

**THE TRIALS OF CHRIST: The Silent Defense**

By Jeffrey N. Walker

# THE TRIALS OF CHRIST: The Silent Defense<sup>1</sup>

Jeffrey N. Walker<sup>2</sup>

## Introduction

At the end of the trials of Christ, we find him inside the Judgment Hall with Pilate. After the scourging, the taunting, the thorned crown and purple robe, Pilate brings him again to the rabid crowd of religionists. With blood dripping from his head and back he stood majestically in silence. Pilate would announce, “*Ecce Homo*,” Latin for “Behold the Man.”<sup>3</sup>

For all Romans the phrase “*Ecce Homo*” had special meaning. During the Olympics held annually in Rome, the slave gladiators participated in ten days of mortal combat. Pilate was fascinated by the event, himself having received training in hand-to-hand combat.<sup>4</sup> The gladiator who survived the ordeal was proclaimed the winner. He would receive a garland of olive branches from the Emperor and pronounced, “*Ecce Homo*” – and thereby became a free man.<sup>5</sup> Yet, blurred by political ambition and spiritual ignorance, Pilate never understood that Christ Jesus was indeed winning freedom as he stood before him. He would wear the victor’s crown; not for himself, but for all mankind.

Christ’s life is told through the Gospels from four different vantage points, each an independent witness. Matthew, the tax collector and publican, was testifying to the unbelieving Jews. Mark, the missionary with Peter, was testifying to the Romans or Gentiles. Luke, the

---

<sup>1</sup> This paper was presented on April 15, 2006 at the Easter Conference sponsored by Religious Education and the Religious Studies Center at Brigham Young University.

<sup>2</sup> Jeffrey N. Walker is the Manager and Co-Editor of the Legal and Business Series for the Joseph Smith Papers Project for the Church of Jesus Christ of Latter-day Saints. He also is an adjunct professor of Church History and Doctrine at Brigham Young University and at the Brigham Young University Law School.

<sup>3</sup> John 19:4-5.

<sup>4</sup> As a rule a procurator must be of equestrian rank and a man of certain military experience. *See generally* Nagle, D. Brendan, *The Ancient World: A Social and Cultural History* (New Jersey: Prentice-Hall, 1979).

<sup>5</sup> Penrod, Everett, *Pilate: Victor or Victim?* (Kearney: Morris Publishing, 2002) cited in Nielsen, Donna, *Reading Between the Lines: Mining the Treasures of Scripture* (Provo: Onyx Press, 2004). *See also* Allen, Steven W., *The Illegal Trial of Christ* (Mesa: Legal Awareness Series, Inc., 2005); Chandler, Walter M., *The Trial of Jesus from a Lawyer’s Standpoint* (Norcross: The Harrison Co., 1976).

educated physician, was well qualified to testify to the Greeks. And John, the Beloved, would give his testimony to the disciples, the believers. Each left a record of Christ that is synoptic but distinctive.<sup>6</sup> Combining their testimonies accounts for only between 33 to 35 days of Christ's three-year ministry, yet each testifies about his trial, death and resurrection. Together they allow us to piece together the events comprising Christ's last and finest hours. It is a tale of betrayal, a tale of religious bigotry and blind ambition, a tale of suffering and illegality, and a tale of supernal importance.

I know I tread on sacred ground speaking about this infinite trial. As a lawyer I am trained to look at the facts and law using a Socratic analytic model.<sup>7</sup> In practice I draft direct and cross-examination questions to test the facts. I research the law to challenge jurisdiction, evidence and rulings. As a believer the verdict in this case is unassailable. Jesus is the Christ – our personal Savior. There needs to be no appeal. Consequently, my objective must be more than academic. It must find purpose outside of legal theory or hypotheses. My intent is that my comments will not just eschew cynicism and academic recitations but rather strengthen hope and motivate us to follow him.

### **The Judges Over the Trial**

The men who presided over the trial of Christ represent the corruption of their respective systems: For the Roman Empire we find Pilate and Herod Antipas. For the Jewish state we find Annas and Caiaphas. This duality between Roman and Hebrew law was the consequence of a

---

<sup>6</sup> Many have written comparing the differences between the Gospel accounts of the trial of Jesus. See, e.g., Sherwin-White, *Roman Society and Roman Law in the New Testament* (Grand Rapids: Baker Book House, 1963), 23-28; see generally *supra*, fn. 46.

<sup>7</sup> Socratic method (or method of elenchos or Socratic debate) is a dialectic method of inquiry, largely applied to the examination of key moral concepts and first described by Plato in the *Socratic Dialogues*. "A Socratic Dialogue can happen at any time between [two people] when they seek to answer a question [about something] answerable by their own effort of reflection and thinking [starting] from the concrete [asking] all sorts of questions [until] the details of the example are fleshed out [as] a kind of platform for reaching more general judgments." Benson, Hugh, *Socratic Wisdom* (Oxford: Oxford University Press, 2000), 22.

forced union resulting from the expansion of the Roman Empire under Pompey the Great that included the invasion, siege and occupation of Palestine in 63 B.C.<sup>8</sup> For the next 700 years Rome would rule over the Holy Land as well as most of the civilized world. While the Romans conquered the Jews, the Jews were nonetheless allowed to govern themselves as a client state, subject to the preemptive authority of the Empire.

Julius Caesar, then Augustus Octavius and Tiberius Caesar would follow Pompey's rule. While Octavius and Tiberius would rule the Roman Empire during Christ's life, they took little interest in distant Palestine. Instead they appointed governors, referred to as procurators, to rule in their place. Herod the Great, as a vassal king, would be appointed as ruler over the entire Jewish homeland.<sup>9</sup> He would be an opulent and oppressive ruler. It was said that a day did not pass during his thirty-three year rule that someone was not executed.<sup>10</sup> At his death, his kingdom was distributed between three of his sons – Archelaus, Antipas and Philip.<sup>11</sup> Herod Antipas was made governor<sup>12</sup> of Galilee. Archelaus, Herod the Great's oldest son, was made governor of Judea and Samaria that included the capital city of Jerusalem. However, Archelaus would prove to be so

---

<sup>8</sup> The siege lasted three months. When the Romans finally entered Jerusalem none were spared. More than 12,000 men, women and children were killed, thus starting the occupation by the Romans of the Holy Lands. Josephus, *The Jewish Wars* (Cambridge: Harvard University Press, 1927-28), 1:7:6. While that was a bloody occupation, Jerusalem has been reportedly conquered more times than any other city in human history. It has been destroyed and rebuilt more than 35 times.

<sup>9</sup> Herod the Great would take the title "King of the Jews." Richardson, Peter, *Herod: King of the Jews and Friend of the Romans* (Minneapolis: First Fortress Press, 1999), 161. This title infuriated the Jews, as he was only half Jewish and led a life devoid of respect for either Jewish custom or law.

