

THE TRIAL OF JESUS

JESUS BOUND (MUNKACSY)

THE TRIAL OF JESUS
FROM A LAWYER'S STANDPOINT

BY

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VOLUME I

THE HEBREW TRIAL

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TO MY MOTHER WITH SENTIMENTS OF LOVE AND
VENERATION WHICH NO WORDS CAN EXPRESS

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PREFACE TO VOLUME ONE

ANY remarkable trials have characterized the judicial history of mankind.

The trial of Socrates before the dicastery of Athens, charged with corrupting Athenian youth, with blaspheming the Olympic gods, and with seeking to destroy the constitution of the Attic Republic, is still a sublime and thrilling chapter in the history of a wonderful people, among the ruins and wrecks of whose genius the modern world still wanders to contemplate, admire, and study the pride of every master and the perfection of every model.

The trial and execution of Charles the First of England sealed with royal blood a new covenant of British freedom, and erected upon

the highway of national progress an enduring landmark to civil liberty. The entire civilized world stood aghast at the solemn and awful spectacle of the deliberate beheading of a king. And yet, today, the sober, serious judgment of mankind stamps the act with approval, and deems it a legitimate and righteous step in the heroic march of a brave and splendid people toward a complete realization

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of the inalienable rights of man. The philosopher of history declares these condemnatory and executory proceedings against a Stuart king worthy of all the epoch making movements that have glorified the centuries of English constitutional growth, and have given to mankind the imperishable parchments of Magna Charta, the Bill of Rights, the Petition of Rights, and Habeas Corpus.

The trial of Warren Hastings in the hall of William Rufus has been immortalized by Lord Macaulay. This trial is a virtual reproduction in English history of the ancient Roman trial of Verres. England is substituted for Rome; Sicily becomes India; Hastings takes the place of Verres; and Burke is the orator instead of Cicero. The indictments are identical: Maladministration in the government of a province. In the impeachment of Hastings, England served notice upon her colonial governors and made proclamation to the world that English conquest was not intended to despoil and enslave, but was designed to carry to the inhabitants of distant lands her language, her literature, and her laws. This message to humanity was framed but not inspired by England. It was prompted by the success of the American Revolution, in which Washington and his Continentals had established the immortal principle, that the consent of the governed is the true source of all just powers of government.

The trial of Aaron Burr, omitting Arnold's treason, is the blackest chapter in the annals of our republic. Burr was the most extraordinary man of the first half century of American national

history. His powerful

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and fascinating personality conquered men and enslaved women. He was the finest scholar of the Revolution excepting Thomas Jefferson. He was the greatest orator of the Revolution excepting Patrick Henry. His farewell address to the United States Senate caused his inveterate enemies to weep. His arraignment at the bar of public justice on the charge of high treason—that he had sought to destroy the Country of Washington, the Republic of Jefferson, which is to-day the Union of Lincoln—was the sad and melancholy close of a long and lofty life.

The trial of Alfred Dreyfus is still fresh in the minds and memories of men. Troubled political seas still surge and roll in France because of the hatred, prejudice, and passion that envelope the mysterious *bordereau*. The French Republic is still rent by two contending factions: Dreyfus and anti-Dreyfus. His friends still say that Dreyfus was a Prometheus who was chained to an ocean-girt rock while the vulture of exile preyed upon his heart. His enemies still assert that he was a Judas who betrayed not God or Christ, but France and the Fatherland. His banishment to the Island of the Devil; his wife's deathless devotion; the implacable hatred of his enemies; the undying loyalty of friends; and his own sufferings and woes are the warp and woof of the most splendid and pathetic epoch of a century.

Other trials—of Mary Stuart, the beautiful and brilliant Scottish queen; of Robert Emmet, the grand and gifted Irish patriot martyr—thrilled the world in their day.

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But these trials, one and all, were tame and commonplace, compared with the trial and crucifixion of the Galilean peasant, Jesus of Nazareth. These were earthly trials, on earthly issues, before earthly courts. The trial of the Nazarene was before the high tribunals of both Heaven and earth; before the Great Sanhedrin,

whose judges were the master-spirits of a divinely commissioned race; before the court of the Roman Empire that controlled the legal and political rights of men throughout the known world, from Scotland to Judea and from Dacia to Abyssinia.

The trial of Jesus was twofold: Hebrew and Roman; or Ecclesiastical and Civil. The Hebrew trial took place before the Great Sanhedrin, consisting of seventy-one members. The Roman trial was held before Pontius Pilate, Roman governor of Judea, and afterwards before Herod, Tetrarch of Galilee. These trials all made one, were links in a chain, and took place within a space of time variously estimated from ten to twenty hours.

