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# The Trials of Jesus and Jeremiah

Bernard S. Jackson

The trial of Jesus is, by far, the most difficult problem of ancient legal history. Many famous scholars have quite deliberately avoided writing and talking about it because of its immense complexity. My own teacher, David Daube, is a notable example. His contributions to our understanding of the Gospels are immense, but by and large he has abstained from writing about the trial. I, too, have hitherto followed in that tradition: it must be a sign of either incipient senility or utter arrogance that I should deign to address the subject now.

I will not be able to solve the problem of the trial of Jesus for you. Indeed, I consider that in conceptual and methodological terms the problem is insoluble. The important thing is for us to understand *why* it is insoluble, to understand the methodological difficulties which cause us to draw that conclusion.

Broadly speaking, there have been two approaches to the trial of Jesus. One has been an historical approach, seeking—as we do in the quest for the historical Jesus—to find the historical trial. If we succeed in finding the historical trial then, presumably, we can also attempt an historical legal evaluation of that trial—not in terms of the standards of the American Constitution (which almost inevitably informs the writings of some contemporary American legal historians on the matter) nor for that matter by the standards of the English common lawyer, the continental civil lawyer, or any other form of modern jurist—but rather in terms of the contemporary legal standards of that age. But here another problem arises: not only is it difficult to succeed in the quest for the historical trial of Jesus, it is almost equally difficult to succeed in the quest for the genuinely contemporary legal standards which were applicable in that era. So we have a double problem of evaluation.

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Many people have, in recent times particularly, reacted to these historical problems by saying, "We can avoid the problems of historical gaps in our knowledge by concentrating on what we do know. We have a number of texts. These texts were written in a particular theological context, the context of the early church. Let us see from a *literary* perspective what these texts meant to the writers and presumably to the readers in the context of the early church." The texts' meaning will have been a function, at least in part, of their relationship to other literary phenomena, and in particular to the literary phenomena of the Old Testament. This is not simply the adoption of some modern literary approach—structuralist, poststructuralist, or deconstructionist—to the ancient texts. It is entirely validated by the theological beliefs of the time. For if we ask, in quasi-secular terms, "What do we mean by the notion of fulfillment of prophecy?" the answer resides in some form of repetition, of repeated action which is significant because of its repetition—its significance deriving from the reiteration of that which was originally divine or inspired in a different divine and inspired form.

In this lecture, I shall summarize some of the difficulties confronted by any historical account, and then sketch what some suggest may be an original contribution to this debate: I shall suggest that important literary connections are to be found between the trial of Jesus and the trial of Jeremiah.

### **The Historical Sources**

First, let us consider the status of the available sources.

The four gospels are not the only sources from the ancient world which talk about the trial of Jesus, although they are the sources which talk about it by far the most extensively. Such other information as we have is entirely fragmentary, although precisely because it is fragmentary it is also more clear, or at least more categorical.

The one Roman source which refers to the passion of Jesus is a very brief statement by Tacitus (who wrote around A.D. 110), describing the persecution of the Christians in Rome under Nero, in the course of which he gives an explanation of the name Christian. Christos, the founder of the sect, he says, had undergone the death penalty in the reign of Tiberius, by sentence of the procurator Pontius Pilate (*Annals* 15.44). This Roman historian shows no embarrassment in saying, quite straightforwardly, that this was a sentence of the Roman governor. Indeed, although Tacitus does not

state so directly, the context in which he speaks—namely his description of the activities of the early Christians in Rome, whom he regards as troublesome—implies that Jesus was actually executed by Pontius Pilate because of political troublemaking of some kind, but nothing more specific is said.

There are also several passages in the Talmud which allude to a person (or persons) by the name of Jesus, one of which seemingly refers to a trial,<sup>1</sup> but their historical value is problematic, for a number of reasons.

First, these passages were removed from the Talmud text (in the age of printing) by Christian censors and have only been rediscovered and reincorporated in some editions on the basis of secondary sources.

Second, even before the censors got to them, they had been formulated with an eye to avoiding censorship, unsuccessfully as it turned out.