<sup>10</sup> Herod the Great ruled from 37 to 4 B.C. Hoehner, Harold W., *Herod Antipas: A Contemporary of Jesus Christ* (Grand Rapids: Zolndervan Publishing House, 1980), 7. His reign of terror is well documented. For example, in his very first year he ordered the death of 45 Jewish leaders in Jerusalem. In 29 B.C. he strangled his wife, mother-in-law and had 300 alleged supporters killed. Josephus, *The Antiquities of the Jews* (Cambridge: Harvard University Press, 1930), 15:7:7. At one time he had the entire Sanhedrin executed except one, thus gaining a firm grip upon the high priests. Tens of thousands of Jews were killed during his tenure. Klausner, Joseph, *Jesus of Nazareth* (New York: Block Publishing Co., 1964), 151. This practice was certainly passed down to his sons.

<sup>11</sup> Hoehner, Harold W., *Herod Antipas: A Contemporary of Jesus Christ* (Grand Rapids: Zolndervan Publishing House, 1980), 11.

<sup>12</sup> Antipas' official title, like his brothers, would be that of a "Tetrach." This title was given under the Roman Empire for a ruler of only part of a province.

corrupt and cruel<sup>13</sup> that after ten years of his rule the Romans exiled him to Gaul and replaced him by a series of procurators.<sup>14</sup> Pontius Pilate was the fifth Roman procurator over Judea. Thus, the Roman leaders involved in the trial of Christ would be Herod Antipas, governor over Galilee, Jesus' homeland, and Pontius Pilate, governor over Judea where the trials would take place.

As governor,<sup>15</sup> Pilate commanded Roman military units,<sup>16</sup> authorized construction projects, arranged for the collection of Imperial taxes, and decided civil and criminal cases.<sup>17</sup> During his decade tenure, Pilate had numerous messy confrontations with his Jewish subjects. For example, early on Pilate decided to honor Caesar by placing effigies of the Emperor throughout Jerusalem. The Jews were outraged considering the images idolatrous.<sup>18</sup> They carried their protest to Pilate's home in Caesarea.<sup>19</sup> Pilate threatened the protesters with death, but when they appeared willing to accept martyrdom he relented and removed the offending images.<sup>20</sup> Pilate's efforts to please the

---

<sup>13</sup> For example, almost immediately after his appointment, fearing a possible mob uprising he ordered the execution of between 3,000 and 10,000 Jews who were attending the Passover. Josephus, *The Antiquities of the Jews* (Cambridge: Harvard University Press, 1930), 15:14:15.

<sup>14</sup> A procurator was the personal servant of the emperor, directly responsible to him, and was primarily concerned with finance. But the powers of procurators varied according to the appointment of the emperor. Pilate was a procurator *cum potestate*, i.e. he possessed civil, military, and criminal jurisdiction. The procurator of Judea was in some way subordinate to the legate of Syria, but the exact character of the subordination is not known.

<sup>15</sup> Pilate would hold the office of "Prefect" for 10 years, from A.D. 26-36.

<sup>16</sup> Greenidge, A.H.J., *The Legal Proceedings of Cicero's Time* (London: Oxford University Press, 1901), 410.

<sup>17</sup> Kunkel, Wolfgang, *An Introduction to Roman Legal and Constitutional History* (London: Oxford University Press, 1975), 42. The judgment regarding Pilate's administration is chiefly based on the statements of Philo (*Legatio at Caixcm*, (Cambridge: Harvard University Press/London: William Heinemann, 1929–1953), 38), who calls him "inflexible and ruthless and reproaches him with venality, violence, peculation, ill-treatment, insult, the repeated infliction of punishment without trial, and with endless acts of cruelty—the well-known accusations brought by the Jews against every energetic Roman functionary."

<sup>18</sup> Exodus 20:4.

<sup>19</sup> Caesarea was the administrative capital where the Pilate resided during his tenure as governor of Judea. He would visit Jerusalem mainly during the Jewish festival when greater supervision seemed warranted.

<sup>20</sup> Josephus, *The Antiquities of the Jews*, (Cambridge: Harvard University Press, 1930), 18:3:1. Josephus recounts that the protestors surrounded Pilate's residence for five nights, threatening to storm it. Pilate's threat of massacre didn't deter them. Josephus concluded: "Pilate could but admire such constancy in the observance of the law, and he gave orders for the standards to be brought back from Jerusalem to Caesarea." Farrar notes of this experience: "This foretaste of the undaunted and fanatical resolution of the people with whom he had to deal, went far to embitter his whole administration with a sense of overpowering disgust. Farrar, Frederic R., *The Life of Christ*, (Portland: Fountain Publications, 1980), 611.

Jews by upgrading the aqueduct in Jerusalem backfired when he used Temple funds<sup>21</sup> to build it. The Jews refused to drink the water.<sup>22</sup> After these and other run-ins, Pilate avoided going to Jerusalem.<sup>23</sup>

Herod Antipas was Pilate's Roman equivalent in Galilee. He was a playboy leader. He lacked both a familial or moral compass, having an adulterous affair with his brother's wife whom he ultimately married.<sup>24</sup> He imprisoned and then beheaded John the Baptist<sup>25</sup> after John condemned Antipas' immorality.<sup>26</sup> His life was driven by excess, corruption and power. Jesus referred to him as a fox.<sup>27</sup> Antipas required others to call him a king.<sup>28</sup>

Herod Antipas and Pilate Pontius represented the best and worst of the Roman Empire. Their collective leadership would be forever remembered by the events of one weekend in Jerusalem – the trial of Christ.

As initially conceived, the Jewish state would be governed under Mosaic Law.<sup>29</sup> The Sanhedrin administered both secular and religious matters within the Jewish community. The

---

<sup>21</sup> Known as the "Korbonas."

<sup>22</sup> Josephus, *The Jewish Wars*, (Cambridge: Harvard University Press, 1927-28), 2:9:4.

<sup>23</sup> As Eusebius opined as a consequence of Pilate's dislike for the Jewish nation, Pilate became "naturally inflexible and stubbornly relentless, committing acts of corruption, insults, rapine, outrages upon the people, arrogance, repeated murders of innocent victims." Eusebius, *Ecclesiastical History*, (Peabody: Hendrickson Publishers, 1998), II, 7.

<sup>24</sup> There is some confusion as to whether he married his brother Philip's wife or his father's wife. Hoehner, Harold W., *Herod Antipas: A Contemporary of Jesus Christ* (Grand Rapids: Zolndervan Publishing House, 1980), 131-136.

<sup>25</sup> Matthew 4:12; Mark 1:14.

<sup>26</sup> Matthew 14:3-12; Mark 6:17-29.

<sup>27</sup> Luke 13:32.

<sup>28</sup> Antipas was never made king by the Empire, but rather only the tetrarch of Galilee. He would ultimately be deposed by Rome and sent into exile.

