

BETH DIN, BOULE, SANHEDRIN: A TRAGEDY OF ERRORS

The problems surrounding the trial and crucifixion of Jesus are by no means resolved. In large measure, this stems from the difficulties inherent in the gospel sources themselves. But in part it follows from the fact that we cannot be certain as to the status, function, and legitimacy of the *sanhedrin*, a body convoked by the High Priest, which played, according to the Gospels, the critical role in the process culminating in Jesus' crucifixion. Although the term *sanhedrin* is deceptively simple, its precise meaning in this historical context eludes us. It eludes us, not because the disciples of Jesus were unclear as to the nature, status, function and legitimacy of the *sanhedrin* which tried Jesus, but because there is a tractate of the *Mishnah* which has been, throughout the centuries, invariably called "*Sanhedrin*." And since this tractate describes a system of Jewish courts which claimed jurisdiction in all areas, including those which involved capital punishment, scholars were confronted with the *sanhedrin* of the Gospels and the *sanhedrin* of tractate "*Sanhedrin*" which were incongruent one with the other. To extricate themselves from this cul de sac, scholars came up with a range of options: (1) the *sanhedrin* of the Gospels was the *sanhedrin* which functioned during Jesus' day, while the *sanhedrin* of the *Mishnah* functioned only after 70 C.E., The Mishnaic assumption that the *sanhedrin* had always functioned was without factual warrant, (2) The Gospel account is inaccurate, since it does not comport with the jurisdiction and the procedures as set down in tractate *Sanhedrin*; (3) There were two *sanhedrins* functioning in Jesus' day, one was political, an instrument of the Roman procurators and the High Priest, and the other religious. Hence, it was this political *sanhedrin* which tried Jesus, not the religious *sanhedrin*. The most persuasive spokesman for the double *sanhedrin* theory has been Professor Solomon Zeitlin. As will become evident in the course of this paper, my own efforts at resolving this problem were sparked by certain dormant aspects of Zeitlin's hypothesis, aspects which he touched upon but did not develop into the core resolution of the problem.

The problem as it now stands seems to preclude resolution. A good, cogent, and credible case can be made from the sources, as now read, for each of these major hypotheses and for all the many variants of each which now abound. There seems to be no objective method by which any of these hypotheses can be either definitively affirmed or decisively refuted. The *sanhedrin* problem may be one of those kinds of historical problems which cannot be solved because we have neither the definitive sources, nor an adequate methodology. But before acquiescing to this conclusion, I should like to suggest some methodological procedures, a series of sequential thought steps, which may allow us to break out of our present impasse.

As the first step in developing this methodology, let us temporarily suspend our knowledge of the existing scholarship on the subject and approach our sources as though they were coming to our attention for the first time. How would we proceed logically if we read in the Gospels of a *sanhedrin* convoked by the High Priest, which tried Jesus, found him guilty, and had him turned over to the Roman procurator Pontius Pilate? Since the High Priest was Jewish and since the Scribes who participated in the *sanhedrin* were Jewish, would we not search out those Jewish sources which make reference to a *sanhedrin*? These sources, we would soon discover, are Josephus and the Tractate *Sanhedrin*. Of these two sources, Josephus would attract our attention first since he was

almost contemporaneous with Jesus and he lived through the period of the procurators and was highly knowledgeable not only of Jewish institutions, but of Roman ones as well. What would such an analysis reveal, reading Josephus without any reference whatsoever either to the Gospels or to the *Mishnah*? It would reveal, as Zeitlin has demonstrated in his exhaustive studies, that in Josephus the term *sanhedrin* is used as a highly generalized term meaning a council convoked by a ruler or one in authority to carry through some political goal. Sanhedrin for Josephus is a word, like court, committee, congress, council, which is highly indefinite so long as it is not used in a specific context. It is always accompanied by an indefinite article—a *sanhedrin*—until it is assigned a definitive function. At the outset a political ruler or authority convokes a *sanhedrin* which then becomes the *sanhedrin* within the parameters of the situation.

Although Josephus uses the term *sanhedrin* frequently, there are two instances which are especially germane to our problem. For in each of these instances it is the High Priest that convokes a *sanhedrin*. The first of these involved James the brother of Jesus, while the second dealt with the issue of the rights of the Levites to wear linen garments.