Third, there is a view—expressed most directly by Justice Haim Cohn in *The Trial and Death of Jesus*—that it is unlikely that these sources do refer to the Jesus of the New Testament. One of them clearly refers to a period a hundred years before Jesus, and there is quite a credible argument that all of them originally referred to that earlier Jesus and only later were misinterpreted as referring to the Jesus of the New Testament. So those rabbinic sources do not take us very far.

A third source is the Slavonic Josephus. The Jewish historian Josephus was a general who took part in the Jewish revolt against Rome, then went over to the Romans, was accepted by them, wrote much of his Jewish history in Rome, and clearly had to rely on the patronage of the Roman emperors. Here, too, there was a problem of (self-)censorship.

There is, however, a very interesting passage in Josephus, which is missing from the Greek manuscripts, almost certainly again as a result of censorship. It reemerged in the thirteenth century in a Russian translation, hence it is called the “Slavonic” Josephus. In the 1930s, there was an immense and heated debate between Robert Eisler and Solomon Zeitlin over the authenticity of this text. I am prepared to regard it as going back to an original passage of Josephus, but in the course of textual transmission so many obvious corruptions have entered into it that it is very difficult know how far we can rely on it. More of this anon.

Finally, we have the Christian sources. It need hardly be said that the accounts written of the trial by the authors of the synoptic gospels were written at least a generation after the event; that the issue was heavily loaded theologically; and that at least some of the gospel writers, particularly Mark, were already writing in Rome, or to the Romans, and were dependent upon or were seeking the approval of a Gentile/Christian audience which was itself already being persecuted by the Romans. There was, therefore, every reason for the early Christian accounts to diminish the role of the Romans. If in order to diminish the role of the Romans it was necessary to exaggerate the account of Jewish involvement, then that was something that had to be done.

At any rate, neither theologically nor historically can we say that any of the sources, whether they be Jewish or Christian, were impartial, and there begins our problem. Moreover, the gospels themselves have a very complicated literary history. Not surprisingly, scholars have identified a considerable number of discrepancies amongst the gospel accounts. Of course, discrepancies do not necessarily destroy credibility, but they do have an effect upon it. Taken together, these discrepancies have been regarded by many historians as significant.

### **The Difficulties Facing an Historical Account**

Let me briefly review some of the discrepancies in the gospel accounts. First, there is a discrepancy relating to the arrest of Jesus. Who did arrest Jesus? The synoptics say it was a group of Jewish police, but John is quite clear that a Roman cohort (*speira*) was involved, along with "the officers from the chief priests and the Pharisees."<sup>2</sup> The fact that it is John who says that the Romans were involved in the arrest is particularly surprising, since, of all the gospels, John is particularly concerned overall to excuse the Romans from responsibility for the crucifixion. This detail has been regarded by some as evidence that John was working with early materials and that in the process of writing them up for his purpose, he did not note the conflict between his sources and the general direction of his own account.

Second is the question of the charge against Jesus. In Matthew 26:65 and Mark 14:64, a charge of blasphemy is made in the course of a Jewish hearing. But in both accounts the condemnation is followed immediately by a contemptuous challenge to the prophetic status of Jesus. One of the Jewish officials strikes Jesus from behind

and says, "Now, Messiah, if you are a prophet, tell us who hit you." That is clear evidence that the prophetic status of Jesus was, at the very least, in issue, and the fact that this incident is mentioned at the time when Jesus is being charged, or at least accused, before some Jewish institution (or Jewish group), seems to suggest the possibility of an alternative charge (of which I shall say more a little later on), namely false prophecy. Nevertheless, blasphemy is the predominant conception of the accusation in Matthew and Mark. Luke and John, on the other hand, are quite vague: in Luke, although not clearly stated, the charge (made in the proceedings before Pilate) rather appears to be political in character: sedition, incitement to not pay Roman taxes.