<sup>29</sup> There exist some form of comprehensive legal standard by the Jews at the time of Jesus. As early as the fifth century B.C. on, Jewish scribes and doctors organized the *corpis juris divini tractates*, called the Talmud. The Talmud is comprised of the Mishnah and the Gemara. The Mishnah contains the legal standards or principles, while the Gemara is the commentary thereto. Mishnah, a Hebrew term meaning "repetition" or "study," is the name given to the oldest postbiblical codification of the Jewish "Oral Law." Between 400 B.C. and the beginning of the Christian Era, the biblical laws (the Torah) were intensively studied, applied to new situations, and supplemented by traditions of popular observance and by precedents established by prominent leaders. This material, long transmitted by word of mouth and known as the Oral Torah, defined the meaning of biblical laws. After the fall of Jerusalem and the destruction of the Temple in 70 A.D., the Jewish scholars and teachers called tannaim reduced the Oral Torah to writing and continued to elaborate and systematize it. About 200 A.D., Rabbi Judah Ha - Nasi promulgated a

Great Sanhedrin<sup>30</sup> sat at Jerusalem, while lesser councils operated locally.<sup>31</sup> It would be this great council that would oversee the Jewish trial of Jesus. This council was patterned after the council of Seventy established by Moses nearly 1,500 years earlier.<sup>32</sup> It included three quorums of 23, the first being reserved to the High Priests. The second quorum reserved for the scribes included Levites, doctors and laymen who were familiar with the law. The third quorum was for the “ancients,” – the elderly statesmen of the nation. In addition there was one “Chief High Priest” and one “Father of the Tribunal” who functioned akin to a president and vice-president, respectively. At the time of Christ, the quorums within the Great Sanhedrin were 80%

---

collection of the most reliable traditions. This work, the Mishnah, became the official text out of which further Jewish legal development occurred. The Mishnah consists of six orders (sedarim):

1. Zeraim (“Seeds”), treating agricultural laws;
2. Moed (“Seasons”), Sabbath and festivals;
3. Nashim (“Women”), marriage, divorce, and family law;
4. Neziqin (“Damages”), civil and criminal jurisprudence;
5. Qodashim (“Holy Things”), sacrificial cult and dietary laws; and
6. Tohorot (“Purifications”), ritual defilement and purification.

These sections are divided into 63 treatises. The Mishnah includes some nonlegal material, notably the Pirke Avot (“Chapters of the Fathers”), a collection of wise sayings that forms the final treatise of the Neziqin. *See generally* Herford, Travers R., *The Ethics of the Talmud: Sayings of the Fathers* (New York: Schocken Books, 1962); The Mishnah “Sanhedrin” (London: SPCK, 1931); Strack, Herman L., *Introduction to the Talmud and Midrash* (Minneapolis: First Fortress Press, 1982); Weingreen, Jacob, *From Bible to Mishna: The Continuity of Tradition* (Manchester: University Press, 1976); Neusner, Jacob, *The Mishnah. A New Translation* (New Haven: Yale University Press, 1988); *Maimonides' Commentary on the Mishnah, tractate Sanhedrin / translated into English with introduction and notes by Fred Rosner ; foreword by Aaron D. Twerski* (New York : Sepher-Hermon Press, 1981); Innes, Alexander and Powell, Frank, *The Trial of Christ* (Minneapolis: Klock & Klock, 1899), 18; Wampler, Dee, *The Trial of Christ: A Twenty-First Century Lawyer Defends Jesus* (Enumclaw: Winepress Publishing, 2000), 83-84; Daniel-Rops, Henri, *Daily Life in the Times of Jesus* (New York: Hawthorne Books, Inc., 1962), 307-310.

<sup>30</sup> The name “Sanhedrin” is from the Greek “sunedrion” which is “sitting together.”

<sup>31</sup> The Sanhedrin had three compositions depending on the size of the community they governed. For small towns or villages the Sanhedrin was comprised of a three-judge bench that only sat as required by circumstances. These were referred to as the “Lower Tribunals.” Large towns were organized as self-governing units through a standing “Lesser Sanhedrin” that was composed of 23 members. The Great Sanhedrin occupied the highest degree of honor, power and jurisdiction. It sat in Jerusalem and was composed of 71 members. Edershem, *The Life and Times of Jesus the Messiah* (Peabody: Hendrickson Publishers, 1994), 856-57. “The Sanhedrin was the supreme court of the Jews. It was composed of Scribes, Pharisees, Sadducees and elders of the people; it numbered seventy-one members; and it was presided over by the High Priest. For a trial such as this a quorum was twenty-three.” William Barclay, *The Gospel of Matthew* (Edinburgh: The Saint Andrew Press, 2nd ed., 1958), 390.

<sup>32</sup> Moses, under the direction of the Lord, organized the first Great Sanhedrin. “Bring me seventy of Israel’s elders who are known to you as leaders and officials among the people. Have them come to the Tent of Meeting, that they may stand there with you.” Numbers 11:1.

Sadducees<sup>33</sup> and 20% Pharisees.<sup>34</sup> This body represented the great families and was the chief judiciary and political authority in Jewish society. Being selected to sit on this council was the highest honor a man could achieve. As the Roman governors however, began appointing and removing Sanhedrin members and the religious leaders curried favor from the government, this governing body fell in to corruption.<sup>35</sup> Political favor garnered by the Sadducees outweighed religious worthiness. It was within this context that the Jewish and Roman trials of Jesus would interplay.

Annas and his prestigious family epitomized the corrupt Sanhedrin state at the time of Christ. Annas had previously served for twenty years on the Sanhedrin and five or so years as the Chief High Priest. Ironically, the Romans ever jealous of the power to order death sentences, removed Annas after he ordered death sentences without obtaining proper authority from the Roman government. His removal as Chief High Priest did not remove his political power within the Jewish community however, where many continued to refer to him as “God’s Chief High Priest.”<sup>36</sup> In the years after his removal he maintained his influence resulting in five of his sons and his son-in-law being appointed as High Priests within the Sanhedrin. His family was unquestionably the most influential family in the Jewish nation and Annas, then in his eighties,

---

<sup>33</sup> The Sadducees were an intellectual elite and wealthy social group. They rejected the oral traditions of the Pharisees and replaced it with Greek philosophies and secular thinking. They only accepted the written word of the Moses. Josephus, *The Antiquities of the Jews*, (Cambridge: Harvard University Press, 1930), 17:6:2.

<sup>34</sup> The Pharisees were a lay political-religious party that was formed to combat the popularization of Hellenism 200 years earlier. Their goal was the preservation of Judaism from outside influences, in particular the Romans. Consequently, they were considered the experts in the Law; working closely with the rabbis in the continuity of the oral traditions. Josephus explained that because of this training and perspective the Pharisees were most often consulted to provide opinion rather than the High Priests. Josephus, *The Antiquities of the Jews*, (Cambridge: Harvard University Press, 1930), 13:10:3. Because of this allegiance to the past, the Pharisees conflicted the most with Jesus, being in an almost constant state of hostility. Matthew 23:29-35.