Here is Josephus' account of the trial and execution of James:

“Upon learning of the death of Festus, Caesar sent Albinus to Judea as procurator. The king removed Joseph from the high priesthood, and bestowed the succession to this office upon the son of Ananus, who was likewise called Ananus. The younger Ananus, who, as we have said, had been appointed to the high priesthood, was rash in his temper and unusually daring. He followed the school of the Sadducees, who are indeed more savage than any of the other Jews (*hairesin de metaei ten Saddoukaion, hoiper eisi peri tas kriseis omoi para pantos tous loudaious*), as I have already explained [Ant. xiii: 294], when they sit in judgment. Possessed of such a character, Ananus thought that he had a favorable opportunity because Festus was dead and Albinus was still on the way. And so he convened a *sanhedrin* of judges (*kathizei sunedrion kriton*)* and brought before them a man named James who was called the Christ, and certain others. He accused them of having transgressed the law (*paranoraesanton*) and delivered them up to be stoned. Those of the inhabitants of the city who were considered the most fair-minded and who were strict in the observance of the law (*kai peri tous nomous akribeis*) were offended at this. They therefore secretly sent to King Agrippa urging him, for Ananus had not even been correct in his first step, to order him to desist from any further such actions. Certain of them even went to meet Albinus, who was on his way from Alexandria, and informed him that Ananus had no authority to convene a *sanhedrin* (*kathisai sanedrion*) without his consent.* Convinced by these words, Albinus angrily wrote to Ananus threatening to take vengeance upon him. King Agrippa, because of Ananus' action, deposed him from the high priest-hood which he had held for three months and replaced him with Jesus the son of Damnaeus.”
Antiquities XX: 197, 199-203

* In each instance. Professor Louis H. Feldman translates *sanedrion* “a sanhedrin,” as “the Sanhedrin.”

Josephus' account communicates the following items:

(1) The High Priest is an appointee of the properly constituted Roman authority, in this instance King Agrippa.

(2) The High Priest Ananus was a Sadducee.

(3) He convoked a sanhedrin of judges who authorized the stoning of James?

***Here again. Professor Louis H. Feldman translates sanedrion, "a sanhedrin," as "the Sanhedrin."**

(4) This act is regarded as illegal by those who were most scrupulous observers of the laws on the grounds that the High Priest could not convoke a sanhedrin without the permission of the proper Roman authority, King Agrippa.

(5) King Agrippa removed Ananus as High Priest and appointed Jesus the son of Damnaeus.

The other passage in Josephus reads as follows:

"Those of the Levites—this is one of our tribes—who were singers of hymns urged the king to convene a sanhedrin (*kathisanta sunedrion*)* and get them permission to wear linen robes on equal terms with the priests, maintaining that it was fitting that he should introduce, to mark his reign, some innovation by which he would be remembered. Nor did they fail to obtain their request; for the king, with the consent of those who attended the *sanhedrin* (*aeta gnomes town eis to sunedrion*) allowed the singers of hymns to discard their former robes and to wear linen ones such as they wished. A part of the tribe that served in the Temple was also permitted to learn the hymns by heart, as they had requested. All this was contrary to the ancestral laws, and such transgression was bound to make us liable to punishment." *Antiquities* XX: 216-218

***Here again. Professor Louis H. Feldman translates sanedrion, "a sanhedrin," as "the Sanhedrin."**

In this passage Josephus communicates the following items:

(1) The king convokes a sanhedrin.

(2) This sanhedrin allows the Levites to wear linen robes.

(3) This decision is viewed as contrary to the ancestral laws (*patrioas nomois*).

An analysis of these two passages from Josephus reveals that the convoking of a *sanhedrin* was legal only when authorized by the appropriate Roman authority. Its function was thus political, not religious, even when there was a religious element within the situation. Ananus had defied Roman authority in convoking a *sanhedrin*, even though he may have wished James to be stoned because James had ruffled Ananus' religious sensibilities. Similarly, the decision of a *sanhedrin* called together by the king to violate the ancestral laws and allow the Levites the right to wear linen garments did indeed affect a religious function, even though the decision was politically motivated.