Third, the problem of the nighttime hearing before the Sanhedrin. I say Sanhedrin in deference to the modern literature, though it is not at all clear that this was the body which was involved. Mark has two phases of procedure before the Jewish authorities, whereas Luke omits the nighttime proceeding entirely. One leading biblical commentator has suggested that this omission is a correction of the unlikely procedure in Mark of holding an inquiry in the middle of the night and another meeting in the early morning.<sup>3</sup>

Fourth, the sentence. In Mark and Matthew, the Jewish body condemns Jesus; in Luke there is no mention of any pronouncement of a sentence by the Jewish body; in John, the Jews deny that they have any jurisdiction in the matter. The omission in Luke might appear to be an argument from silence, were it not for the fact that there is corroboration in Acts 13:27-28, where the inhabitants of Jerusalem and their rulers are said to have found no cause of death in Jesus. In short, according to Luke there was no condemnation of Jesus in a Jewish hearing; nevertheless, they handed him over to Pilate and asked Pilate that he should be killed.

There are many other discrepancies, one of the most notable being the story in Luke about a referral by Pilate to Herod Antipas, of which there is no suggestion in any of the other gospels.

Next, we must consider the relationship between the gospel accounts and the contemporary law of the first century: both Jewish law and Roman law. One point which has been much debated is the following: could Jesus have been convicted by any Jewish court? Could Jesus have been convicted of the offense of blasphemy? The argument has been advanced by many Jewish scholars that according to the definitions of blasphemy found, first of all, in the Bible and then elaborated in early Rabbinic literature nothing that Jesus said or did

could conceivably have been interpreted as constituting this offense. Because blasphemy was conceived of as an act of cursing God—and indeed the curse (according to Rabbinic law) had to be one which used explicitly the tetragrammaton—Jesus cannot have committed the offense.

But that raises a point which I mentioned a moment ago. Are we, in fact, in a position to reconstruct what the Jewish law of blasphemy was in the years around A.D. 30–35, when the sources on which this interpretation is based date no earlier than the period of the Mishnah, about A.D. 200? Indeed, there are those who have argued that rather than interpreting the New Testament in the light of later Jewish law (even though only a century and a half later) we should recognize that the writers of the New Testament were Jewish. The stories are stories about a Jewish milieu, about Jewish culture, Jewish history taking place in the land of Palestine. We should therefore regard the New Testament as the best evidence that we have as to what Jewish law actually was in the first half of the first century A.D. However, as already noted, the New Testament sources are not impartial. They are not legal doctrine; they are not the setting out of an account of contemporary Jewish law.

In short, if one is to validate a charge of blasphemy under Jewish law, it has to be a very much wider conception of blasphemy than is found in either earlier or later Jewish sources. The New Testament *may* be evidence of such a wider conception, but if so, it is the *only* evidence of it.

The same methodological problem afflicts our evaluation of the procedural legality of the Jewish proceedings. Are the gospel accounts unreliable in what they say about the Jewish procedure, insofar as it appears quite clearly to contradict the norms (norms found in the Mishnah and the Tosefta, which are nearly two hundred years later than Jesus) of Jewish criminal procedure. Or are they the best evidence we have of what these procedures really were in the first half of the first century?

The Mishnah (*Sanhedrin* IV, 1) tells us that in capital cases the trial must take place in the daytime and the verdict be given in the daytime. It is illegal to hold a nighttime procedure. Did the nighttime interrogation break the rule, or did the rule not yet exist? Or did the nocturnal interrogation have some nonjudicial function?

Secondly, there is the problem of confession. The responses of Jesus, when interrogated both by the Jews and by the Romans, vary from one gospel to another, but even the most explicit leaves some

questions of interpretation open. When Jesus is asked whether he is the son of God but remains silent, is that an acceptance of the proposition that has been put to him? When he says (Luke 22:70–71), “You say so” (*humeis legete*), in response to the question: “Are you the Son of God, then?” is he saying, “It is as you say,” or is he saying, “That’s what *you* say”? The Greek can be interpreted either way. But whichever way one interprets it, it is clear that this is no unambiguous confession. And even if there were an unambiguous confession, it would not suffice according to the norms of Jewish law as represented in the Mishnah. But did these norms apply already at this time?

