



THE TRIAL OF CHRIST

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**BY
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shall note these errors here and annotate them in the footnotes, before passing on to discuss the trials in detail.

These errors are:

1. No process could take place on the Jewish Sabbath or on feast days.¹⁴
2. No process could be started at night or even afternoon for a trial before a regular Sanhedrin court.¹⁵
3. It was error for Caiaphas, acting as Judge, to have sought words from the mouth of Christ upon which to convict Him, without first making a prima-facie case with other witnesses.¹⁶
4. Caiaphas' Palace was not the meeting place of the Sanhedrin: it was error to hold a trial there.¹⁷
5. It was error for Caiaphas to have acted as Judge after having publicly declared that Christ deserved death.¹⁸
6. It was error to have left Him unguarded, to the unrestrained license of the mob in the gallery of Caiaphas' palace or court for an hour or more.¹⁹
7. The Sanhedrin had no jurisdiction in Capital Cases, having been divested of that jurisdiction by the Romans forty years before.²⁰
8. The Sanhedrin, if existent, had no power except at a regular meeting.²¹
9. It was error not to appoint someone to defend Him—Jesus had no counsel.²²

¹⁴ Edersheim, op. cit., II, p. 557; Rabbi A. P. Drucker, *The Trial of Jesus from Jewish Sources*, pp. 8 and 10; Chandler, *The Trial of Jesus from a Lawyer's Standpoint*, 2 vols., 1908, I pp. 219 & 263.

¹⁵ Edersheim, op. cit. II, p. 557; Drucker, op. cit., p. 8; Chandler op. cit., I, 238 and 260.

¹⁶ Some authorities dispute this assertion in Blasphemy cases where the witness would become guilty upon testifying; see discussion infra, next chapter.

¹⁷ Edersheim, op. cit., II, p. 556; Drucker, op. cit., p. 8.

¹⁸ This point is also in dispute, as we discuss in next chapter, because a desire for Jesus death may not be an opinion that He was guilty of Blasphemy; see, John 11:50; Drucker, op. cit., p. 7; Chandler, op. cit., I, 238; Chandler says there ought to have been several judges; MISHNA Pirke Aboth, IV, 8.

¹⁹ Edersheim, II, 563.

²⁰ Edersheim, II, 567; see Strachan, *The Fourth Gospel*, p. 312 *et seq.*, *contra*; The Sanhedrin had power over capital offenses at various times but scholars differ on this point; cf., Drucker, op. cit., p. 5; Chandler, op. cit., I, 176 ff., points out that although Herod had put 45 members of the Sanhedrin to death about 30 A.D., the Sanhedrin did exist and had power; see also, Josephus, *Ant.*, xiv, 9, 4; Matthew 16:21; 20:18; Emanuel Deutsch, *The Talmud*, p. 32.

²¹ Edersheim, II, 556; Drucker, p. 10; inferentially in Chandler, op. cit., I, 265.

10. It was error not to have "warned" the witnesses in this capital case, in a Sanhedrin court.²³

11. The courts erred by not taking into consideration the guilt or innocence of Jesus.²⁴

12. It was error to take Christ, as prisoner, before Annas.²⁵

13. In modern times it would have been error to require Christ to testify as a witness against Himself,²⁶ but in those days in a trial for Blasphemy there seems to have been authority in favor of requiring what we know as "self incrimination"²⁷—this will be discussed in detail in a later chapter.

14. Roman Law required trials to be public, and the private trial of Christ before Annas and Caiaphas was error.²⁸

15. It was error to convict a man on the testimony of false witnesses;²⁹—under modern law the Jury determines the credibility of the Witnesses.³⁰

16. Pilate having announced Jesus not guilty, erred in permitting the verdict of the "mob" to stand.³¹ The record shows Christ, after Pilate found "no harm" in Him,³² was sent to Herod, then back to Pilate, then turned over to be crucified.

17. It was unlawful and therefore error for the Sanhedrin to convict on the same day as the trial; they could acquit the same day but had to hold a verdict of "guilty" under advisement at least two days.³³

²² Implied by Edersheim, II, 555.

²³ Edersheim, II, 557.

²⁴ Ibid.

²⁵ Edersheim, II, 547, 548.

²⁶ Numbers 35:30; U. S. Const. Amendment V (Due Process); Edersheim, II, 557, 558.

²⁷ Drucker, op. cit., 7; Seminary lectures of Prof. John Wick Bowman, Ph. D., D. D., quoted in correspondence by Rev. M. Edwards Breed, (Presbyterian), Chillicothe, Mo.; MISHNA, San., 6:2.

²⁸ Edersheim, II, 568; public trial today, U. S. Const., Amend. VI.

²⁹ Edersheim, II, 558; Chandler, I, 127 ff (Chap. IX); Deut. 17:6; Num. 35:30.

³⁰ Jacobs vs. Danciger, 328 Mo. 458, 41 S. W. 2d, 389, 77 A. L. R. 1237; see also, 15 Corpus Juris, 1346.

³¹ Roman Law, XII Tab. IX, 6, "The decrees of the Twelve Tables forbid any uncondemned man whomever be put to death"; in modern law, "Double Jeopardy" is forbidden; U. S. Const. Amend. V; Mo. Const. 1875 Art. II, Sec 23; Mo. Const. 1945 Art. I, Sec. 19 prohibits both "Double Jeopardy" and "Self Incrimination"; although right against self-incrimination is waivable.