Josephus also informs us that the religious affiliation of the High Priest was irrelevant insofar as convoking a *sanhedrin* was concerned. Ananus was, according to Josephus, a Sadducee. Yet he convokes a *sanhedrin* which sanctions the stoning of James. Such a *sanhedrin* must consequently have consisted of judges who shared Ananus' point of

view. These judges must therefore have been exclusively Sadducees, or a combination of Sadducees and Pharisees, with the latter participating in a political, not religious decision, i.e., James should be stoned because he is politically dangerous and not because he violated any religious law which the Pharisees would have regarded as deserving the death penalty. Unless a *sanhedrin* was political, there could be no common ground between Pharisees and Sadducees, since the religious legal system of the Pharisees was based on the two-fold law which the Sadducees absolutely rejected, while the ultimate sanction system was, for the Pharisees, *olam haba*, “the world to come,” and for the Sadducees, terrestrial rewards and punishments.

If, then, we had only Josephus as our source, the only definition for a *sanhedrin* that could be derived would be that of a council convoked by a political or authoritative figure to aid him in implementing his policies. And if we brought this definition, and this definition alone, to bear on the Gospel accounts of the trial of Jesus, we would find that there was absolute congruence. Indeed, on the basis of our definition of *sanhedrin* as derived from Josephus, we would have anticipated the Gospel account, not found it a problem. Thus we read in Mark:

“And they lead Jesus to the high priest; and all the chief priests and the elders and the scribes were assembled (*sunarchontai*) . . . How the chief priests and the whole council (*sanhedrin*) sought testimony against Jesus to put him to death . . . And as soon as it was morning the chief priests, with the leaders and the scribes, and the whole council (*sanhedrin*) held a consultation, and they bound Jesus and led him away and delivered him to Pilate. And Pilate asked him, ‘Are you the king of the Jews?’ And he answered him, ‘You have said so.’ And the chief priests accused him of many things. And Pilate again asked him, ‘Have you no answer to make? See how many charges they bring against you.’ But Jesus made no further answer, so that Pilate wondered.” 14:53,55; 15:1-5.

Mark interconnects the High Priest with a *sanhedrin* which in turn is interconnected with the procurator, Pontius Pilate. For his part, Pontius Pilate focuses on the vital political question, “Are you the king of the Jews?” These interconnections—High Priest, *sanhedrin*, Roman authority—are identical with those set down by Josephus in his account of Ananus’ convoking of a *sanhedrin* to dispose of James. The only difference is that Ananus acted illegally, since he sought to bypass the ultimate Roman authority. These interconnections are also similar to those linking the Roman authority (King Agrippa) to a *sanhedrin* which he convokes to gain assent to his wish to have the request of the Levites acted upon favorably.

If we turn from the Gospels to Acts, we find that the author is one with Josephus in his notion of what a *sanhedrin* was. Here is his account of the arrest and trial of Peter and the apostles:

“But the high priest rose up and all who were with him, that is, those who were adherents to the school of thought of the Sadducees (*he ousa hairesis ton Saddukaion*), and filled with jealousy, they arrested the apostles and put them in the common prison. ...

“Now the high priest came and those who were with him and called together the council and all the *gerousia* (*sunekalesan to aunedrion kal pasan ten gerousian ton huion ‘Israel*)...

“And when they had brought them, they set them before the council (*sanhedrin*). And the high priest questioned them, saying, ‘He strictly charged you not to teach in this name* yet here you have filled Jerusalem with your teaching and you intend to bring this man’s blood upon us.’ But Peter and the apostles answered ‘We must obey God rather than men’...

“When they heard this they were enraged and wanted to kill them. But a Pharisee in the council (*sanhedrin*) named Gamaliel, a teacher of the Law, held in honor by all the people, stood up and ordered the men to be put outside for a while. ...

“So they took his advice, and when they had called in the disciples, they beat them and charged them not to speak in the name of Jesus, and let them go. Then they left the presence of the council (*sanhedrin*), rejoicing that they were counted worthy to suffer dishonor for the name. . . .”