Finally, there is the rabbinic institution called *batra’ab*, translated “forewarning.” It is a most extraordinary procedure for any system of criminal procedure: a rule which says that a person, even where there are witnesses, may be convicted of a capital offense only if the witnesses have said to the person, as he was about to commit the crime, “Do you know that what you are about to do is a capital offense?” and the person about to commit the crime must respond, not merely “I know that,” but “I know and I accept the consequences.” The Tosefta (*Sanhedrin* XI, 2) puts it thus: “If he be warned and answer nothing, or if he be warned and nod his head and even say ‘I know,’” —that is insufficient for capital liability. He is not liable until he says, “I know it is capital, but even so I am committing the offense.” In the cases rejected by the Tosefta, we come rather close to *humeis legete*.

Surely, one might argue, this *batra’ab* was a most unrealistic condition of capital liability? One would really have to be a psychopath of a very peculiar kind to be caught by this procedure. In fact, there is an argument that the whole procedure was designed as a way of eliminating capital punishment from Jewish criminal procedure. There is evidence that many of the Rabbis were totally opposed to capital punishment. A dictum in the Talmud says that a court which sentences one person to capital punishment in seventy years is regarded as a hanging court. That is the possible historical context and significance of *batra’ab* in Jewish criminal procedure. But where do these points leave the trial of Jesus? Did the rule exist (but was broken in this case), or does the New Testament show that the rule did not yet exist? If we take this requirement at face value, it is impossible that Jesus could have been lawfully convicted.

There are also problems in relationship to contemporary Roman law and administration. I will not go into these in detail. There are at least three suggestions as to what Jesus might have been



charged with under Roman law before Pontius Pilate: treason under the *Lex Julia de maiestate*, sedition contrary to the *Lex Cornelia de sicariis*, or perhaps no specific statutory charge at all (procedure *extra ordinem*). Or was the proceeding an exercise of executive authority by a Roman governor with overall authority for law and order? We do not know for certain what the Roman procedure was in the provinces at this time; most of our information comes from the classical Roman jurists two hundred years later. It has, nevertheless, been argued that delegation of legal authority by the Romans, to the extent suggested in the gospel accounts (delegation, whether it be of the power of formulation of the charges to Caiaphas and the high priests, or of the preliminary inquiry, or, as in some sources, of the actual execution, or even the decision making) is unlikely. A prefect like Pilate did not have the power to make that kind of delegation, from what we know of Roman sources.

### The Trial as a Literary Construction

So much for the difficulties of a historical account. We turn now to a possible literary solution. One reason why this appeals to me is the following: by adopting a literary solution, we can integrate our approach to the problem of the trial and death of Jesus with our approach to other problems in the New Testament regarding the life and teaching of Jesus. I think that integration is a terribly important thing to do. When we read contemporary scholarship on the New Testament, we seem to be in almost two different worlds: there is a literature about the life of Jesus, and there is a literature about the death of Jesus. The literature about the healings and the parables, etc., are replete with allusions to the Old Testament, and these allusions are *not* regarded as a matter of embarrassment or fabrication. Jesus had the title prophet<sup>4</sup> and said that he came to fulfill the law and the prophets.<sup>5</sup> The meaning of these stories is clearly constructed in terms of Old Testament allusions. How can it be that when we move from the story of the life to that of the death of Jesus we enter a quite different mode of contemporary scholarship, an historical rather than a *literary* mode? It does not seem to fit.

There have, of course, been those who have sought Old Testament themes in the story of the passion and the death of Jesus. But the themes which have been sought have been almost exclusively theological and not narrative. By far the most important source, in modern scholarship, has been the Servant Song, the "suffering servant"

of Isaiah 53.<sup>6</sup> When people say that the death, passion, and resurrection of Jesus is a fulfillment of that kind of prophecy, they are not making a claim about the reiteration of narrative, but rather about the *theological* significance of the events: they talk about fulfillment of notions of atonement, redemption, vicarious suffering, and so on. There are other models, too: those of Isaac and of Moses himself. For even Moses, in being denied entry into the promised land, is said to have suffered for the sins committed by other Israelites.