<sup>35</sup> Farra, Frederic R., *The Life of Christ*, (Portland: Fountain Publications, 1980), 590, fn. 1. (“Since the days of Herod, the High Priests were so completely the puppets of civil power that there were no less than twenty-eight in 107 years.”)

<sup>36</sup> Annas was appointed to the office of high priest in A.D. 6 by Quirinius, governor of Syria. Valerius Gratus, governor of Judea, later removed him from that position in A.D. 15. However, since the Old Testament dictated that the high priest was to fill the office for life (Num. 3:10), Annas’ removal was considered illegal by most Jews. For this reason they may have continued to regard him as their spiritual leader.



was the patriarch. Their influence extended beyond the Sanhedrin and custom had it that they operated the “temple booths” which was the only authorized place to purchase the legally pure sacrificial animals for the temple. Annas and his family’s opposition to Christ’s cleansing of the temple and driving out the money changers therefore, be seen as more financially than religiously driven.<sup>37</sup>

At the time of the trials, Caiaphas<sup>38</sup> was the presiding High Priest of the Great Sanhedrin.<sup>39</sup> Caiaphas led the vicious attacks against Jesus. Following Lazarus’ resurrection, Caiaphas was at the forefront to have both Jesus and Lazarus arrested.<sup>40</sup> It was Caiaphas who announced “it is expedient for us, that one man [Jesus] should die for the people, and that the whole nation perish not.”<sup>41</sup> It is one of the major ironies of history that this very “solution” was that which brought about the end of the Hebrew nation.<sup>42</sup> In the end, as one writer opined, Caiaphas was “a rude and sly manipulator, an opportunist, who did not know the meaning of fairness or justice and who was bent on having his own way ‘by hook or by crook.’”<sup>43</sup>

It is these four men who will conspire to put Jesus to death through a mockery of a series of hearings to which we refer to in the trials of Christ.

---

<sup>37</sup> “Annas held no official position. But he wielded an immense influence and prestige, and in the Sanhedrin no man’s opinion carried greater weight. Twenty years before, he had been high priest, a title that he still received by courtesy; and no fewer than five of his sons had succeeded him in this, and the highest position in the land. It is probable that it was Annas who had established, for reasons of personal gain, the traffic of the bazaar within the Temple courts which Jesus had so sternly denounced.” James S. Stewart, *The Life and Teaching of Jesus Christ* (Nashville: Abington, 1978), 196.

<sup>38</sup> Caiaphas married Annas’ daughter. John 18:33.

<sup>39</sup> Caiaphas held the office as high priest for eighteen or nineteen years, longer than any serving high priest in the first century.

<sup>40</sup> John 11:47, 48.

<sup>41</sup> John 11:50. Caiaphas is actually prophetic, although certainly unintended, that “one” should die for the “people.”

<sup>42</sup> Matthew 21:33-44; 22:1-7

<sup>43</sup> Hendriksen, William, *The Gospel According to John* (Grand Rapids: Baker Press, 1954), 163.

## The Trials of Christ

We start our examination of the trials of Christ in admitted mid-stream. Central events had already occurred: His triumphant entrance to Jerusalem, his final sermons in the Temple, the great and last supper, institution of the sacrament, the symbolic ordinance of the washing of feet,<sup>44</sup> the agony of Gethsemane, and the betrayal by a kiss, the arrest by Jewish temple guards and Roman soldiers evidencing the collusion between politically corrupt friends.

Christ willingly submitted to the illegalities that awaited him, notwithstanding legions of angels were at his command. He sought to protect his friends as he was dragged down the slopes of the garden back to the walled city.

Scholars are in substantial agreement that significant legal errors occurred throughout what is commonly referred to as the “Jewish and Roman Trials.”<sup>45</sup> Sermons, lectures and books articulate the specific legal errors.<sup>46</sup> Conducted under both Hebrew and Roman laws, the trials are

---

<sup>44</sup> Bible commentators view this as a custom of washing of the feet and not as an ordinance. D&C 88: 138-141 clarifies that it was indeed an ordinance: “And ye shall not receive any among you into this school save he is clean from the blood of this generation; And he shall be received by the ordinance of the washing of feet, for unto this end was the ordinance of the washing of feet instituted. And again, the ordinance of washing feet is to be administered by the president, or presiding elder of the church. It is to be commenced with prayer; and after partaking of bread and wine, he is to gird himself according to the pattern given in the thirteenth chapter of John’s testimony concerning me.”

<sup>45</sup> It should be noted that some scholars question some of the charges of illegality, based upon the writings contained in the Mishnah. See, *infra*, fn. 29. This is because the writings of the Mishnah concerning the procedures and practices of the Sanhedrin refer to a later time than that of Jesus’ day. One must therefore assume that such later rules accurately reflected the rules for the Sanhedrin of New Testament times. While some debate appears credible, most of the legal principles articulated in the Mishnah can be traced to the Torah, thereby evidencing a continuity of legal doctrine through the time of Jesus. H. L. Strack, *Introduction to Talmud and Midrash* (1931, repr. 1969).

<sup>46</sup> The following is a selection of such writings on the trial of Jesus in alphabetical order: Allen, Steven W., *The Illegal Trial of Christ* (Mesa: Legal Awareness Series, Inc., 2005); Blinzler, J., *The Trial of Jesus. The Jewish and Roman Proceedings against Jesus Christ Described and Assessed from the Oldest Accounts* (Westminster: Mercier Press, 1959); Brandon, S.G.F., *The Trial of Jesus of Nazareth* (London, 1968); Brown, R.E., *The Death of the Messiah* (2 vols) (New York: Doubleday, 1994); Chandler, Walter M., *The Trial of Jesus from a Lawyer’s Standpoint* (Norcross: The Harrison Co., 1976); Crossan, John D., *Who Killed Jesus?* (New York: HarperCollins Publishers, 1989); Gorman, Ralph, *The Trial of Christ: A Reappraisal* (Huntington: Our Sunday Visitor, Inc., 1972); Kilpatrick, G. D., *The Trial of Jesus* (London: Oxford University Press, 1953); Lawrence, John, *The Six Trials of Christ* (Portland, 1977); Legasse, Simon, *The Trial of Jesus* (London: SCM Press, Ltd, 1997); Powell, Frank J., *The Trial of Jesus Christ* (London: Paternoster Press, 1949); Radin, Max, *The Trial of Jesus of Nazareth* (Delanco: The Notable Trials Library, 2001); Taylor, Innes A., *The Trial of Christ: A Legal Monograph* (Advocate, Edinburgh, T&T Clard, 1889); Wampler, Dee, *The Trial of Christ: A Twenty-First Century Lawyer Defends Jesus* (Enumclaw: WinePress Publishing, 2000); Wilson, Clifford, *The False Trials of Jesus Christ* (Oklahoma City: Heathstone Publishing, 1990);

evidence of corrupt systems. They are indicia of personal motives outweighing societal protections. Itemizing the reversible errors committed by these bodies is an appellate lawyer's dream case. The errors are so egregious that it does not take legal training to recognize them.