Acts 5;17-18. 21b. 27-28-29a, 33-35, 40-41

The author of *Acts* communicates the following items:

(1) The High Priest is interlinked with a *sanhedrin* consisting of Sadducees, like himself, and Pharisees, like Gamaliel.

(2) The apostles are charged with politically dangerous teachings, since the High Priest is frightened lest the Roman authorities wreak vengeance—“you have filled Jerusalem with your teaching and you intend to bring this man’s blood upon us.”

(3) The High Priest and *sanhedrin* mete out physical punishment, but do not seek their execution.

The author of *Acts* thus pictures this *sanhedrin* as a political council, since it consists of Sadducees and Pharisees who might join together to protect the public peace, but not to render judgment on the basis of religious Law. That it was impossible for Sadducees and Pharisees to collaborate when the divine Law was at issue is vividly portrayed in the account, given in *Acts*, of Paul’s brief encounter with a *sanhedrin*. This account also confirms the political function of a *sanhedrin*:

“But on the morrow, desiring to know the real reason why the Jews accused him, he unbound him, and commanded the chief priests and all the council to meet, and he brought Paul down and set him before them. And Paul, looking intently at the council (*sanhedrin*), said, ‘Brethren, I have lived before God in all good conscience up to this day.’ And the high priest Annanias commanded those who stood by him to strike him on the mouth...

“But when Paul perceived that one part was Sadducees and the other Pharisees, he cried out in the council (*sanhedrin*), ‘Brethren, I am a Pharisee, a son of Pharisees, with respect to the hope and the resurrection of the dead I am on trial.’ And when he had said this, a dissension arose between the Pharisees and the Sadducees; and the assembly (*plethos*) was divided. For the Sadducees say that there is no resurrection, nor angel, nor spirit; but the Pharisees acknowledge them all. Then a great clamor arose: and some of the scribes of the Pharisee party (*merous*) stood up and contended, ‘We find nothing wrong in this man. What if a spirit or an angel spoke to him?’ And when the dissension became violent, the

tribune, afraid that Paul would be torn in pieces by them, commanded the soldiers to go down and take him by force from among them and bring him into the barracks. . . .

“Seeking to protect Paul from being put to death, the tribune sent Paul off to Felix the procurator along with the following letters

“Claudius Iysias to his excellency the governor Felix, greeting. This man was seized by the Jews, and was about to be killed by them, when I came upon them with the soldiers, rescued him, having learned that he was a Roman citizen. And desiring to know the charge on which they accused him, I brought him before their council (*sanhedrin*). I found that he was accused about questions of their law, but charged with nothing deserving death or imprisonment”

Acts 22: 30-23: 1-2. 6-10. 26-29.

If, then, we had only Josephus, the accounts of the trial of Jesus before a *sanhedrin* presided over by the high priest would have conformed to precisely what we would have anticipated. A charismatic teacher, Jesus, having set off some public disturbance in the Temple area, was arrested by the High Priest, an appointee of the procurator, who convoked a council to determine whether Jesus should be brought before the procurator with a recommendation that he be put to death, since he either viewed himself or was viewed by others as aspiring to be King of the Jews. The final decision rested with the Procurator as the legitimate representative of the Roman imperium. There would have been no grounds whatsoever for identifying a council convoked by a High Priest who owed his office to the procurator and not to divine right, with a religious body exercising authority in God’s name over God’s people.

II

Let us now turn to the tannaitic sources and analyze their usage of the terra *sanhedrin* without reference to either Josephus or to current scholarly opinion. We are compelled to take this procedural step, since there is a tractate of the *Mishnah* which has been called Sanhedrin throughout the centuries. The Gospels affirm that Jesus was tried by a *sanhedrin* presided over by the High Priest, and *Acts* affirms that the apostles and Paul were likewise tried by a *sanhedrin* presided over by the High Priest; hence we have no methodological alternative but to take a very close look at tractate *Sanhedrin*.