What is interesting about the trial of Jeremiah is the fact that it seems to provide a *narrative* basis for a literary interpretation of the trial of Jesus. Now this connection has been, as far as I know, entirely overlooked in modern scholarship, which, when you think about it, seems quite extraordinary. After all, the gospels provide a detailed account of the trial of Jesus, and we also have a quite detailed account of the trial of an Old Testament prophet. Jesus claimed to come to fulfill the prophecies. Why have people not looked back at the trial of Jeremiah for its possible influence on the writing of the gospel accounts? The simple answer, I suppose, is this. There is one crucial difference between the trial of Jeremiah and that of Jesus. Jeremiah was acquitted. But the story did not end there, as we shall see.

Here is an account of the structure of the trial in Jeremiah 26, annotated to indicate the gospel parallels:

- A: Jeremiah, like Jesus, preaches in the court of the Temple.<sup>7</sup>
- B: He does so following a divine mission but with no guarantee of success.<sup>8</sup>
- C: He prophesies the destruction of the Temple.<sup>9</sup>
- D: There is priestly involvement in arresting<sup>10</sup> and charging<sup>11</sup> the prophet alleged to be prophesying falsely.
- E: There is some form of hearing in the Temple itself (i.e. within priestly jurisdiction).<sup>12</sup>
- F: The secular authority then convenes a court.<sup>13</sup>
- G: The priests take the lead in framing the accusation before the secular authority.<sup>14</sup>
- H: The accused prophet defends himself, reasserting the genuineness of his mission.
- I: The secular rulers tell the priests that they have decided to exonerate the prophet.<sup>15</sup>
- J: A parallel is cited from the prophetic mission of Micah.
- K: Comparison is made with the fate of another accused.<sup>16</sup>
- L: The latter suffers execution by the secular authority.<sup>17</sup>

M: Jeremiah escapes this fate, but stress is placed upon the potential role of the people as being responsible for the life-or-death decision.<sup>18</sup>

Two of the most difficult historical problems of the trial of Jesus seem to be explained by details in the account of the trial of Jeremiah: the relations between Pilate and the Jewish authorities and the so-called *privilegium paschale*. Most significantly, in the account of Jeremiah, as in the account of Jesus, there are two sets of people involved. On the one hand, there are the priests. It is they who make the charges and make the accusations. But it is a separate secular authority who renders the decision. In the trial of Jeremiah, it is the princes of Judah who have jurisdiction, who make the decision. The decision goes the other way than in the trial of Jesus, but the narrative continues to talk about another prophet, Uriah, who is accused of having done much the same thing as Jeremiah. The charge is clearly one of false prophecy in the cases of Jeremiah and Uriah, and in the case of Uriah, which is a story told in the same chapter, Uriah is executed. So the theme, even of the execution of a prophet on a charge of false prophecy, is there in that same chapter of Jeremiah.

The story of Jeremiah's trial can also assist us to understand the so-called *privilegium paschale*, the privilege of demanding the release of a prisoner at Passover time, who turns out to be Barabbas. This custom is something which is not supported in any source outside the New Testament. Perhaps it was suggested in part by the comparison to the account in Jeremiah of another accused (Uriah) who was actually executed. Both narratives thus compare the fates of two accused: the one executed, the other released.

### Concluding Observations

Let me now conclude. Though my analysis is concerned with literary relationships, I am still asking historical questions, because the question which I want to pose is not "How might someone like Jacques Derrida or Frank Kermode read these gospel accounts?" but rather "How would a contemporary audience have understood them?" I *am* thus making an historical claim: these aspects of the gospel account were written with the literary analogue of Jeremiah in mind for an audience that would understand it in this way. But that then poses further historical questions. What kind of audience would that have been? Would it have been the only kind of audience? It need not

have been. If the narrative analogy was directed to a fairly popular audience, the possibility is not excluded, for example, that Paul in his doctrine of redemption might write up the historical traditions that had come his way in terms of a different, far more sophisticated theological set of literary allusions—based, as Duncan Derrett<sup>19</sup> and others have argued, on the suffering servant of Isaiah. There is no problem in asserting multiple readings for different audiences.