The Jewish trial comprised a series of hearings, which started during the night of his arrest and continued through the next morning.<sup>47</sup> A more formal hearing before the Great Sanhedrin followed this.<sup>48</sup> Certainly Annas<sup>49</sup> and Caiaphas<sup>50</sup> understood the procedural and substantive rules

---

Wilson, William Riley, *The Execution of Jesus* (New York: Charles Scribners Sons, 1970); Wingo, Earl L., *A Lawyer Reviews the Illegal Trial of Christ* (Hattiesburg: Wingo Publications, 1954); and Zeitlin, Solomon, *Who Crucified Jesus?* (New York: Block Publishing Co, 1964).

<sup>47</sup> The preliminary hearings before Annas and Caiaphas were likely illegal on at least four separate substantive bases:

1. They were a violation of the rule of law that forbade all proceedings by night.
2. Hebrew law prohibited a judge or a magistrate, sitting alone, from questioning an accused person judicially, or to sit in judgment on his legal rights, either by day or by night. No one-judge courts were allowed--their smallest sessions had three and their largest, seventy-one judges.
3. Private preliminary hearings - no matter how many judges were present - were specifically forbidden by Jewish law.
4. The striking of Jesus by the officer during the hearing before Annas (John 18:22). *See generally, infra*, fn. 45.

<sup>48</sup> We further witness more than two-dozen separate identifiable illegal incidents in this trial of Jesus before the Jewish high court, the Great Sanhedrin. Space only permits a sampling of examples.

1. Hebrew law demanded two sessions of the Sanhedrin in case of condemnation, to be held a day apart. Numbers 9:8; 15:34. In the case of a capital [death sentence] trial, sentence could not be pronounced until the afternoon of the second day. The Hebrew trial of Jesus was thus illegal for it was concluded within one day. Leviticus 24:11-12. "In pecuniary [money fines] cases a trial may end the same day it began. In capital [death sentence] cases acquittal [declaring innocent] may be pronounced the same day, but the pronouncing of sentence of death must be deferred until the following day in the hope that some argument may meanwhile be discovered in favor of the accused." Mishna, "Sanhedrin," (London: SPCK, 1931) 8:32 (and also found in 4:1).

2. The fact that the first of these trials was a night trial invalidated both, and was itself illegal. Like the Romans (and most modern civilizations), the Jews prohibited all legal proceedings by night. Night trials would encourage secret sessions that were forbidden. All who wished should be able to attend it, for someone might have testimony or evidence in favor of the defendant. Mishnah, "Sanhedrin" (London: SPCK, 1931) 4:1, says that capital cases could only legally be tried in the daytime; it would in any case probably take several hours to gather the full Sanhedrin for a formal session." R. T. France, *I Came to Set the Earth on Fire* (Downers Grove: InterVarsity Press, 1976) 145, fn. 2.

3. The trial of Jesus was illegal because it was held on the day before the Seventh-day Sabbath, - and it was also held the day before a Jewish ceremonial holy day - the Passover. In a double sense the proceedings against Jesus were thus illegal. "They shall not judge on the eve of the Sabbath, nor on that of any festival." Mishna, "Sanhedrin" (London: SPCK, 1931) 4:1. No court of justice in Israel was permitted to hold sessions on the Sabbath or any of the seven Biblical holidays (see Leviticus 23).

4. The Hebrew court trials of Christ never produced any acceptable testimony of witnesses against Jesus. Leviticus 19:16.

5. Not one witness could be found against Jesus, but in Hebrew law, not one but at least two witnesses must come forward and convincingly testify before sentence of condemnation could be pronounced (Deuteronomy 17:6, 19:16-19, Numbers 35:30). And the testimony of these - at least two-witnesses must agree. "If one witness contradicts another, the testimony is not accepted." Mishnah "Sanhedrin" (London: SPCK, 1931) 5:2.

6. The use of false witnesses was another serious infraction of Hebrew law. Such conduct not only

that were to govern these proceedings. Had these lawless religionists permitted an appeal, counsel could have argued multiple reversible errors:

- Illegal arrests
- Illegal private examination
- Defective indictment
- Unauthorized night proceedings
- Improper witnesses
- Uncorroborated alleged confession
- Unauthorized scheduled proceedings
- Unanimous verdict
- Improper renting clothes
- Irregular balloting

Despite these errors the Great Sanhedrin found Christ guilty and subject to the death penalty, a sentence so severe that they lacked jurisdiction to effectuate it.<sup>51</sup> So these auspicious leaders dragged Jesus to the front courtyard of the Roman government.<sup>52</sup> There they would plead their case to Pilate.<sup>53</sup> While initially unmoved and skeptical of the charges,<sup>54</sup> Pilate would

---

disqualified the judge in the case from having further jurisdiction in that trial, but on the basis of it he would also be relieved of his judgeship entirely. It also condemned the false witnesses involved to suffer the very penalty they sought to bring upon the accused. Those who testified against Jesus were themselves deserving of death.

7. The sentence against Jesus was unlawful because it was founded on His own confession (Mark 14:61.64).

8. The trial was concluded by a judge that had been disqualified to conduct it. This too was illegal. Under the Mosaic code, if a high priest intentionally tore his clothing, he was automatically disqualified as high priest and was to receive the death sentence (Leviticus 10:6, 21:10). Caiaphas did this during the trial of Jesus.

9. By Hebrew law the balloting was illegal. In a criminal case the judges must vote one at a time, beginning with the youngest. Each in his turn had to arise and cast his vote and then state his reason for his decision. Mishnah "Sanhedrin" (London: SPCK, 1931) 4:8; Benny, Phillip B., *The Criminal Code of the Jews* (London: Smith, Elder & Co.: 1880), 73-74. Both the vote and the reasons for it must be written down by the scribes before the next man stood up to give his sentence in the matter. Instead of this, Jesus was condemned by an acclamation--a single chorus of approval (Matthew 26:66, Mark 14:64). Even more interesting was the fact that the verdict was unanimous. "With the Anglo-Saxon jury a unanimous verdict is necessary to convict, but with the Hebrew Sanhedrin unanimity was fatal [to the case against the accused], and resulted in an acquittal - - Now if the verdict was unanimous in favor of condemnation it was evident that the prisoner had had no friend or defender in court for by Jewish law, he had only the judges as his defendants." Chandler, *The Trial of Jesus from a Lawyer's Standpoint* (Norcross, GA: The Harrison Co., 1976), vol. 1, 280-281. See generally, *supra*, fn. 46.

<sup>49</sup> Only John notes that Jesus was first taken to Annas (John 18:12-24).