What does a close analysis reveal? It reveals first and foremost that the tractate has been misnamed. It should have been labeled tractate “*Beth Din*,” not *Sanhedrin*, for whereas the term *beth din* is used nineteen times in the tractate, the term Sanhedrin is used three times only. This mislabeling is further confirmed by an analysis of the rest of the *Mishnah* and the *Tosefta*. *Beth Din* is used 245 times in these tannaitic texts, *sanhedrin* 23—a ratio of 10-1. Yet because the tractate has come down to us as Tractate Sanhedrin and not Tractate Beth Din, we tend to use the term *sanhedrin* as though it were the definitive term rather than Beth Din. As a consequence, even such an acute scholar as Professor Zeitlin who calls attention to this misnomer, nonetheless perpetuates this misuse. His most insightful study of the problem is not entitled “The Political Sanhedrin and the Beth Din,” but “The Political Sanhedrin and the Religious Sanhedrin.” Similarly, in his *Who Crucified Jesus?*, Zeitlin entitles the relevant chapter “The Two Sanhedrins” and not “The Political Sanhedrin and the Beth Din.”

If Tractate Sanhedrin had been properly labeled Beth Din, would scholars have so quickly jumped to the conclusion that the Beth Din was somehow implicated with the *sanhedrin* which, according to the Gospels, had tried Jesus? Or would they have recognized that Josephus' usage of *sanhedrin* was sufficient since it was so congruent with the Gospel accounts? And if scholars had, as would have been methodologically proper, checked out tractate Beth Din because it does in three instances use the term *sanhedrin* as synonymous with *beth din*, as well as in the rest of the *Mishnah* and *Tosefta*, would they not have determined first what the *Beth Din* system was and then transfer this definition to the infrequently used synonymous term *sanhedrin*?

What would have been the outcome of such an analysis? Scholars would have discovered that the Beth Sin was a complex system designed to serve the interests of two-fold law Judaism—the Oral and the Written Law—exclusively. It allows for no compromise on this issue. There is no room for accommodation with the Sadducees and their belief in the Written Law only. For such as these, there is no share in the world to come—the ultimate sanction of two-fold law Judaism. The Pentateuch, the prophets, the Hagiographa are operational only as determined by the authoritative teachers of the two-fold Law.

The *Beth Din* system was highly complex because it fused together legislative, executive and judicial functions. Depending on the specific situation or issue, the term *beth din* could be translated as “senate,” as “executive,” or as “court.” The mishnaic use of the noun “*din*” and of the verb “*dun*” allows for such plastic usage, since the noun “*din*” means both “law” and “justice” and the verb “*dun*” means “to reason through,” “deliberate,” “logically deduce” as well as “to judge.” When the representatives of the *Beth Din* adjured the High Priest on the eve of Yom Kippur, they were not functioning as judges but as the executive arm of the *Beth Din*. When the New Moon was declared, the *Beth Din* were not serving as judges, anymore than the representatives of the *Beth Din* were serving as judges when they supervised the ceremony of cutting the *omer* on the proper day. Similarly, when the Torah went forth to all of Israel from the *Beth Din ha-Gadol* in the chamber of hewn stone, the *Beth Din* was functioning in its legislative, not judicial, capacity. Is it not strange that despite the multifunctional role of the *Beth Din*, and the multifunctional role of its members, scholars persist in translating *Beth Din* as “Court” as though this were its exclusive or primary function rather than leave the term *Beth Din* untranslated even as they have had no compunction in leaving the term *sanhedrin* untranslated? And should not the same procedure be applied to a member of the *Beth Din*, a *dayan*, who may be at times serving as a judge and at times as legislator, and at times as executive instrument?

An analysis of *Beth Din* texts would reveal some other very pertinent features. There is neither provision for, or recollection of, a High Priest presiding over a *beth din*—not the *Beth Din ha-Gadol*, not the *beth din* of twenty-three, or three. A High Priest was not excluded from serving on a *beth din*, but he had no claim by virtue of his office either to be included in the *beth din ha-gadol* or to serve as its presiding officer. Not a single one of the so-called *zugoth*, “the pairs,” was a High Priest; neither was Gamaliel of the family of Hillel. Furthermore, since the *beth din* system was a system which functioned exclusively in the interests of the two-fold law system, no High Priest who was a Sadducee could have presided over a body whose vary legitimacy was dependent on the

Oral Law and whose very *raison de etre* was the undergirding of the two-fold Law which was rejected by the Sadducees.