The general order of events may be thus briefly described:

- (1) About eleven o'clock on the evening of April 6th, A.D. 30, Jesus and eleven of the Apostles left the scene of the Last Supper, which had been celebrated (probably in the home of Mark) on the outskirts of Jerusalem, to go to the Garden of Gethsemane.
- (2) Jesus was arrested about midnight in Gethsemane by a band of Temple officers and Roman soldiers guided by Judas.
- (3) He was first taken to Annas, and was afterwards sent by Annas to Caiaphas. A private preliminary examination of Jesus was then had before one of these church dignitaries. St. John describes this examination, but does not tell us clearly whether it was Annas or Caiaphas who conducted it.
- (4) After His preliminary examination, Jesus was arraigned about two o'clock in the morning before the Sanhedrin, which had convened in the palace of Caiaphas, and was formally tried and condemned to death on the charge of blasphemy against Jehovah.
- (5) After a temporary adjournment of the first session, the Sanhedrin reassembled at the break of day to retry Jesus, and to determine how He should be brought before Pilate.

(6) In the early morning of April 7th, Jesus was led before Pontius Pilate, who was then stopping in the palace of Herod on the hill of Zion, his customary residence when he came up from Cæsarea to Jerusalem to attend the Jewish national festivals. A brief trial of Jesus by Pilate, on the charge of high treason against Cæsar, was then had in front of and within the palace of Herod. The result was an acquittal of the prisoner by the Roman procurator, who expressed his verdict in these words: "I find in him no fault at all."

(7) Instead of releasing Jesus after having found Him not guilty, Pilate, being intimidated by the rabble, sent the prisoner away to Herod, Tetrarch of Galilee, who was then in attendance upon the Passover Feast, and was at that moment residing in the ancient

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palace of the Asmoneans in the immediate neighborhood of the residence of Pilate. A brief, informal hearing was had before Herod, who, having mocked and brutalized the prisoner, sent Him back to the Roman governor.

(8) After the return of Jesus from the Court of Herod, Pilate assembled the priests and elders, announced to them that Herod had found no fault with the prisoner in their midst, reminded them that he himself had acquitted Him, and offered to scourge and then release Him. This compromise and subterfuge were scornfully rejected by the Jews who had demanded the crucifixion of Jesus. Pilate, after much vacillation, finally yielded to the demands of the mob and ordered the prisoner to be crucified.

From this brief outline of the proceedings against Jesus, the reader will readily perceive that there were two distinct trials: a Hebrew and a Roman. He will notice further that each trial was marked by three distinct features or appearances. The Hebrew trial was characterized by:

(1) The appearance before Annas.

(2) The trial at the night session of the Sanhedrin.

(3) The examination at the morning sitting of the same court.

The Roman trial was marked by:

(1) The appearance of Jesus before Pilate.

(2) His arraignment before Herod.

(3) His reappearance before Pilate.

The first volume of this work has been devoted to the Hebrew trial of Jesus, and a distinctively Hebrew

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impress has been given to all its pages. The second volume has been devoted to the Roman trial, and a distinctively Roman impress has been given it. Each exhibits a distinct view of the subject. Taken together, they comprehend the most important and famous judicial transaction in history.

It is not the purpose of the author of these volumes to usurp the functions or the privileges of the ecclesiastic. To priests and preachers have been left the discussion and solution of theological problems: the divinity of Jesus, the immortality of the soul and kindred religious dogmas. "The Trial of Jesus from a *Lawyer's* Standpoint" is the expanded title of this work. A strict adherence to a secular discussion of the theme proclaimed has been studiously observed in the preparation of these pages. The legal rights of the *man* Jesus at the bar of *human* justice under Jewish and Roman laws have marked the limitations of the argument. Any digression from this plan has been temporary and necessary.

A thorough understanding of any case, judicially considered, involves a complete analysis of the cardinal legal elements of the case: the element called Fact and the element called Law. Whether in ancient or modern times, in a Jewish or Gentile court, of civil or

criminal jurisdiction, these elements have always entered into the legal conception of a case. Whether the advocate is preparing a pleading at his desk, is summing up before the jury, or addressing himself to the court, these elements are working forever in his brain. He is constantly asking himself these questions:

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What are the facts of this case? What is the law applicable to the facts? Do the facts and law meet and harmonize judicially? Do they blend in legal unison according to the latest decision of the court of last resort? If so, a case is made; otherwise, not.

Now many sermons might be differently preached; many books might be differently written. But an intelligent discussion of the trial and crucifixion of Jesus from a lawyer's point of view must be had upon the basis of an analytical review of the agreement or nonagreement of law and fact in the case sought to be made against the Christ.