<sup>50</sup> Jesus' hearings before Caiaphas is found in Matthew 26:57-66 and Mark 14:53-65. In both accounts these apostles appear to focus on articulating the illegalities of the trial before the Sanhedrin.

<sup>51</sup> "We are not allowed," they said, "to put a man to death." John 18:31.

<sup>52</sup> Jesus was brought to the Praetorium. Matthew 27:27; Mark 15:16; John 18:28.

<sup>53</sup> Jesus was condemned by the Jews for one crime (blasphemy) and yet executed by the Romans for another (treason), creating a legal vacuum. The Jewish leaders proffered that they found Jesus "perverting the nation, and forbidding to

eventually affirm the sentence and sanction the crucifixion of Jesus. In an attempt to deflect sole responsibility for his judicial determination, Pilate would allow Herod Antipas to question Jesus.<sup>55</sup> Antipas only wanted entertainment and when Jesus remained silent, he settled for watching a beating.<sup>56</sup> This “Roman trial” is equally replete with legal errors.<sup>57</sup> Pilate and Antipas ignored virtually every procedural and substantive Roman requirement to try Jesus. Yet, despite his

---

give tribute to Caesar, saying he himself is Christ a King.” Luke 23:2. This three-fold charge appeared to appease Pilate’s skepticism and Pilate proceeded with what is referred to as the Roman trial.

<sup>54</sup> In fact, Pilate would find Jesus innocent of any charges multiple times (*see, e.g.*, John 18:38; Luke 23:14). Pilate would even use the Jewish rite of washing his hands to further evidence his belief that Jesus was innocent. Matthew 27:24. This rite is found under the Law in Deuteronomy 21:6-9, where the elders of a city would wash their hands with water when a murderer could not be found. Edersheim explains: “The Mishnah bears witness that this rite was continued. As an administrator of justice in Israel, Pilate must have been aware of this rite. It does not affect the question as to whether or not a judge could, especially in the circumstances recorded, free himself from guilt. Certainly, he could not. Edersheim, *The Life and Times of Jesus the Messiah* (Peabody: Hendrickson Publishers, 1994), 578.

<sup>55</sup> According to Luke, Pilate sent Jesus to Antipas as a result of the Jews noting that Jesus had stirred up the people “from Galilee even to this place.” Luke 23:5. Under Roman law a trial was to be held in the province where the alleged misdeed was done. *See generally* Sherwin-White, A. N., *Roman Society and Roman Law in the New Testament* (London: Oxford Press, 1963), 28-31. As Jesus’ ministry extended through Galilee to Judea, both provincial locations appeared to hold concurrent jurisdiction. As such, Pilate sent Jesus to Herod Antipas not because he had to, but because he wanted to – much more of a diplomatic gesture than a legal requirement.

<sup>56</sup> It appears that Jesus’ refusal to answer Antipas’ petty questions embarrassed Antipas leading to the mockery, contempt and beating.

<sup>57</sup> Roman law developed over a period of one thousand years from the publication of the XII Tables in 451-50 B.C. to Emperor Justinian’s codification in A.D. 529-34. We well know what Roman court law was, for it was the law used in court trials at Rome, and it was required that it be applied the same way in the provinces. And because of this we can know that the Roman trial of Jesus before Pilate was illegal in several instances:

1. Private citizens presented the charges and prosecuted the case, not public officials as was done in the case of Jesus by the priests. Even though the Sanhedrin had already conducted a trial, their death sentence required a trial *de novo* new trial by Rome - and private citizens must initiate it and prosecute it.

2. If there was more than one accuser, a preliminary hearing must be held to decide which one should prosecute the case.

3. This preliminary hearing must be an entirely private one hearing with the defendant and the prosecutors and those testifying alone being present.

4. Only after this hearing could the several prosecutors frame an indictment.

5. And it was only after this hearing that the indictment could be presented to the judge.

6. It was only now that the trial date could be appointed and fixed on the legal calendar of coming events.

7. When the day of the trial actually came the judges as well as the jurors were summoned by heralds.

8. Now the impaneling of the jury began. This was done in this way: The names of a number of citizens were written on clay tablets and deposited in an urn or clay bowl. Then the number required was drawn out.

9. Only in the Forum, or Roman courtroom, could the trial be conducted. In this legislative hall seats were placed for the judges.

10. Decisions were arrived at by balloting and this was done as black (condemnation) stones or white (acquittal) stones were deposited in an urn as it was passed amongst them. Sherwin-White, A. N., *Roman Society and Roman Law in the New Testament* (London: Oxford Press, 1963), 24-47; *see generally* Justinian (C.F. Kolbert, translator), *The Digest of Roman Law: Theft, Rapine, Damage and Insult* (London: Penguin Group 1979); Wolff, Hans Julius, *Roman Law and Historical Introduction* (Oklahoma: Oklahoma Press 1976). None of these procedural steps occurred.

abandonment of the law, one truth he could not escape – “Jesus was innocent.” Both Pilate and Antipas knew it. Pilate was compelled to conclude as the presiding Roman judge: “I find in Him no fault at all.”<sup>58</sup> Thus we would witness the most striking and bizarre rulings in any case. Despite the repeated denials of his rights under both legal systems and the repeated acknowledgements of his innocence, Pilate would nonetheless order his crucifixion.<sup>59</sup>

The immorality of these trials was aptly noted by Giovanni Rosadi: “Grasping priests denounced Him, false witnesses accused Him, judges of bad faith condemned Him; a friend betrayed Him, no one defended Him; He was dragged with every kind of contumely and violence to the malefactor's cross, where He spoke the last words of truth and brotherhood among men. It was one of the greatest and most memorable acts of injustice.”<sup>60</sup> A judicial travesty had occurred.

### **Christ's Defense**

Christ's ministry produced some of the most profound, poetic and powerful teachings in all literature. His sermons evidenced a fertile mind. He was fluent in multiple languages<sup>61</sup>, cultures and traditions. He was truly a charismatic leader. People loved him. At times his teachings were terse. Other times they were complicated and technical. Yet each time they were enough. He was undisputedly a master teacher: He was the master teacher. Any lawyer would consider him the perfect witness.

Knowing this is where we can get stuck to understand this most important case. What bothers us is not the wanton disregard by the Jewish leadership of their sacred Mosaic law or the

---

<sup>58</sup> John 18:38.

<sup>59</sup> “I find in Him no fault at all” was in Roman law a judgment of acquittal, judicially pronounced, and irreversible except by a higher power upon appeal; and it was the duty of Pilate thereupon to have discharged Him. It was a rule of Roman law that “no man shall be put twice in jeopardy.” This principle of double jeopardy is an important one even in modern law. A man cannot be tried in a court of law twice on the same charge. *See, supra*, fn. 57.

<sup>60</sup> Giovanni Rosadi, *The Trial of Christ*, (New York: Dodd, Mead and Co., 1905), 1.