A critical analysis of the Beth Din texts allows for no connection between the *Sanhedrin* which tried Jesus and the *Both Din* system. These texts provide for no presiding High Priest and for no relationship whatsoever to the Roman imperial system. These texts allow for no intermingling of Sadducees and Pharisees, since the *Both Din* system is the system designed for legislating, executing and adjudicating the two-fold Law. The only connection is the term *Sanhedrin*, which is only infrequently used in Tractate *Sanhedrin* and in the rest of the *Mishnah* and *Tosefta*. Had this tractate been labeled *Beth Din*, scholars would have been far more wary of seeing any necessary connection between the *Beth Din* and the *Sanhedrin* which tried Jesus.

And surely scholars would have seen no necessary connection if, along with the habitual usage of *beth din*, untranslated, they had been aware of the possibility that the Greek translation of *beth din* in Jesus' day was always *boule* and never *Sanhedrin*! Such a possibility not only exists, but the evidence for it is, I suggest, highly persuasive.

Let us take a look at the evidence. The *beth din* system had at its apex the *beth din ha-gadol*, which held its sessions in the *lishkat ha-gazit*. This body was primarily concerned with the two-fold law system and its functioning, and exercised only very limited judicial functions. From here, the *Mishnah* affirms, went forth the Torah to all Israel. The *Beth Din ha-Gadol* was thus the generative source of the entire system. And since its most cherished prerogative was its law-making, law-affirming and law-appealing function, the Greek term most descriptive of what the *Beth Din* was in essence, is *boule*, or to render *beth din* literally into Greek, *bouleuterion*, and not *Sanhedrin*. Thus Greek and Roman writers used *boule* frequently to refer to the Roman Senate, since it had been a legislative body, even though it had also exercised some executive and judicial functions. Another term for the Senate is *sugklatos*. But insofar as I have been able to ascertain, *Sanhedrin* is not normal usage for the Roman Senate. Certainly Josephus never uses *Sanhedrin* for the Senate, though he does use both *boule* and *sugklatos*. And most pertinently, the author of I Maccabees uses *bouleuterion* when he is referring to the house in which the Roman Senate met.

Were we not already encumbered with the equation of *beth-din=Sanhedrin*, we would logically have anticipated that Jews, Greeks, or Romans wishing to convey in Greek what the *Both Din* was, would have called it a *boule*, or *bouleuterion*, since *Sanhadrin* would be a misnomer. This logical assumption would have been strengthened by the fact that the Roman Senate was looked upon with so much appreciation by the Hasmoneans seeking Rome's aid against Antiochus:

“Judah had heard of the fame of the Romans, that they were valiant in power, that they were favorably disposed to all who joined them, and that they offered friendship to all who approached them...whomsoever they wished to help and make kings became kings, and whomsoever they wished they deposed; and they were greatly exalted. Yet with all this, not even one of them put on a daidem, or donned purple, for self-aggrandizement. They had built a Senate house (*bouleuterion*)* for themselves, and each day three hundred and twenty men sat in council planning continually on behalf of the people, so that they might govern them well (*ka kath hemeran ebouleuonto triakosioi kai eikosi*

bouleuomenoi dia pantos peri tou plythous tou eukosmein autous). They put their faith in one man to rule over them each year and to be master of their entire country. They all obeyed the one man, with no envy or jealousy among them.”

I Maccabees 8; 1, 13-16.

*Cf. also *ibid.* 19 for *bouleuterion* as Senate House.

Now, what is striking about this passage is not only the high esteem the author has for the Roman Senate, but for his reference to the Senate via the *bouleuterion*, the Senate House. It need hardly be pointed out that *Beth Din*, literally translated, is the House of Din; i.e. House of Law or Senate. Indeed, one is tempted to paraphrase the words of I Maccabees as follows: “Yet with all this, not one of them [the members of the *Beth Din*] put on a diadem, or donned purple for self-aggrandizement. They had built a House of Din for themselves, and each day seventy-one men sat in council, *ebouieuento*, planning continually on behalf of the people, so that they might govern them well.”

