stresses the involvement of “the whole council (ὁλὸν τὸ συνέδριον)” at both stages of the Jewish proceeding, the morning proceeding being conducted by “the chief priests, with the elders and scribes, and the whole council” (15:1); Matthew fails to mention either the scribes or the Sanhedrin in relation to the morning proceeding (27:1); in Luke it is “the assembly of the elders of the people [who] gathered together, both chief priests and scribes” and who led Jesus to the Sanhedrin (22:26); John records no meeting of the Sanhedrin,

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5 Cf. Jeremias 1961:79, arguing also that execution for this crime was required to be carried out at a feast “before all the people”.
7 The arrest is made “with lanterns and torches” (18:3).
8 18:28: “Then they led Jesus from the house of Caiaphas to the praetorium. It was early.”