<sup>61</sup> While Jesus was exposed to multiple languages, it appears that he had a working knowledge of Hebrew, Latin and Greek. John 19:20. Jesus' first language probably was Aramaic, the native tongue of Palestine Jews.

cowardice of Pilate or brutality of Herod. Could we really expect more from these men? Their motives were as tainted, as their collective corruption was legendary.

Yet, Christ's defense was unexpected. It was the defense of silence. In American jurisprudence, no phrase is more widely known than, "You have a right to remain silent."<sup>62</sup> The silent defense is used principally where one's client is weak, lacks credibility or could be easily exposed. It is typically reserved for cases where one forces the accusers to prove guilt without the benefit of being able to use the testimony of the accused. Why would Jesus choose this defense? In hindsight, legally it was an obvious strategic disaster.

We want to be his counsel and from the defense table call him to the stand, have him testify about his teachings, his miracles and his authority. Yet he remained silent. He was silent to the abuse, charges and sentences; silent to the errors, the injustice and eternal wrongs. He spoke only briefly. His alleged confession was but two words, "I am."<sup>63</sup> And even that confession belied conviction, as he was the only man ever to live that could not blaspheme for he was, in reality, the Son of God. He proffered no defense or explanations. He was silent during his trials. His silence cost Him His life.

---

<sup>62</sup> Fifth Amendment to the U.S. Constitution. See *Miranda v. Arizona*, 384 US 436 (1966). As the United States Supreme Court noted in 1896: "So deeply did the iniquities of the ancient system impress themselves upon the minds of the American colonists that the States, with one accord, made a denial of the right to question an accused person a part of their fundamental law, so that a maxim, which in England was a mere rule of evidence, became clothed in this country with the impregnability of a constitutional enactment" (emphasis added), *Brown v. Walker*, 161 U.S. 591 at 596-597 (1896).

<sup>63</sup> Mark 14:62; see also Mark 8:27-30. Farrar commentary on this exchange is useful in better understanding the clarity of Jesus' response: "Strange question to a bound, defenseless, condemned criminal; and strange question from such a questioner—a High Priest of His people! Strange question from the judge who was hounding on his false witnesses against the prisoner! Yet so adjured, and to such a question, Jesus could not be silent; on such a point He could not leave Himself open to misinterpretation. In the days of His happier ministry, when they would have taken Him by force to make Him a King—in the days when to claim the Messiahship in their sense would have been to meet all their passionate prejudices half way, and to place himself upon the topmost pinnacle of their adoring homage—in those days He had kept His title of Messiah utterly in the background: but now, at this awful decisive moment, when death was near—when, humanly speaking, nothing could be gained, everything must be lost, by the avowal—there thrilled through all the ages—thrilled through that Eternity, which is the synchronism of all the future, and all the present, and all the past—the solemn answer, 'I AM: and ye shall see the Son of Man sitting on the right hand of power, and coming in the clouds of heaven.'" Farrar, Frederic R., *The Life of Christ*, (Portland: Fountain Publications, 1980), 647-48.

We find this Jesus different than the man who taught the Sermon on the Mount,<sup>64</sup> or calmed the waters<sup>65</sup> or raised Lazarus.<sup>66</sup> Christ displayed his intellectual capacity and paternal authority on many occasions. Remember the question posed by two groups with radically different political agendas who were trying to trap Jesus about paying the census tax to Caesar?<sup>67</sup> The Pharisees resented Roman authority while the Sadducees embraced it and prospered because of it. These rivals joined forces to pose this question to Jesus, expecting it would force him into a lose-lose situation. If he said yes, the Pharisees could denounce him as a disloyal Jew. If he said no, the Sadducees would accuse him of treason.

Jesus artfully avoided this legal snare by asking to see the coin used to pay the Emperor's tax. When they produced it rather easily, he pointed to Caesar's image on the coin. His closing argument was perfect: "Then repay to Caesar what belongs to Caesar and to God what belongs to God." Jesus explained that having already become subject to the Roman Empire, paying Caesar's taxes was an unavoidable consequence. The intended trap failed to ensnare Jesus.<sup>68</sup>

This display of critical analytical skills is followed by another attempt by Jerusalem's religious elites to trip Jesus:

"But when the Pharisees had heard that he had put the Sadducees to silence, they were gathered together. Then one of them, which was *a lawyer*, asked him a question, tempting him, and saying, Master, which is the great commandment in the law? Jesus said unto him, Thou shalt love the Lord thy God with all thy heart, and with all thy soul, and with all thy mind. This is the first and great commandment. And the second is like unto it, Thou shalt love thy neighbour as thyself. On these

---

<sup>64</sup> Matthew 5-7.

<sup>65</sup> Luke 8:24.

<sup>66</sup> John 11:43-44.

<sup>67</sup> Matthew 22:15-22

<sup>68</sup> "Render therefore unto Caesar the things which are Caesar . . ." Matthew 22:17.



two commandments hang all the law and the prophets.”<sup>69</sup>

Jesus was able to summarize the Law, which encompassed the first five books of the Old Testament, including literally hundreds of rules, into three short sentences – a feat still unmatched in literature today.

Perhaps one more example. Remember the Jewish leader’s attempt to trap him about the sins of a woman.<sup>70</sup> Yes, the woman had committed a moral sin, but what of the Jewish leaders? They were not interested in justice for the woman or upholding the honor of God among the people. They were only interested in trapping Jesus. If she was caught in the act then where was the man? He deserved the same punishment, he was equally guilty, but he was not there. Jewish law needed two witnesses for prosecution.

This was another legal trap. They theorized whether Jesus would stand by the Law of Moses and stone her? Leaving him in conflict with the Roman authority which preempted the Jewish laws for capital punishment; or would he let her go – leaving him in conflict with what Moses taught – this going against God’s law. These leaders set the trap and waited. One can imagine them standing with folded arms and feeling very clever. More is going on in this incident than even they thought. Jesus chose to demonstrate the balancing demands of divine justice with the constraint of divine mercy.

Jesus does not even need to look up, almost to say, “Is that all you have got?” He then gives them an ultimatum: “He that is without sin among you, let him first cast a stone at her.”<sup>71</sup> They thought they were wise – but the wisdom of Jesus left them no option but to admit defeat.

---

<sup>69</sup> Matthew 22:34-40; see Edershem, *The Life and Times of Jesus the Messiah* (Peabody: Hendrickson Publishers, 1994), 637-39.

<sup>70</sup> John 8:1-11.

<sup>71</sup> John 8: 7.

With such undeniable skills, why would he remain silent during the most important trial of his life? At first, we may think that he was perhaps simply fulfilling prophecy. As Isaiah taught of him: “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 openeth not his mouth.”<sup>72</sup> This passage led me to believe that perhaps he was silent because he knew that such conduct fulfilled this very prophecy. But that answer never seemed quite right. The price was too high. So we must dig deeper.

