THE COMPETENCE OF THE SANHEDRIN

BY

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The arguments that have been brought forward in support of the view that the sanhedrin during the procuratorial period had not the power of inflicting capital punishment are unconvincing. They may be conveniently considered under five headings.

1. According to St. Mark's gospel (where the passion-narrative is evidently presented in its earliest extant form), Jesus was arrested at the order of the Jewish authorities and executed at the order of Pilate. And he had to be handed over for trial to the procurator, so it is argued, because the sanhedrin was not competent to deal with capital offences. It is quite possible, however, that the prisoner was handed over to Pilate because he had not committed an obvious capital offence against the law of Moses as commonly understood, and that St. Mark's account of the nocturnal trial before the sanhedrin (14, 55–65) is basically a reflection of the fact that certain Christians had been put to death at the order of the Jewish authorities for committing blasphemy in identifying the crucified Jesus with the promised Messiah (cp. Gal. 3, 13; 5, 11). On the other hand, despite the internal and external incongruities of Mk. 14, 55–65, Dr. G. D. Kilpatrick (see The Trial of Jesus (Oxford, 1953), pp. 9ff.) thinks that the narrative represents a credible historical tradition which consists essentially of two sections: the first section concerns a successful attempt on the part of the prosecution to secure the unanimous support of the

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sanhedrin by showing that the prisoner was guilty of blasphemy in a strict sense; the second section concerns an examination of the accused with a view to his appearing before the procurator on a political charge, the sanhedrin being incompetent to deal with capital cases.

(i) Dr. Kilpatrick (op. cit., p. 9) argues that the high priest Caiaphas was astute enough to avoid the sort of mistake which, according to Josephus (Ant. 20, 9, 1), Ananus committed in 62 A.D.: he saw to it that Jesus was unanimously condemned by the sanhedrin on a religious charge, and so no important element of public opinion could be outraged by the prisoner's condemnation at the hands of the procurator.

But would Caiaphas have needed to resort to such a complicated procedure in order to secure the support of the more influential Jewish parties? His position was much more secure than that of Ananus, and he was probably on very good terms with the procurator; he held office for a longer period (18–37 A.D.) than any other high priest in the first century, and it is perhaps significant that he came out of office only a short while after Pilate's return to Rome (Ant. 18, 4, 3). Moreover, while it is not impossible that Jesus had some support in the matter of the cleansing of the temple, there is ample evidence that Jesus had aroused the hostility of the Pharisees through his persistent criticisms of their religious point of view.

(ii) Dr. Kilpatrick (op. cit., p. 16) observes that in the later part of St. Mark's report, as it is an account of a preliminary examination of a prisoner before trial, the prisoner is questioned directly and no witnesses are called, whereas in the earlier verses where witnesses are employed we have the appearance of a trial.

But there is no such break in the narrative as it now stands. After the confession in v. 62 the high priest concludes that there is no further need of witnesses, the suggestion being that up to that point it had been expected that witnesses would have to be called in again.

(iii) In Dr. Kilpatrick's view (op. cit., p. 10), those who testified that Jesus had said that he would destroy the temple (vv. 56ff.) were not really false witnesses; perhaps the ascription of falsity to them was due to St. Mark's writing before 70 A.D. (when the