The first question that naturally suggests itself to the inquiring mind, in investigating this theme, is this: Upon what facts was the complaint against Jesus based? A second question then logically follows: What were the rules and regulations of Hebrew and Roman law directly applicable to those facts in the trials of Jesus before the Sanhedrin and before Pilate? It is respectfully submitted that no clear and comprehensive treatment of the subject can be had without proper answers to these questions.

Having learned the facts of any case, and having determined what rules of law are applicable to them in regard to the controversy in hand, a third step in the proceedings, in all matters of review on appeal, is this: To analyze the record from the viewpoint of the juristic agreement or nonagreement of law and fact; and to determine by a process of judicial dissection and reformation the presence or absence of essential

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legal elements in the proceedings, with a view to affirmance in case of absence, or reversal of the verdict in the event of the discovery of the presence of error.

In obedience to this natural intellectual tendency and to the usual mode of legal procedure in reviewing and revising matters on appeal, the contents of Volume I have been divided into three parts, corresponding, in a general way, to the successive steps heretofore mentioned.

In Part I, the Record of Fact in the trial of Jesus has been authenticated; not, indeed, according to the strict provisions of modern statutes which regulate the authentication of legal documents, but in the popular sense of the word "authentication." Nevertheless, the authenticity of the Gospel narratives, which form the record of fact in the trial of Jesus, and the credibility of the Evangelists who wrote and published these narratives, have been subjected to the rigorous tests of rules of evidence laid down by Greenleaf and by Starkie. Such an authentication has been deemed necessary in a treatise of this kind.

Two main methods may be employed in investigating and proving the alleged occurrences of Sacred History: (1) The method which is based upon the evidence of spiritual consciousness and experience, derived from religious conversion and from communion with God; (2) the method that rests upon the application of historic facts and legal rules to the testimony of those who have asserted the existence of such occurrences.

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It has been contended by many that the first of these methods is the supreme test, and the only proper one, in solving religious problems and in reaching full and final assurance of the existence of spiritual truths. It is confidently asserted by such persons that the true Christian who has accepted Jesus as his personal Redeemer and has thereby found peace with God, needs no

assurance from Matthew that the Christ was the Heaven-begotten and Virgin-born. Such a Christian, it is said, has positive proof from within that Jesus was divine. It is further contended that all forms of religious truth are susceptible of the same kind of proof. It is argued that from despairing hope, born of the longing and the tears of a mother who, grief-stricken and broken-hearted, kneels in prayer beside the coffin of her firstborn, springs stronger evidence of a future life and of an everlasting reunion with loved ones, than comes from all the assurances of immortality handed down by saints and sages. The advocates of this theory contend that the fact of the Resurrection of Jesus should be proved mainly by the method of spiritual consciousness and experience, and only incidentally by the historical testimony of the sacred writers. They boldly maintain that the Resurrection was a spiritual fact born of a spiritual truth; and that within the soul of each true believer is the image of the risen Jesus, reflected from Heaven in as perfect form as that seen by Paul while journeying to Damascus.

It would be decidedly ungenerous and unjust to deny the force of the contention that spiritual consciousness

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and religious experience are convincing forms of proof. To do so would be to offer gratuitous insult to the intelligence and sincerity of millions of consecrated men and women who have repeatedly proclaimed and are still proclaiming that the Spirit of God and Christ within them attests the reality of religion.

But on the other hand the doctrine of religious consciousness, as a mode of proof, certainly has its limitations. Spiritual proofs are obviously the very best means of establishing purely spiritual truths. But not many truths of religion are purely spiritual. The most of them are encased within historic facts which may themselves be separately considered as historic truths. In a sense, all spiritual truth is born of historic truth; that is, historic truths, in the order of our acquisition of a knowledge of them, antedate and

create spiritual truths. The religious consciousness of the Resurrection of Jesus would never have been born in our hearts if we had never read the historical records of the physical Resurrection. Nor could we have ever had a religious experience of the divinity of Jesus if we had never read the historical accounts of His miracles, of His Virgin birth, His fulfillment of prophecy, and His Resurrection from the dead, unless Jesus had personally communicated to us evidences of His divinity. These separate and historic facts, of which spiritual truths are born, cannot be proved by religious consciousness and experience.

The distinctions herein suggested are very aptly and beautifully expressed by Professor Inge in his Bampton

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Lectures on Christian Mysticism, in which he says: "The inner light can only testify to spiritual truths. It always speaks in the present tense; it cannot guarantee any historical event, past or future. It cannot guarantee either the Gospel history or a future judgment. It can tell us that Christ is risen, and He is alive for evermore, but not that He rose again the third day."

From the foregoing, then, it is clear that in dealing with the historical facts and circumstances of the trial and crucifixion of Jesus, we cannot remotely employ the method of proof which is based upon religious consciousness and experience, since these events are matters of the past and not of the present. We have been compelled, therefore, to resort to the legal and historical method of proof; since we could not assume the correctness of the record, as such an assumption would have been lacking in legal requirement and judicial fitness.