³² John 18:38; John 19:4; etc. There is some question as to whether Pilate's language was broad enough to be a technical acquittal.

³³ Edersheim, II, 555; Chandler, I, 279; Mendelsohn, *Criminal Jurisprudence of the Ancient Hebrews*, p. 141.

CHAPTER 5. FIVE COURTS AND SIX TRIALS

Jesus, arrested about midnight in the Garden of Gethsemane, was tried six times before he was crucified the following noon. Six trials in twelve hours! Peloubet's Bible Dictionary gives the time of this chronology as follows:³⁴

1.	Before Annas	FRIDAY
2.	Before Caiaphas	1 to 5 A. M.
3.	Before the Sanhedrin	
4.	Before Pilate	5 to 6 A. M.
5.	Before Herod	
6.	Before Pilate Again	

From a standpoint of technical law, the personnel of a legally constituted court is of slight significance. Yet historians know that the course of law has been at times altered and history influenced by the character of judges. Marshall and Holmes, of the United States Supreme Court, Lord Mansfield, Lord Eldon, and Sir William Blackstone of England, Moses of the Hebrews, Justinian of the Romans, Solon of the Greeks, Dean Wigmore of Northwestern University Law School and Dean Pound of Harvard have all made great contributions to law and legal literature. So, in a study of the trial of Christ, one should know something about Annas, Caiaphas, Pilate, and Herod.

This is particularly true because, as we shall see, Christian and Jewish scholars alike agree that the trial of Christ was not a proper trial, the

³⁴ 1925 Edn., pp. 779 & 780.

Christians³⁵ contending that prophecy was fulfilled,³⁶ the Jews contending that the Christians falsely blame the Jews for a Roman crime.³⁷

A. BIOGRAPHICAL

Annas, his five sons, and his father-in-law Caiaphas, all held the Jewish High-Priesthood during the first century, A. D.,³⁸ and it appears from the New Testament that at the time of the arrest of Jesus, Caiaphas was actually in office as High Priest,³⁹ his son-in-law, Annas, being a former High Priest but also holding the title for life.⁴⁰ Caiaphas was a wily politician in the Sanhedrin who had held office as High Priest for eighteen years,⁴¹ although custom was to elect for a one year term. Rollins describes Annas as a nefarious moneylending Sadducee, a political friend of the Romans,⁴² while we know that Caiaphas had conspired with Judas to betray Christ;⁴³ and that none of the writers give either man any praise.

Herod was Roman Governor of Galilee; Pilate, of Judea. Both happened to be in Jerusalem for the Passover crowd. Herod was a son of Herod the Great, who had ordered the slaughter of the infants thirty years before,⁴⁴ and probably hated Jesus.

Pilate was the fifth Roman governor of Judea⁴⁵ and was noted for his cruel and arbitrary administration of the government. He was also weak at times and has been greatly criticized by historians. Rabbi Drucker, in his analysis of the Trial of Christ, not only pictures Pilate as a persecutor of the Jews but states that Caiaphas was a Roman spy⁴⁶ and that the historian Tacitus correctly stated that "Jesus, called Christ, was crucified by Pilate for

³⁵ Edersheim, Chandler, Rollins, among our citations.

³⁶ Compare: Mk. 14:62 with Ps. 110:1 and Dan 7:13; Mk. 15:1 with Is. 53:8; Mk. 15: 3-5 with Is. 53:7; John 19:1-3 with Is. 53:3, 5, 7; John 19:36 with Num. 9:12; John 19:37 with Zech. 12:10; etc.

³⁷ Rabbi Drucker, op. cit., entire work, especially pp. 18-19; Rabbi Klausner, *Jesus of Nazareth*, (Danby Trans), pp. 339-48, inclusive, 413, 414.

³⁸ Peloubet's Bible Dict., 35; Klausner, op. cit., 339.

³⁹ John 18:3.

⁴⁰ Peloubet, op. cit., 35; Klausner, 339.

⁴¹ Klausner, 340.

⁴² Rollins, op. cit., 17 & 18; Compare, Strachan, op. cit., pp. 244 and 308 on Annas & Caiaphas.

⁴³ Matt. 26:3-5.

⁴⁴ Matt. 2:16-20.

⁴⁵ Tacitus Ann., xv:44; Peloubet, op. cit., 518.

⁴⁶ Op. cit., p. 38 ff; loyal Jews thought all Sadducees were quislings.

promoting a rebellion among the Jews."⁴⁷ We do know that Pilate was a craven coward and was afraid to release Jesus.