Towards the end of his trials Pilate made an interesting observation: “And when he was accused of the chief priests and elders, he answered nothing. Then said Pilate unto him, Hearest thou not how many things they witness against thee? And he answered him to never a word; insomuch that the governor marveled greatly.”<sup>73</sup> Why was Pilate marveling? Was Pilate marveling at Jesus’ self-control? Or did he view the silence as strength? Yet, this conclusion did not seem satisfactory. One is forced to consider whether the Roman law recognizes his silence as a defense at all? What if his silence was to them actually an admission of guilt?

This frightening possibility is confirmed: the principle reflected in the maxims against self-incrimination was unknown in classical Roman law.<sup>74</sup> Under Roman principles, an accused had the

---

<sup>72</sup> Isaiah 53:7.

<sup>73</sup> Matthew 27:13-14.

<sup>74</sup> The principle reflected in these maxims was unknown in classical Roman law. Cantor, Norman F., *Antiquity, The Civilization of the Ancient World* (New York: HarperCollins Publishers Inc., 2003) (“Roman law required at least two witnesses against the defendant. One of these witnesses could be, and preferable was, the defendant himself. Far from prohibiting self-incrimination, Roman law sought it. The defendant was ‘put to the question’ under torture.”) 217; Radin, Max, *Handbook of Roman Law* (New York: West Publishing Co., 1927), 268 (“There is, to be sure, a rule against self-incrimination at the common law, which cannot be said to be of much value to the accused under existing American police methods. At Roman law no such rule existed.”); Blakemore, Arthur W. and Moore, Dewitt C., *Hand Book on the Law of Evidence* (Albany: Matthew Bender & Co., 1919) (“The modern rule that the accused cannot be found to testify against himself was not a part of the civil or Roman law or even of the early English common law under all of which torture was freely practiced.”) 459; *see also* Richard H. Hemholz, *Origins of the Privilege Against Self-Incrimination: The Role of the European Ius Commune*, 65 N.Y.U. L. Rev. 962, 964 (1990). Levy, Leonard, W., *Origins of the Fifth Amendment: The Right Against Self-Incrimination* (Chicago: Ivan R. Dee, 1968), viii-ix, 4-9, notes that the privilege merely protected a person against revealing an unknown crime but otherwise obligated him to respond to incriminating questions. When exposed by public rumor or common report, the individual must answer. *See*

affirmative duty to testify. Failure to do so was an effective admission. Pilate's inquiry was not in admiration of Jesus, but confirming that by not defending himself, Jesus was admitting his guilt. If only we could have been his counsel at this critical juncture, we would ask for an immediate recess to explain to him the severity of his position of silence. We would argue that Roman justice demanded a defense. We would remind him of his prior run-ins with the Pharisees, Sadducees, Romans and others. We would remind him just how smart he was. We would plead with him to answer their questions. "We can win this case," we would tell him. "You need not be as a lamb before the shearers, dumb."

While we are struggling to understand the terrible and inevitable consequence of his silence, Peter's counsel comes to our rescue. Peter, the presiding apostle understood. The leader who jumped over the side of his fishing boat to swim to his Savior,<sup>75</sup> tells us not to raise any more objections. Christ's trial went exactly as it was foreknown.

Peter explained: "Christ also suffered for us, leaving us an example, that ye should follow his steps: Who did no sin, neither was guile found in his mouth: Who, when he was reviled, reviled not again; when he suffered, he threatened not; but committed Himself to Him that judgeth righteously: Who his own self bare our sins in his own body on the tree, that we, being dead to sins, should live unto righteousness: by whose stripes ye were healed. For ye were as sheep going astray; but are now returned unto the Shepherd."<sup>76</sup>

---

also MacNair, M.R.T., *The Early Development of the Privilege Against Self-Incrimination*, 10 Oxford J. Legal Stud. 66, 67 (1990) (asserting that privilege originated in common family of European laws and particularly canon law). Interestingly, this principle appears to have been well established under Jewish law. The prohibition against self-incrimination is derived from two Biblical verses: "One witness shall not rise up against a man for any iniquity, or for any sin, in any sin that he sins; at the mouth of two witnesses, or at the mouth of three witness, shall the matter be established" (Deuteronomy 19:15; cf. Numbers 35:30; Deuteronomy 17:6); and "The fathers shall not be put to death for the children, neither shall the children be put to death for the fathers; every person shall be put to death for his own sin" (Deuteronomy 24:16). See also Rosenberg, Irene M. and Rosenberg, Yale L., "In the Beginning: The Talmudic Rule Against Self-Incrimination," 63 NEW YORK UNIVERSITY LAW REVIEW 955, 965.

<sup>75</sup> John 21:2-8.

<sup>76</sup> 1 Peter 2:23-24.

We need to read Peter's words carefully to understand the depth, importance and intentions of the silence. Why was Christ silent? Why did He admit guilt? He was silent because he was not the one on trial. The trial was part of the greater process of the atonement. The atonement was not for him. It was for everyone else. As he died for us, he was also silent for us. Jesus was in *our* shoes. He was taking *our* place. He was wearing *our* sins. He had no defense, because *we* are guilty. “Who his own self bare *our* sins in his own body on the tree, that *we*, being dead to sins, should live unto righteousness: by whose stripes *ye* were healed.” Yes, Jesus was innocent, yet by proxy, he was guilty. His silence was an eternal admission of our guilt.

He was silent for me. he was silent for you. His silence resulted in him being beaten, scourged, taunted, convicted and crucified for us. Which sins of yours did Jesus carry to the garden, to the courts and to the cross? All of them! His punishment would be of eternal consequence so that mercy could be available to each of us. And so each Sunday, as we participate in the Sacrament, we renew our covenants with him. The sacrament prayers affirms that we are “willing to take his name upon us,” just as he took each one of our names upon him. That we will be a “witness” of him and “always remember Him.”<sup>77</sup> As he was willing to be silent for us, we commit never to be silent about him.

This is my testimony, my witness of eternal hope for his last trial: that he willingly died for me. He is my personal Savior. Through the gift of repentance that he earned, I have the opportunity through mortality to pay a retainer so that he will be my advocate, my attorney with my Heavenly Father.<sup>78</sup> He won my case forever; there is no appeal of this supernal truth.

---

<sup>77</sup> D&C 20:76, 78.

<sup>78</sup> Given to Joseph Smith, Jr. in 1831, Section 45 of the Doctrine and Covenants articulates Jesus' role as our advocate with the Father: “Listen to him who is the advocate with the Father, who is pleading your cause before him— Saying: Father, behold the sufferings and death of him who did no sin, in whom thou wast well pleased; behold the blood of thy Son which was shed, the blood of him whom thou gavest that thyself might be glorified; Wherefore, Father, spare these my brethren that believe on my name, that they may come unto me and have everlasting life.”