There is, surprisingly, some external historical support for this literary interpretation of both the life and death of Jesus. The passage from Josephus which has survived in the Slavonic version says that there were some people at the time who regarded Jesus as the revived Moses: “Some said of him, ‘Our first lawgiver is risen from the dead and hath performed many healings and arts.’”<sup>20</sup> Now, what does this passage have to do with the tradition of Jeremiah? It has been suggested from the way in which Jeremiah preaches in the temple sermon that he too claimed the obedience due to a “prophet-like-Moses.” The terminology is evocative of the language of Deuteronomy 18. And the New Testament confirms not only the existence of an identification of Jesus with the prophet-like-Moses (Acts 3:23–24; 7:36–42) but also an identification of Jesus with Jeremiah himself: “Now when Jesus came into the district of Caesarea Philippi, he asked his disciples, ‘Who do men say that the Son of man is?’ And they said, ‘Some say John the Baptist, others say Elijah, and others Jeremiah or one of the prophets’” (Matt. 16:13–14).

There is, in fact, an entire set of relations between the three figures of Moses, Jeremiah, and Jesus, which may be summarized in terms of family resemblance. There is a set of characteristics: each figure partakes of a considerable number of them, though not of all. Thus, Moses performs miracles in proof of his authority, he is regarded as a prophet, he achieves the liberation of the Israelites from Egypt, he gives the law, he breaks the first set of tablets, and he has to obtain another. Jeremiah is also a prophet; he is associated with the writing of divine revelation in the form of a book, his first scroll is destroyed and has to be rewritten, he offers authoritative reformulations of the law, he even offers a “New Covenant,” he preaches in the Temple against the very institution of the Temple<sup>21</sup> and in language evocative of the authority of a prophet-like-Moses,<sup>22</sup> and he is put on trial. Jesus performs miracles, he preaches in the Temple against at least some of the institutions of the Temple, he is seen by some as a liberation leader against the Romans, he proclaims authoritative new versions of the

law, he suspends the law on particular occasions (in line with the rabbinic understanding of the authority of the prophet-like-Moses), he is accused in some accounts of false prophecy, and he is put on trial.

I conclude with a detail, which also indicates the kind of questions we should pose regarding the relationship between historical claims and literary meaning. Why do Mark and Matthew choose blasphemy as the charge against Jesus in the proceedings before the High Priest?

I suggest that the traditional Jewish understanding of blasphemy as a dual offense against God and the king (Ex. 22:28) may have been evoked, in its bipolarity, by the combined offense which Jesus apparently gave to the high priesthood on the one hand and the Roman administration on the other. True enough, the purported dialogue in the Synoptics of the interviews with the high priesthood, in the context of which the blasphemy charge was pronounced, does not suggest “cursing” either God or the king, even if the parallel accusation of setting oneself up as a “King of the Jews”—what according to the Slavonic Josephus Jesus was certainly encouraged by some of his contemporaries to do—could be construed as a “cursing” of the secular authority. Yet even without importing into the narrative of the trial of Jesus the literal particularities of the Old Testament conception of blasphemy, it does seem that the choice of blasphemy may have been informed not by historical events but rather by the literary connotations of the blasphemy offense, as indicated elsewhere in biblical literature.

Recall, in this context, the accusation made by Jezebel against Naboth (1 Kgs. 21). Naboth was entirely innocent; all he sought to do was to preserve his “vineyard,” “the inheritance of my fathers,” against King Ahab’s intimidatory offer to buy it. The accusation of Naboth stands as a paradigm case of false accusation, and it is pitched in terms directly evoking Exodus 22:28—“Naboth cursed God and the King.” In short, the theme of the Jewish establishment falsely accusing, and procuring<sup>23</sup> the death of a wholly innocent citizen, who sought only to preserve the inheritance of his fathers, is well established, and in that theme blasphemy was the charge actually used. And there may be more. In the Talmud, Naboth’s death is not the end of his story: he lives on in spirit form and is able to participate in the ultimate divine judgment on Ahab.<sup>24</sup> It is quite possible, therefore, that the emphasis on blasphemy in the Gospel accounts of the trial of Jesus was suggested by its literary connotations in a long-standing Jewish tradition.