B. CHRONOLOGY OF THE TRIALS

1. Jesus was taken first to Annas, who was not then High Priest and had no power, so took no formal action but merely "marked time" as it were, until Caiaphas and the Sanhedrin were ready for action.⁴⁸

2. Caiaphas was High Priest and seems to have questioned Jesus privately prior to the convening of the Sanhedrin.⁴⁹ Mr. Chandler, in his two volume work on the Trial of Jesus devotes a whole volume to the Biblical Record, Jewish Law and the Jewish Trials (Volume I), filling up his second volume with a discussion of the Roman Trial of Jesus, and while most of his discussion is interesting, it is longer than necessary. Suffice it to say that Caiaphas' examination of Jesus was merely preparatory to the formal Sanhedrin trial. John gives the clearest account of the action before Caiaphas alone,⁵⁰ probably in the presence only of Peter who had followed afar off.⁵¹

3. The Sanhedrin was a court in the limited sense of the word. It had legislative, executive, judicial, civil, criminal, and ecclesiastical powers over the Jews, and its judges were 72 descendants of Moses. It had to meet legally in daylight, in the forenoon, in a certain room, with court reporters present; and its rules of procedure were so strict that an unanimous verdict of guilt meant acquittal.⁵² There could be unanimous verdicts of acquittal, but no unanimous verdicts of guilt. But the Sanhedrin (in violation of its rules) moved quickly to try Jesus on a charge of Blasphemy,⁵³ on the testimony of two false witnesses who contradicted each other,⁵⁴ but Jesus here broke His silence and said He is Christ.⁵⁵ Then the Sanhedrin unanimously found Him guilty of Blasphemy, but had no power to put Him

⁴⁷ Drucker, p 27; Tacitus, Ann., xv:44.

⁴⁸ Only John gives the story as to Annas; John 18:13-15.

⁴⁹ Matt. 26:57 & 58; Mk. 14:53; Luke 22:54 & 55; John 18:19-24.

⁵⁰ John 18:19-24.

⁵¹ John 18:16-18 & 25-27.

⁵² Chandler, Op. Cit., I, 279.

⁵³ Matt. 26:59-66; Mark 14:55-64.

⁵⁴ Mark 14:59.

⁵⁵ Mark 14:62; compare, Ps. 110:1 and Dan. 7:13.

to death without the consent of Pilate. The Sanhedrists at this point spit on Jesus, while some struck Him with their hands.⁵⁶ In the morning,⁵⁷ they sent Jesus to Pilate.

4. Pilate was Roman Governor and not interested at all in the Jewish charges of Blasphemy, so he found no harm in Jesus. He was impressed though with the "trumped up" charge of Treason; but when Jesus said His kingdom is "not of this world,"⁵⁸ and that Pilate had "no power at all against me except it were given thee from above: therefore he that hath delivered me unto thee hath the greater sin,"⁵⁹ Pilate was less interested than before and sent Jesus to Herod.

5. Herod questioned Jesus at length but, getting no answer, sent Jesus back to Pilate.⁶⁰

6. Pilate had Jesus before him a second time, and again tried to appease the Jews by releasing Jesus as a Holiday Pardon, but they demanded the release of Barabbas, then Pilate delivered Jesus up to be crucified by Roman soldiers on the demand of the Jewish mob.⁶¹ However, Pilate required that it be inscribed over the Cross, "Jesus of Nazareth the King of the Jews."⁶²

⁵⁶ Mark 14:64 & 65; Matt. 26:67; Compare, Isaiah 50:6.

⁵⁷ Mark 15:1; John 18:28; Matt. 27:1 & 19; Lu. 22:66.

⁵⁸ John 18:36.

⁵⁹ John 19:11.

⁶⁰ Luke 23:7-12.

⁶¹ Matt. 27:27 ff; Mark 15:16 ff; Luke 23:26 ff; John 19:17 ff., especially verse 23.

⁶² John 19:19-22, inclusive.

CHAPTER 6. ARGUMENT AS TO JEWISH TRIALS

We have listed in a previous chapter some seventeen reversible errors in the trial of Christ. Chandler, in his lengthy discussion, lists many more. Rollins lists eighteen. But the number is not important because one error is enough to justify reversal of a case under modern law,⁶³ and there have been instances where many allegations of error were brushed aside by an appellate court, as in the Lindbergh kidnaping case, where Mr. Hauptmann unsuccessfully charged the Court with 57 errors.⁶⁴ Men like Rabbi Drucker, in examining the Trial of Christ, claim it never could have taken place because the members of the Sanhedrin were too learned to err as widely as they did, and too religious to hold such proceedings before the morning hour of worship in the Temple. But ample proof of what was done exists in the sacred writings of Matthew, Mark, Luke, and John, the historical writings,⁶⁵ and the admissions of later Jewish scholars like Rabbi Klausner, to whom we have referred.

As to the particular errors in the trial, we know that the Romans had shorn the Sanhedrin of much of its old power as the highest court of Judaism; yet we also know that it was tolerated by the Romans as a sort of provisional or local government in Jerusalem at the time, much as our Government gives a partial freedom to our American Indians in tribal matters, or as the British heretofore permitted sovereignty of some Princes and Maharajahs in interior India. We do know that the Sanhedrin still had some power, subject to Appeal to the Romans;⁶⁶ and that in modern times there has always been a like appeal from India and The Dominions to the Privy Council in

⁶³ Rose vs. Knobelock, (Kansas City Ct. App., Mo., 1946) 194 S. W. 2d, 943.

⁶⁴ Hauptmann vs. State, 115 N. J. L. 412, 180 Atl. 809, Cert. den. 296 U. S. 649, Hab. Cor. Den., 297 U. S. 693.