In a precious *Mishnah* (*Hagigah* 2:2), we are informed crisply:

“Yose ben Yoazer used to say that one is not *lismoch* [I intentionally leave the word *lismoch* untranslated so as not to become involved in the debate as to what the word means in this context, since it is irrelevant insofar as the point I am trying to make is concerned], Yose ben Yochanan used to say “*lismoch*” Joshua ben Prachia used to say *lo lismoch*, Nitai Ha-Arbeli used to say *lismoch*. Judah ben Tabbai used to say *shelo lismoch*; Shemaiah used to say *lismoch*; Abtalion used to say *lo lismoch*; Shimeon ben Shetach used to say *lismoch*. Hillel and Henachem did not disagree [on this question]. Menachem went out and Sharomai entered. Shammai used to say *shelo lismoch*; Hillel used to say *lismoch*.

“The first of these [mentioned in each instance] were *Nesim* [of the *Beth Din*], while the second [of each of these pairs] were the *aboth beth din*.”

A simple arithmetical calculation moving back from Hillel and Shammai to Yose ben Yoazer and Yose ben Yochanan brings us to the period of the first Hasmoneans. And since there is no claim anywhere in the *Mishnah* that there was a *Nasi* or *Ab Beth Din* prior to the first *zug*, or pair, we have a time-fix for the origin of the *Beth Din* no earlier than Jonathan the Hasmonean and no later than the accession of Simon to the High Priesthood and ethnarchate. This time-fix, in turn, coincides with Josephus’ first mention of the Pharisees, Sadducees and Essenes in the midst of his narration of Jonathan’s efforts to achieve independence.

We also learn from Josephus that during the early years of his priesthood, John Hyrcanus regarded himself as a loyal disciple of the Pharisees, and that prior to John Hyrcanus’ break with the Pharisees, the two-fold law of the Pharisees was *the* operational system of law throughout the land.*

[** “Hyrcanus, too, was a disciple of theirs, and was greatly loved by them. . . . And Jonathan in particular inflamed his anger, and so worked upon him that he brought him over to the Sadducean party (*moira*) and desert the Pharisees, and to abrogate the laws which they had established for the people, and punish those who observed them (*kai ta te hup auton katastathenta noraima to demo kai*

tous phulattontas auta kolasai). . . . For the present I wish merely to explain that the Pharisees had passed on to the people certain laws handed down by former generations and not recorded in the laws of Moses (*hoti nomima tina paredosan tw demo hoi pharisaioi sk pateron diadoches, haper ouk anagegraptai en tois Mouseos nomois*), for which reason they are rejected by the Sadducean group (*genos*), who hold that only those laws (*nomima*) should be considered valid which were written down (*ta gegrammena*) and that those which had been handed down from the fathers must not be observed (*ta d'ek paradoseos ton pateron me terein*). (Josephus, *Antiquities XIII: 289, 296a-297*.)

Salome Alexandra reinstated the oral laws of the Pharisees: “. . . and whatever laws (*nomima*) introduced by the Pharisees (*hon eisevegkan hoi Pharisaioi*) in accordance with the traditions of the fathers (*kata ten patraon paradosin*) had been abolished by her father-in-law Hyrcanus, these she again restored.” (*Antiquities XIII: 408 b*.)]

Such operational law presupposes a law-making body with the authority to promulgate laws which were not to be found in the Law of Moses, but which were as binding as though they were. These unwritten laws were rejected out of hand by the Sadducees as spurious. And since Josephus knows nothing of Pharisees prior to Jonathan the Hasmonean, and since Pharisees are nowhere to be found in Ben Sira, or for that matter in any pre-Hasmonean source, and since the first *Nasi* and *Ab Bet Din* can be traced back no earlier than the first Hasmoneans, and since the *Beth Din* is exclusively associated with the Oral Law and its functioning, we can draw the conclusion that the *Beth Din* was established during the early Hasmonean period and was modeled to the degree that was appropriate along the lines of the Roman Senate, going so far as to call itself the *Beth Din*, *bouleuterion*, the term used by the author of I Maccabees as synonymous with Senate.