## NOTES

This is an edited transcript of an informal lecture, rather than a prepared text read as a lecture. For my fuller, documented discussion, see “The Prophet and the Law in Early Judaism and the New Testament,” *Cardozo Studies in Law and Literature* 4 (Fall 1992): 123–66.

<sup>1</sup> Babylonian Talmud, *Sanhedrin* 43a. Discussed in Jackson, “The Prophet and the Law,” 152 and n. 118.

<sup>2</sup> For a recent argument in favor of the superior plausibility, if not the historical truth, of John’s account, see Fergus Millar, “Reflections on the Trials of Jesus,” in *A Tribute to Geza Vermes: Essays on Jewish and Christian Literature and History*, ed. Phillip R. Davies and Richard T. White (Sheffield: JSOT Press, 1990), 355–81.

<sup>3</sup> A. R. C. Leaney, *A Commentary on the Gospel according to St. Luke*, 2d ed. (London: Adam and Charles Black, 1966), 274.

<sup>4</sup> See especially Geza Vermes, *Jesus the Jew: A Historian’s Reading of the Gospels* (London: Collins, 1973), ch. 4.

<sup>5</sup> Matt. 5:17: perhaps referring to “the law of the prophet,” Deut. 18:15. This theme is developed in the full version in *Cardozo Studies in Law and Literature*.

<sup>6</sup> But see Norman H. Whybray, in his monograph significantly entitled *Thanksgiving for a Liberated Prophet: An Interpretation of Isaiah Chapter 53* (Sheffield: JSOT Press, 1978), who has comprehensively analyzed the Hebrew of the song and come to the conclusion that the servant was oppressed *but saved* and did not suffer death.

<sup>7</sup> Jer. 26:1–2: “In the beginning of the reign of Jehoi’akim the son of Josi’ah, king of Judah, this word came from the Lord, ‘Thus says the Lord: Stand in the court of the Lord’s house, and speak to all the cities of Judah which come to worship in the house of the Lord all the words that I command you to speak to them; do not hold back a word’” (RSV translation); cf. Matt. 21:23–23:36; Mark 11:27–12:40; Luke 19:47–48.

<sup>8</sup> Jer. 26:3: “It may be they will listen, and every one turn from his evil way, that I may repent of the evil which I intend to do to them because of their evil doings.” The same verb, *shama* (to listen, obey), is used in relation to Jeremiah’s mission as in the prophet-like-Moses text in Deuteronomy.

<sup>9</sup> Jer. 26:4–7: “You shall say to them, ‘Thus says the Lord: “If you will not listen to me, to walk in my law which I have set before you, and to heed the words of my servants the prophets whom I send to you urgently, though you have not heeded, then I will make this house like Shiloh, and I will make this city a curse for all the nations of the earth.”’ The priests and the prophets and all the people heard Jeremiah speaking these words in the house of the Lord”; cf. Matt. 24:1–2; Mark 13:1–2; Luke 21:5–6.

<sup>10</sup> Jer. 26:8–9: “And when Jeremiah had finished speaking all that the Lord had commanded him to speak to all the people, then the priests and the prophets and all the people laid hold of him, saying, ‘You shall die! Why have you prophesied in the name of the Lord, saying, “This house shall be like Shiloh, and this city shall be desolate, without inhabitant?”’”; cf. Matt. 26:47; Mark 14:43; Luke 22:52.

<sup>11</sup> Jer. 26:8–9; cf. Matt. 26:59; Mark 14:55–64.

<sup>12</sup> Jer. 26:9: “And all the people gathered about Jeremiah in the house of the Lord”; cf. Matt. 26:57; Mark 14:53; Luke 22:54.

<sup>13</sup> Jer. 26:10: "When the princes of Judah heard these things, they came up from the king's house to the house of the Lord and took their seat in the entry of the New Gate of the house of the Lord"; cf. Matt. 27:11; Mark 15:1-2; Luke 23:1.