⁶⁵ Tacitus, Ann., xv:44; Whiston (Ed), *Works of Josephus*, p. 497; Smith, *The Life and Letters of St. Paul*; Chandler op. cit.; Edersheim, op. cit.; etc.

⁶⁶ Smith, op. cit., p. 30; Wilfley, *St. Paul the Herald of Christianity*, p. 22; *Encyc. of Religion & Ethics*, vol. ix, p. 185; Goldberg & Benderly, *Student's Outline of Jewish Knowledge*, v. 3, pp. 516 ff.

England,⁶⁷ and is now a right of appeal to The Supreme Court of the United States from colonial courts in Hawaii or Porto Rico.⁶⁸

Thus established, the Sanhedrin did have jurisdiction to give punishment for Blasphemy, provided it met in a certain place, during the morning hour after the morning worship service in the Temple had ended, and conducted its sessions according to all the required procedure which included rules that it should not meet on feast days or the Sabbath, nor without having court reporters present, and then should reach a verdict of guilty only on a divided vote after two days' deliberation. We have given these requirements and referred to the authorities in our chapter on the Assignments of Error.

Similar restrictions on the power of the Courts are in effect today. Title 28 of the Judicial Code of the United States covers a few hundred printed pages that are filled with the jurisdictional details of our courts—how that they shall meet in certain cities on certain days and that appeals from District Courts in the various states are heard by a particular Circuit Court of Appeals for that Circuit (or area), how the nation is divided into ten judicial circuits, how that appeals from Alaska, Hawaii, and the United States District Court for China go to the Ninth Circuit Court of Appeals (which includes the seven most western states), while those from Porto Rico go to the First Circuit (Maine Area), Virgin Islands to the Third Circuit (Pennsylvania area), and Canal Zone cases to the Fifth Circuit which embraces several states that border on the Gulf of Mexico. All ten of the Circuit Courts of Appeals are reversible on certain points by our Supreme Court.⁶⁹

The first two errors we assign, as to process on a Holiday, or at night, are ideas that existed from time immemorial,⁷⁰ and still exist with modifications. No process issues in Missouri on Sundays or Holidays, for example, except where necessary to keep a defrauder or nonresident from absconding.⁷¹ Modern Courts can, however, validly be in session at night, although the practice is not to begin a hearing later than midafternoon,

⁶⁷ Blackstone's *Commentaries*, *231.

⁶⁸ Judicial Code, Sec. 128 as Amended; *in*, Federal Code Annotated, vol. 7, Sec. 225 of title 28, p. 715; U. S. C. A., tit. 28, § 128.

⁶⁹ Fed. Code Ann. Tit. 28, Sec. 225 ff., particularly 225 (d) ff.

⁷⁰ See footnotes 7 and 8, *supra*.

⁷¹ Missouri Code of Civil Procedure, Sec. 8; Revised Statutes of Missouri (1939) Sec. 907.

except for the convenience of some out-of-town witness who must needs go home on a night train.

The third alleged error revolves around the action of Caiaphas in trying to get Jesus to testify against himself. We all know that in modern jurisprudence, no human right is quite so closely guarded as that, in a trial before a jury no man shall be compelled to be a witness against himself in a criminal case.⁷² On the other hand, prior to the actual trial, police of our time interrogate suspects for hours in an effort to obtain a "confession", and unless unfairness or duress is shown these confessions are competent evidence.⁷³ Furthermore, some scholars argue that Caiaphas' action was necessary because any witness who testified to Christ's claims of Messiahship would himself commit blasphemy. Perhaps this point may be well taken. However we feel that Jews could have been found to testify to the fact of blasphemy without repeating the exact words of our Saviour. We know that in actual courtroom practice today, witnesses frequently use the expression "obscene and vulgar language" and Judges seldom press them for exact phraseology. Our feeling is that Caiaphas went too far and that a modern Court would reverse the judgment on this point.

The fourth error we assign is that Caiaphas had no jurisdiction because his palace was not the meeting place of the Sanhedrin. English Courts at one period of their history were rather strict about the Courts at Westminster Hall. American State Courts have been more liberal, perhaps due to the fact that in pioneer days circuit judges actually rode the circuit and held court on horseback or under a tree or wherever justice demanded, although our Federal Courts have usually been better housed, more dignified, and therefore more strict in matters of place—or "venue" as we call it. In the last decade or more, however, the increase of copyright causes in our Federal Courts has caused our Judges, on occasion, to adjourn from the Courthouse to the Cinema' to determine whether or not two motion pictures were so similar as that the latter infringed the copyright of the

⁷² U. S. Constitution, Amend. V; Numbers 35:30; Wigmore, *Laws of Evidence*, Sec. 2039.

⁷³ *State vs. Faber*, (Mo., 1945) 182 S. W. 2d, 552.

older; and our feeling is that this point is not so important, although Edersheim points out that it would have been a valid objection at the time.⁷⁴

Caiaphas is alleged to have erred a fifth time, by sitting as Judge in the case after having expressed a desire for Jesus' death.⁷⁵ No doubt there should have been several judges in the Sanhedrin trial and if any were prejudiced against Jesus, he should not sit in judgment in the case.⁷⁶ Surely this would have been gross error before any American court today. In fact, Judges often disqualify themselves if there is any question of self-interest involved. During the third week of May, 1947, a Judge in an Illinois murder case refused to proceed and called in a substitute Judge because two sons of the regular judge were attorneys opposing each other in the case. Those who argue that Caiaphas did err in this regard base their argument on John 11:50 where Caiaphas is quoted as desiring Jesus' death, while others say there is little or no evidence as to whom Judas conspired with. We feel that error was committed.