It should therefore come as no surprise that Josephus tells of a *bouleuterion* on the Temple Mount and not of a *sanedrion*; refers from time to time to a *boule*, or *boules*, though he does not make explicit what they are; and writes of *sanhedrions* convoked by Herod, by Ananus, and by Agrippa without any notion that a political *sanhedrin* could ever be confused with the Pharisaic *boule* or *Beth Din*.

Nor should we any longer wonder why the Gospel writers tell us of a *sanhedrin* convoked by the High Priest to try Jesus. After all, that is exactly what a *sanhedrin* was for; to determine whether Jesus or any other disturber of the peace was dangerous enough to be turned over to the Procurator. As one who either claimed to be or was alleged to be claiming that he was King of the Jews, Jesus' fate was sealed on political grounds. For living witnesses, there was no possibility of confusing such a *sanhedrin* with the *Beth Din*, since the *Beth Din* was in Jesus' day called a *boule* in Greek, not *sanhedrin*.

And if one were to be asked if there is any mishnaic evidence that the Greek translation of *Beth Din* was *boule* during Jesus' day, the answer is affirmative. Among the most enduring enactments ascribed to Hillel was the *prosbol*. This, as is well-known, was a legal fiction allowing for the collection of a debt during the sabbatical year, if the debt had been delivered over to the *Beth Din*. Here are the relevant mishnaic texts;

“Every act of the *beth din* is exempt from cancellation during the sabbatical year. One who gives a loan on a pledge and he who delivers his bonds to the *beth din*—the debts owing to them are not cancelled by the sabbatical year.

“A *prosboul* is not cancelled. This is one of the things which Hillel the Elder instituted when he saw the people refraining from giving loans to one another and transgressed what was written in the Law, ‘Take heed unto thyself lest there be a base thought in thy heart, etc.’ Hillel established *prosboul*.

“This is the essential formula of the *prosboul*; ‘I deliver over to you so and so, the *dayanim* in such a place, that every debt due to me I may collect whensoever I desire. And the *dayanim*, or the witnesses, sign below.’”

Mishnah Shebiith 10:2b-3

Prosbol needs no exegesis. It is a Hebrew transliteration of *pros boule*, to the *boule*; i.e., the appropriate document is to be transmitted “to the *boule*.” The transliteration is confirmed by the total context which refers to the essential role that the *beth din* is to play so that the document will be legal.

And there is another bit of evidence. It comes from the Gospel itself. Mark tells us that after Jesus had been crucified, Arithmea, a *bouleutes*, requested that Jesus’ body be turned over to him. Although translators and exegetes have taken for granted that Arithmea must have been a member of the sanhedrin which had tried Jesus, the term *bouleutes* strictly means a member of the *boule*, not *sanhedrin*. Our source is telling us that Arithmea was a member of the *beth din*, *boule*, and not a member of the *sanhedrin*; hence he had had nothing whatsoever to do with the trial of Jesus. Since, as we have seen, *boule* was the Greek word for *beth din*, a member of the *beth din*, *boule*, a *dayyan*, would in Greek be referred to as a *bouleutes*.

If then, the *Beth Din* was the *boule*, how did it come to be called *sanhedrin*. Here I am fully in accord with Professor Zeitlin. Prior to the year 70, the Romans ruled Judea through a procurator who appointed the high priest. The High Priest was the political liaison between the Roman government and the people at large. Since his role was political, he convoked a *sanhedrin* from time to time whenever some matter of political urgency was at issue. During these years, the *Beth Din* or *boule* had no direct responsibility to Rome. This situation was radically altered when Vespasian authorized the reconstitution of the *Beth Din* in Jabneh. The *Beth Din* was allowed to exercise a great deal of religious autonomy provided that it took some responsibility for keeping the people loyal to Rome. From the Roman point of view, the *Beth Din* was their *sanhedrin*. Although the term *beth din* continued to be used as the normative term, the Greek rendition *boule* perforce gave way to *sanhedrin*. But a tell-tale trace that it could not have been originally *sanhedrin* was preserved in the Hebrew use of *bet* in the name. Whereas *sanhedrin* does not render house, *bouleuterion* does—and it was the *bouleuterion* that Josephus tells us was on the Temple mount.