<sup>14</sup> Jer. 26:11: "Then the priests and the prophets said to the princes and to all the people, 'This man deserves the sentence of death, because he has prophesied against this city, as you have heard with your own ears'; cf. Matt. 27:12; Mark 15:3; Luke 23:2. William L. Holladay, *Jeremiah: A Fresh Reading* (New York: Pilgrim, 1990), 31, notes that when the priests repeat Jeremiah's offending words to the civil authorities, "they omit his reference to the Temple and speak only of Jeremiah's prophesying against the city. . . . To the princes this would make the issue appear to be treason rather than a religious dispute."

<sup>15</sup> Jer. 26:16: "Then the princes and all the people said to the priests and the prophets, 'This man does not deserve the sentence of death, for he has spoken to us in the name of the Lord our God'; cf. Matt. 27:23; Mark 15:14; Luke 23:4, 13-14.

<sup>16</sup> Jer. 26:20-22: "There was another man who prophesied in the name of the Lord, Uri'ah the son of Shemai'ah from Kir'iath-je'arim. He prophesied against this city and against this land in words like those of Jeremiah. And when King Jehoi'akim, with all his warriors and all the princes, heard his words, the king sought to put him to death; but when Uri'ah heard of it, he was afraid and fled and escaped to Egypt. Then King Jehoi'akim sent to Egypt certain men, Elna'than the son of Achbor and others with him"; cf. Matt. 27:15-26; Mark 15:6-15; Luke 23:18-25.

<sup>17</sup> Jer. 26:23: "And they fetched Uri'ah from Egypt and brought him to King Jehoi'akim, who slew him with the sword and cast his dead body into the burial place of the common people"; cf. Matt. 27:32-50; Mark 15:21-37; Luke 23:26-46 (here, of course, Jesus, not the other accused). For the political background of the prophecy of Jeremiah and his life, see Ernest W. Nicholson, *The Book of the Prophet Jeremiah, Chapters 26-52* (Cambridge: Cambridge University Press, 1975), 1-10.

<sup>18</sup> Jer. 26:24: "But the hand of Ahi'kam the son of Shaphan was with Jeremiah so that he was not given over to the people to be put to death"; cf. Matt. 27:20-23; Mark 15:12-15; Luke 23:18-25.

<sup>19</sup> J. Duncan M. Derrett, *Law in the New Testament* (London: Darton, Longman and Todd, 1970), ch. 17.

<sup>20</sup> Josephus, *Jewish War*, trans. Henry Thackeray, 7 vols. (Cambridge, Mass.: Harvard University Press, 1956), 3:649.

<sup>21</sup> See Adam C. Welch, *Jeremiah: His Time and His Work* (Oxford: Basil Blackwell, 1955), 148-49, on the relationship between Jeremiah's preaching regarding the Temple and the Josianic reform some years earlier.

<sup>22</sup> Indeed, it has been suggested that Jeremiah may have consciously seen himself as the referent of the (then, perhaps, recently discovered) text of Deuteronomy 18:15. See Richard Jacobson, "Absence, Authority, and the Text," *Glyph* 3 (1978): 137-47, at 140, citing Jer. 15:16: "Thy words were found, and I did eat them; and thy words were unto me to me a joy and the rejoicing of my heart; Because Thy name was called on me, O Lord God of hosts." The following earlier articles by Holladay on Jeremiah's self-understanding as a prophet-like-Moses are cited by Richard Jacobson, "Prophecy and Paradox," *Linguistica Biblica* 38 (1976): 51 n.5; William L. Holladay, "Style, Irony, and Authenticity in Jeremiah," *Journal of Biblical Literature* 81 (1962): 44-54; "The Background of Jeremiah's Self-Understanding: Moses, Samuel and Psalm 22," *Journal of Biblical Literature* 83 (1964): 153-64; "Jeremiah and Moses: Further Observations," *Journal of Biblical Literature* 85 (1966): 17-27.

<sup>23</sup> Perhaps hinted at in Mark 14:55-56: "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." Cf. Matt. 26:59-60.

<sup>24</sup> See Louis Ginzberg, *The Legends of the Jews*, 6 vols. (Philadelphia: Jewish Publication Society of America, 1946), 6:312 n. 41, for sources; see also Babylonian Talmud, *Sanh.* 89a, 102b; *Shabbat* 149b.