Jesus was left unguarded on Caiaphas' Palace Porch and was abused by the mob.⁷⁷ This was cruel and unjustified. Those who abused Him should have been punished—but as grounds of reversible error the argument is a weak one.

No modern law references can be given on several of the points, for the reason that the Courts in America have never had occasion to pass upon the powers of the Sanhedrin. As to the power of that body in Capital Cases⁷⁸ and when not regularly in session⁷⁹ enough has already been said.⁸⁰

Jesus had no counsel! Here is implied what is probably the most serious defect in the whole procedures, both Jewish and Roman. Here is a question on which there can be little doubt. All the writers agree that Jesus had no counsel, and there is no Scripture that says he did. The problem raised is as to whether there were lawyers before the Sanhedrin in those days. The

⁷⁴ Edersheim, *op. cit.*, II, 556.

⁷⁵ Rollins, *op. cit.*, p. 21 & ff.

⁷⁶ See footnote 18.

⁷⁷ Mark 14:65; Edersheim, *op. cit.*, II, 563.

⁷⁸ See footnote 20, *Supra*.

⁷⁹ See footnote 21, *Supra*.

⁸⁰ See discussion, *Supra*, of our pioneer circuit courts and our system generally.

writings of St. Paul abound in legal references, and there is some evidence that he was a lawyer.⁸¹ Chandler denies that there were counsel for Christ before the Sanhedrin, or counsel at all, ever, but says part of the Judges should have defended Him and that an unanimous verdict was error because there always had to be a doubt of guilt and if a verdict was unanimous a prisoner had to be freed.⁸² Defendants today have a constitutional right to counsel and we feel that failure to provide counsel for Jesus was error both before the Sanhedrin and, as we shall see later, before Pilate.⁸³

To summarize here: The Jewish trial was illegal from start to finish under the then existing Hebrew Law; the arrest was illegal;⁸⁴ the private examination before Caiaphas was illegal;⁸⁵ the informal indictment was illegal because the Sanhedrin was a trial court⁸⁶ with no power to originate charges;⁸⁷ the Sanhedrin had no power to hold a trial at night,⁸⁸ or before the morning sacrifice⁸⁹ or on a holiday or Sabbath;⁹⁰ or to conclude a trial by a verdict of "guilty" on the day the trial commenced;⁹¹ or to convict upon an unsupported confession without corroborative evidence;⁹² or by an unanimous verdict;⁹³ and sentence was passed in the wrong room, upon irregular balloting and the High Priest unlawfully rent his clothing;⁹⁴ sentence was passed by a prejudiced court⁹⁵ without a diligent inquiry into the merits of the case.⁹⁶

⁸¹ See Appendix A, *Infra*, as to Lawyers, particularly St. Paul.

⁸² See discussion, *Infra*.

⁸³ Edersheim, *op. cit.* II, 555; Missouri Constitution of 1945, Art. I, Sec. 18; Constitution of U. S., Amendment VI.

⁸⁴ Chandler, *op. cit.*, I, 219-238.

⁸⁵ *Ibid*, 238-247.

⁸⁶ Compare, modern distinction between a Grand Jury and a Petit Jury—beyond the scope of our study; See, *Corpus Juris*, or *Bouvier's Law Dictionary* on "Grand Jury" or "Petit Jury".

⁸⁷ Chandler, *Ibid*, I, 248-254.

⁸⁸ *Ibid*, 255-259.

⁸⁹ *Ibid*, 260-262.

⁹⁰ *Ibid*, 263-266; *Mishna, San.*, I, 1.

⁹¹ Chandler, *op. cit.*, I, 267-270.

⁹² *Ibid*, 271-278.

⁹³ *Ibid*, 279-286; But American Law usually requires an unanimous verdict in criminal cases; consult local Statutes.

⁹⁴ Chandler, *op. cit.*, I, 286-294; *Leviticus 21:10*; *Leviticus 10:6*.

⁹⁵ Chandler, *op. cit.*, I, 295-308; see, for proof of prejudice, *John 7:37-53*; *John 11:41-53*; *Luke 22:1-3*; *Matt. 26:3-5*; on false witnesses, *Deut. 19:18-21*; on "Due Process", *Num. 35:30*.

⁹⁶ See *Deut. 13:14*.

We submit that this last point is the crux of the case: that if the Sanhedrin had really heard and honestly weighed the evidence they would have concluded that Christ is the Messiah—is Our Redeemer!⁹⁷

⁹⁷ See our last chapter, *Infra*.