It has also been thought not to be within the scope of this treatise, or consistent with the purpose of the author of these volumes, to enter into a discussion of the question of inspiration in the matter of the origin of the New Testament Gospels, as the record of fact in

the trial of Jesus. As secular historians, rather than as inspired writers, must the Evangelists be regarded in this connection; since the title of this work suggests and demands a strictly legal treatment of the theme proclaimed. The author would respectfully suggest, however, that the day is past for complete reliance upon the theory of inspiration and a total rejection of

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all analysis and investigation. That the Scriptures are sacred and inspired, and neither need nor permit questions involving doubt and speculation as to origin and authenticity will no longer meet the challenge or dissipate the fears of the intellectual leaders of the human race. The Christianity of the future must be a religion of reason as well as of faith, else it cannot and will not endure the shocks of time, or survive the onward march of the soul. If the teachings of the Nazarene are a faithful portrayal and a truthful expression of all the verities of Heaven and earth, then Christianity has nothing to fear from the discoveries of Science, from Roman catacombs, Arabian hieroglyphics, the sands of Egypt, or the ruins of Nineveh and Babylon. Science is the High Priestess of Nature and Nature's oracles, and no single revelation of Science can disprove or contradict the simplest truth of Nature's God.

If, on the other hand, Christianity be fundamentally and essentially false, ignorance and bigotry will not preserve and perpetuate it; all the prayers of the faithful, all the martyrdom of the centuries, will not suffice to save it from death and annihilation.

But the Christian need have no fear of the results of scientific investigation or historic revelation. Assyriology, archæology, and paleontology, interpreted and applied by the finest scholarship and the most superb intellects of earth, have spent all their stupendous and concentrated forces in the direction of the discovery of natural and historic facts that would confirm or destroy the Christian theory of things. And

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yet not one natural or historic fact has been discovered that seriously disturbs the testimony of the Evangelists or impairs the evidence of Christianity. A few unlettered fisherman, casting nets for a livelihood in the waters of Gennesaret, framed a message to humanity based upon the life and martyrdom of a Galilean peasant, their spiritual Lord and Master, and proclaimed it to the world; and all the succeeding centuries of scientific research and skeptical criticism have not shaken mankind's confidence in its truthfulness and its potency. If eighteen hundred years of scientific investigation have resulted only in proof and vindication of the historic asseverations of the Sacred Scriptures, and further investigation gives promise of still further proof and vindication, tending to remove all doubts and destroy all fears, nothing but rank stupidity and crass ignorance will place obstacles in the way of ultimate analysis and complete revelation.

In Part II of this volume, following the plan heretofore suggested, the element of Law has been considered. Hebrew criminal jurisprudence, based upon the Mosaic Code and upon the Talmud, has been outlined and discussed. A more exhaustive treatment has been given than the subject would seem to justify, but the writer is convinced that the Criminal Code of the Jews must be of surpassing interest to the general reader, regardless of whether certain peculiar rules therein contained have reference to the trial of Jesus or not. The bulk of this Code has been inserted in this work because it is felt that a comprehensive

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view of any system enables the student of a particular trial under that system to grasp more fully and to appreciate more keenly the merits of the proceedings.

In Part III the legal aspects of the trial of Jesus have been reviewed. The elements of Law and Fact have been combined in the form of a "Brief," in which "Points" have been made and errors have been discussed.

During the past decade, the author of this work has delivered occasionally, in the United States and in the Dominion of Canada, a lecture upon the subject, "The Trial of Jesus from a Lawyer's Standpoint." Numerous requests have been made, from time to time, for the lecture in printed form. To supply this demand is the purpose of the publication of these volumes. The voluminous treatment given has been in response to the demands of those who have asked for a topical treatment of the subject. Many auditors in his lecture audiences have asked for special treatment, from a lawyer's standpoint, of the New Testament Gospels. Many have requested an exhaustive handling of Hebrew criminal law. Others have asked for the insertion in this work of the Apocryphal Acts of Pilate. And still others have expressed a desire to have Græco-Roman Paganism dealt with in its relationship to the trial of Jesus. In obedience to these various demands, certain chapters have been incorporated in the general work that may not seem to the average reader to have any direct bearing upon the subject treated. It is felt, however, that in every case at least a partial relevancy

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exists, and that in a large majority of cases the relevancy is perfect.

The writer wishes, at this time and place, to acknowledge his indebtedness and to express his thanks, for valuable assistance rendered, to all those authors mentioned under the title "Bibliography" at the end of Volume II.

Walter M. Chandler.

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