CHAPTER 7. ERRORS IN THE ROMAN TRIALS

Mr. Rollins⁹⁸ says Rome had "nothing to do with the arrest of Christ other than to furnish the soldiers to accompany the accusers" and then goes on in a homiletical style, to review the public career of Jesus as a background for the trial,⁹⁹ and after a brief discussion of the Sanhedrists and their actions,¹⁰⁰ devotes the remainder of his book¹⁰¹ to a discussion of Pilate, Herod and Pilate's wife, in narrative fashion and without citation of authorities. Mr. Chandler¹⁰² devotes considerable space to extraneous discussions of Roman Law and Procedure and concludes that while Pilate commenced the hearings in proper dignity and reached an opinion that would result in an acquittal, he vacillated into compliance with the wishes of the Jewish mob. We confine ourselves to technicality as to the issues involved, and refer the reader to Chandler for a more abstract discussion of Roman Jurisprudence.

There are two documents in ancient Roman Law that are basic, The Laws of The Twelve Tables¹⁰³ and the Code of Justinian.¹⁰⁴ We need concern ourselves only with the former to convict Pilate of legal error in his treatment of Jesus.¹⁰⁵ We will cite table and sentence from the Twelve Tables as we have cited Chapter and Verse from The Bible.

The Gospels give the Roman trial considerable mention,¹⁰⁶ and yet only a few statements are made which we need examine in order to establish that Roman government was supreme over the Sanhedrists and that Christ "was

⁹⁸ Op. cit., p. 5.

⁹⁹ pp. 5-16.

¹⁰⁰ pp. 17-43.

¹⁰¹ pp. 44-70.

¹⁰² Op. cit., Volume II.

¹⁰³ Promulgated in 450 B. C.

¹⁰⁴ 529-534 A. D.

¹⁰⁵ Conant's translation of the Bruns' Text, (1928) *St. Louis Law Review*, Vol. xiii No. 4.

¹⁰⁶ Matt. 27:11-26; Mk. 15:2-15; Lu. 23:1-24; John 18:30-19:16.

condemned to death in the reign of Tiberius by the Procurator Pontius Pilate."¹⁰⁷

Now—What does the record show and wherein did Pilate err?

1. Pilate did not hold hearing until dawn,¹⁰⁸ but some say he should have compelled the Sanhedrin to obey the Jewish and Roman law against night trials.¹⁰⁹

2. Pilate erred in permitting the Sanhedrists to examine Jesus in private¹¹⁰ when trials had to be public in those days¹¹¹ as now.¹¹²

3. Pilate erred in not requiring the testimony of witnesses, Roman Law agreeing with the Jewish and our law on this point.¹¹³

4. Pilate should have released Jesus when he found "no harm" in Him.¹¹⁴ On this point the Law of the Twelve Tables is crystal clear. Archeologists have not found all of the stone fragments of The Twelve Tables, but Professor Conant explains that all have been collated by Bruns from other sources and Conant translates as Table IX, verse 6, "The decrees of the Twelve Tables forbid any uncondemned man whomever be put to death."¹¹⁵ All of the best writers agree that Pilate, finding no harm in Jesus, should have released him then and there.¹¹⁶

¹⁰⁷ Tacitus, *Annales*, xv:44; Apostle's Creed, "suffered under Pontius Pilate"; John 19:16; Luke 23:24; Mark 15:15; Matthew 27:26.

¹⁰⁸ Matt. 27:1.

¹⁰⁹ XII TAB. I, 7, 8; Edersheim, *op. cit.*, II, 557; Drucker, *op. cit.*, pp. 8 & 10; Chandler, *op. cit.*, I, 219, 238, 260, 263.

¹¹⁰ John 18:28—"They themselves went not into the judgment hall."

¹¹¹ XII TAB. I, 7.

¹¹² U. S. Constitution, Amendment VI.

¹¹³ Footnotes 29 and 111, *Supra*; XII TAB. VIII, 23.

¹¹⁴ Matt. 27:24 "this just man"; Lu. 23:4, 14, 22; John 18:38.

¹¹⁵ Conant, XII TAB. IX, 6, quoting, "SALVANUS, (de gubern. dei. 8, 5, 24): 'Interfici—indemnatum quemeunque hominem etiam XII tabularum decreta velverunt.'"

¹¹⁶ Rollins, *op. cit.*, 23, 47; Chandler, *op. cit.*, II, 116, 152, and works cited.

CHAPTER 8. A LESSON IN CITIZENSHIP

The Author has spoken before meetings of various ward organizations in St. Louis on the subject, "Political Lessons from the Trial of Christ." Under such circumstances the utmost care is taken to avoid religious differences and to point out that the trial of Christ has a three-fold significance: the Technical aspect, the Citizenship aspect, and the Messianic aspect. To an unlearned political audience the technical portion which we have reviewed has to be stated in simple terms, in order to put the larger emphasis on the idea that the remedy for legal laxity is to honestly endeavor to get reform.

To illustrate, when the Lindbergh defendant, Hauptmann,¹¹⁷ assigned in an Appellate Court some 57 alleged errors in his trial for the kidnapping and murder of young Lindbergh, a good church friend of mine ventured the opinion that he would "get off on a technicality." We are glad he did not. At the time, I told my friend that the technicalities of the law are for the protection of all people, innocent and guilty alike. The duty of a good citizen is not to wail over apparent technical miscarriages of justice but rather to join hands with his fellows to correct the existing procedural evils. How many of those who condemned the Supreme Court for avoiding a Child Labor law some twenty-five years ago,¹¹⁸ ever turned their hands to aid in the campaign to amend the Constitution of The United States so as to permit regulation of this evil? How many of those who scorn politics as "dirty" ever do anything to clean them up? How many so-called professing Christians ever let their voice be heard in a political meeting?

Intelligent reform of the law requires not only desire on the part of the reformer for a betterment of conditions, not only the political stamina and influence to get the legislative group to adopt his program, but most of all an intelligent understanding of legal history and precedent leading up to the existing dilemma, in order that the reformer will be able to point out to this age the factual errors of history. In drawing from the errors of the trial of

¹¹⁷ Hauptmann v. State, 115 N. J. L. 412, 180 Atl. 809, certiorari denied 296 U. S. 649, habeas corpus denied, 297 U. S. 693.

¹¹⁸ Bailey v. Drexel Furniture Co., (1922) 259 U. S. 20.

Christ, therefore, a lesson in citizenship, it is well that we have in mind the history of law and the theory of human government. Archeology has its place in such a study but is quite beyond the scope of our brief presentation.¹¹⁹ The basic principles of the law have remained unchanged for four thousand years,¹²⁰ and most of the great lawgivers of history have either been trained in the law or inspired of God. Somewhere the author has read that it was not mere accident that Moses was rescued from the river by Pharaoh's daughter, but that as a result of his upbringing in the royal palace Moses was educated in the Egyptian universities of that day and had some knowledge of existing law and of medicine as well. No doubt he had access to the Code of Hammurabi. Roman Law in force when Christ was tried, as we have pointed out, was the Laws of the Twelve Tables.¹²¹ Some years ago the author wrote his graduation thesis (unpublished) on "The Twelve Tables in Modern American Law" and demonstrated that 87 of the 113 sections of The Twelve Tables were in accord with our law, in principle if not in detail, in 1930 A.D., Two Thousand Three Hundred Eighty Years after they were promulgated!¹²² My brother¹²³ has quite properly reminded the writer, time and time again, that the law is not an end unto itself but a means of enforcing some semblance of earthly justice until the world is raptured by the Second Coming of Christ: No man was ever saved by mere law!

The writings of St. Paul are very rich in their legal references.¹²⁴ In our Appendix we mention the legalism of Paul in more detail. The Bible tells us he had been a student under the great and learned Gamaliel.¹²⁵ Whether or not Paul was learned in the law, the idea of the Church as the Body of Christ

¹¹⁹ Cf., Smith, "The Romance of the Greek New Testament", in *The Sunday School Times*, Feb. 1, 1947, Vol. 89, p. 99.

¹²⁰ Compare Gaius' *Institutes*, (Postes Transl.) Bk. I, Sec. I; Code of Hammurabi; Ten Commandments (Exodus xx) of which the Commandments I, II, X, are not now American law; Numbers 35:30; U. S. Const., Amendment XIV; McCune Gill, "Getting Back to Justinian", in *62 American Law Review*, p. 301 (1928); Wigmore, *A Panorama of the World's Legal Systems*, 3 vols.

¹²¹ 450 B. C.; Text available in English in *St. Louis Law Review* for June, 1928 (Conant translation of Bruns' Text).

¹²² The ideas of the Twelve Tables appear outside Roman Law and Anglo-American Law, and there was once a discussion as to whether they were copied from the Code of Confucius or not; consult, further on this point, *Encyclopedia of Religion and Ethics*, (Scribners' 1915) title "Law" in volume 7, pp. 820, 830, and 877; Sir John Legge, *Confucian Analects* (Hongkong, 1861); Jernigan, *China in Law and Commerce*, (London, 1915).

¹²³ The Rev. M. Edwards Breed, First Presbyterian Church, Chillicothe, Mo.

¹²⁴ See, for example, 1 Tim. 1:5, 8; Gal. 3:15; Heb. 9:15; Rom. 10:4; 1 Cor., Ch. 10; 1 Cor. 14:21; etc.

¹²⁵ Acts 22:3; Gal. 1:13 & 14; Phil. 3:4-10; etc.

is clearer to a legal mind if one remembers that corporations were known to law as far back as 500 B. C.,¹²⁶ and that corporate existence is the only worldly example of anything that resembles immortality.¹²⁷

Our point is that the legalisms in Paul's writings and the existence of corporations in those days in Greek and Roman Law—even the Hebrew corporate existence of the Sanhedrin—all aid one in understanding Christ. We will refer again to the precious promise that, "In My Father's house are many mansions, . . . I go to prepare a place for you."¹²⁸ Archeology has discovered court records in Egypt in the Koine Greek language in which the word "Mansion" used in the passage quoted is used in the sense of "Habitable real estate acceptable for bail bond."¹²⁹ We are sure our Heavenly Home will be habitable like that.

A great sage once said that one cannot stand still. The minute a movement stops growing, it deteriorates. As long as there were other worlds to conquer, Rome was a powerful state but when progress stopped the Empire fell. The public is prone to point out the laxities in our laws and government and lay the blame to two groups—the lawyers and the politicians. A failure of the Roman government to enforce the rigid laws in that great trial in Jerusalem caused the greatest public murder in history. From that failure we can learn the value of enforcement—the political lesson that the technicalities of a system of law should be enforced. We can learn that the remedy for a defective law is not wholesale violation but amendment.

So let us now as Christians use what influence we have to bring about those changes in Government and in law that will be for the greatest public good, remembering that good earthly government derives its power from the just consent of the governed. Let us teach the public to vote intelligently at every election, and to respect and obey the legal technicalities of existing

¹²⁶ Fletcher, *Cyclopedia of the Law of Private Corporations*, 20 vols., 1931, vol. 1, p. 1; Blackstone's *Commentaries*, I, 468; Sohm, *Institutes of Roman Law*, (Ledlie's Trans., 1926) p. 186; Maine, *Ancient Law*, 4th ed., p. 183; Ulpian, *Frag.* 22, 5; *Corpus Juris*, (Modern legal encyclopedia not to be confused with *Justinian C. J.*), vol. 14, p. 51; etc.

¹²⁷ See the great definition by Marshall, C. J., in *Dartmouth College vs. Woodward*, 4 Wheaton 518, 4 L. Ed. 629 1. c. 659. The following are the dates of origin of well known modern corporations still existing: Dartmouth College, 1769; Yale, 1701; St. Peters' College, Cambridge, England, 1284; Hudson Bay Co., 1670, see *The Governors etc. for Hudson Bay vs. Hudson Bay Fur Co.*, 33 Fed. 2d. 801.

¹²⁸ John 14:2.

¹²⁹ Rimmer, *Voices from the Silent Centuries*, p. 68.

government while working for their improvement. If we can thus educate the public to the intelligent use of elections we shall render real service to the people of the United States.

EPILOGUE—OUR REDEEMER

"Come unto me, all ye that labour and are heavy laden, and I will give you rest."¹³⁰ Thus spoke Jesus of Nazareth, the Christ of God, the Saviour of the world—who in His earthly ministry never once used the word "religion."¹³¹ Christianity is not a religion; it is a revelation.

The word "religion" comes from a Greek root meaning the act of man searching out for God, pagan man trying to find God. But when Very God became flesh and dwelt among us, revealed Himself in the person of Christ, and died to save us from our sins, religion ceased for all believers in Jesus. True, many laymen and ministers use the term "Christian Religion" in a broad sense to embrace that which is actually Christian Revelation. We could quote columns of the words of The Master, and each would emphasize our point. During the trial before Pilate, Jesus made this startling statement: "Thou couldest have no power at all against me, except it were given thee from above."¹³² To a thief on a neighboring cross who confessed, He said: "Today shalt thou be with me in paradise."¹³³ To His disciples; in that poignant fourteenth chapter of John, Jesus discussed the heavenly mansions He has gone to prepare for us, promised to return to take us there, and told us that the Father dwelleth in him to do the works.

Who could make these startling promises? Could an imposter make them and not be found out? What does the trial teach us of Our Redeemer? Did the Jews prove Jesus an imposter? If the trial proved Jesus was an imposter, why did Pilate have it inscribed on the cross, "THE KING OF THE JEWS"¹³⁴ instead of, "He said he was king of the Jews."?

The reason is that the Jews failed to see the true import of the trial. This was not a trial of Christ by the Jews or by the Romans for that matter. It was a

¹³⁰ Matt. 11:28.

¹³¹ Ernest Gordon, "A Survey of Religious Life and Thought", in *The Sunday School Times*, Jan. 11, 1947, p. 30 (6).

¹³² John 19:11.

¹³³ Luke 23:43.

¹³⁴ Mark 15:26; John 19:19 thru 22.

APPENDIX B. BIBLIOGRAPHY

The following authorities have been cited or referred to in this work:

(Listed in the Order of Citation)¹³⁹

The Holy Bible

Edward J. White, Esq., *The Law in the Scriptures*, (Thomas Law Book Company, St. Louis) .

Sir William Blackstone, Esq., *Commentaries on the Laws of England*, (1765) Cooley's 2nd Amer. Edn. (1876).

Rev. Clarence Edward Macartney, *Trials of Great Men of the Bible*.

Rev. Harry Rimmer, *Voices from the Silent Centuries*.

Rev. William F. Albright, *From the Stone Age to Christianity*.

Prof. John H. Wigmore, Esq., *A Panorama of the World's Legal Systems*.

Rev. Alfred Edersheim, *The Life and Times of Jesus The Messiah*.

Thayer's, *Greek-English Lexicon*.

Corpus Juris, (a 72 volume modern legal encyclopedia not to be confused with the Justinian *Corpus Juris Civilis* also referred to).

Missouri Code of Civil Procedure (1945) passed in 1943 and effective January 1, 1945; Laws Mo., '43, p. 389.

James M. Rollins, Esq., *The Arrest, Trial and Conviction of Jesus Christ from a Lawyer's Standpoint*.

Rabbi A. P. Drucker, *The Trial of Jesus from Jewish Sources*.

W. M. Chandler, Esq., *The Trial of Jesus from a Lawyer's Standpoint*.

¹³⁹ Doctoral titles omitted as we use "Rev," "Rabbi," or "Esq." to show whether or not author is a Minister, Rabbi or Lawyer.

