

THE TRIAL OF JESUS

FROM A LAWYER'S STANDPOINT

BY

WALTER M. CHANDLER

OF THE NEW YORK BAR

VOLUME I

THE HEBREW TRIAL

THE FEDERAL BOOK CO.

120 BROADWAY, NEW YORK CITY

1925

Copyright, 1908, by
WALTER M. CHANDLER

Copyright, 1925, by
WALTER M. CHANDLER

All rights reserved

CONTENTS OF VOLUME ONE

	PAGE
PREFACE TO VOLUME ONE	xiii
THE GOSPEL NARRATIVES	xxx

PART I

THE RECORD OF FACT

AUTHENTICITY OF THE NEW TESTAMENT NARRATIVES, JUDICIALLY CONSIDERED	3
CREDIBILITY OF THE GOSPEL WRITERS, LEGALLY TESTED	9

PART II

HEBREW CRIMINAL LAW

CHAPTER

I. THE MOSAIC CODE AND THE TALMUD	73
II. HEBREW CRIMES AND PUNISHMENTS	91
III. HEBREW COURTS AND JUDGES	102
IV. HEBREW WITNESSES AND EVIDENCE	127
V. MODE OF TRIAL AND EXECUTION IN HEBREW CAPITAL CASES	153

PART III

THE BRIEF

WHETHER OR NOT THE GREAT SANHEDRIN EXISTED AT THE TIME OF CHRIST	175
CONCERNING THE JURISDICTION OF THE GREAT SANHEDRIN, WITH REFERENCE TO ROMAN AUTHORITY, TO TRY CAPITAL OFFENSES AT THE DATE OF THE CRUCIFIXION	181

pletely their mode of life, became austere in professing and practicing principles of virtue, spent their entire lives proclaiming certain truths to mankind, and then suffered the deaths of martyrs—all for the sake of a religion which they knew to be false. If they did not believe it to be false, they were sincere, and one element of their credibility is established. It is not a question at this time as to the absolute correctness of their statements. These statements might have been false, though their authors believed them to be true—it is a question of sincerity at this point; and the test of sincerity, as an element of credibility, rests upon the simple basis that men are more disposed to believe the statement of a witness if it is thought that the witness himself believes it.

(2) In the second place, let us consider the *ability* of the Evangelists as a test of their credibility as witnesses.

The text writers on the Law of Evidence are generally agreed that the ability of a witness to speak truthfully and accurately depends upon two considerations: (1) His natural powers of observation, which enable him to clearly perceive, and his strength of memory, which enables him to fully retain the matters of fact to which his testimony relates; (2) his opportunities for observing the things about which he testifies.

To what extent the Gospel writers possessed the first of these qualifications—that is, power of observation and strength of memory—we are not informed by either history or tradition. But we are certainly justi-

fied in assuming to be true what the law actually presumes: that they were at least men of sound mind and average intelligence. This presumption, it may be remarked, continues to exist in favor of the witness until an objector appears who proves the contrary by competent and satisfactory evidence. It is not believed that this proof has ever been or can ever be successfully established in the case of the Evangelists.

Aside from this legal presumption in their favor, there are certain considerations which lead us to believe that they were well qualified to speak truthfully and authoritatively about the matters relating to Gospel history. In the first place, the writings themselves indicate extraordinary mental vigor, as well as cultivated intelligence. The Gospels of Luke and John, moreover, reveal that elegance of style and lofty imagery which are the invariable characteristics of intellectual depth and culture. The "ignorant fishermen" idea is certainly not applicable to the Gospel writers. If they were ever very ignorant, at the time of the composition of the Evangelical writings they had outgrown the affliction. The fact that the Gospels were written in Greek by Hebrews indicates that they were not entirely illiterate.

Again, the occupations of two of them are very suggestive. Matthew was a collector at the seat of customs,¹ and Luke was a physician.² Both these callings required more than ordinary knowledge of men, as well as accurate powers of observation, discrimination, and analysis.

¹ Matt. ix. 9.

² Col. iv. 14: "Luke, the beloved physician."

But it has been frequently urged that, regardless of their natural endowments, the Evangelists were biased in favor of Jesus and His teachings, and bitterly prejudiced against all opposing faiths. In other words, they were at the same moment both enthusiasts and fanatics. For this reason, it is contended, their testimony is unreliable. This is without doubt the weakest assault ever made upon the trustworthiness of the Gospel narratives. That the Gospel writers were neither fanatics nor enthusiasts is evident from the very tone and style of the Sacred Writings themselves. The language of fanaticism and enthusiasm is the language of rant and rage, of vituperation and of censure, on the one hand, and of eulogy and adulation on the other. The enthusiast knows no limit to the praise of those whose cause he advocates. The fanatic places no bounds to his denunciation of those whom he opposes. Now, the most remarkable characteristic of the New Testament histories is the spirit of quiet dignity and simple candor which everywhere pervades them. There is nowhere the slightest trace of bitterness or resentment. There is enthusiasm everywhere in the sense of religious fervor, but nowhere in the sense of unbecoming heat or impatient caviling. The three eventful years of the ministry of Jesus afforded many opportunities for the display of temper and for the use of invective in the Evangelical writings. The murder of the Baptist by Herod; his cunning designs against Jesus; the constant dogging of the footsteps of the Master by the spies of the Sanhedrin; and His crucifixion by the order of Pontius Pilate—what more

could be desired to make the heart rage and the blood boil? But nowhere is there the slightest exhibition of violent feeling or extravagant emotion. A gentle forbearance, a mild equanimity, a becoming dignity, mark every thought and utterance. The character of Pilate, as portrayed in the New Testament, is a supreme illustration of the fairness and magnanimity of the Gospel writers. Philo and Josephus describe the Roman procurator as stubborn, cruel, and vindictive. The only kindly suggestion touching the character of Pilate that has come down from the ancient world, is that contained in the writings of men who, above all others, would have been justified in describing him as cowardly and craven. Instead of painting him as a monster, they have linked conscience to his character and stored mercy in his heart, by their accounts of his repeated attempts to release Jesus. Fanatics and enthusiasts would not have done this.

Again, the absence of both bias and prejudice in the minds and hearts of the Evangelists is shown by the fact that they did not hesitate to record their own ludicrous foibles and blunders, and to proclaim them to the world. A disposition to do this is one of the surest indications of a truthful mind. It is in the nature of "a declaration against interest," in the phraseology of the law; and such declarations are believed because it has been universally observed that "men are not likely to invent anecdotes to their own discredit." "When we find them in any author," says Professor Fisher in his "Grounds of Theistic and Christian Belief," "a strong presumption is raised in favor of his general

truthfulness." Many passages of New Testament Scriptures place Jesus and the Apostles in a most unfavorable light before the world. The denial of the Master by Peter¹ and His betrayal by Judas;² the flight of the Eleven from the Garden at the time of the arrest;³ the ridiculous attempt of Peter to walk upon the sea and his failure because of lack of faith;⁴ the frequent childish contentions among the disciples for place and precedence in the affections of Jesus and in the New Kingdom;⁵ the embassy from John the Baptist to Jesus asking if He, Jesus, was the Messiah, after the latter had already visited the former, and had been baptized by him;⁶ the belief of the family of Jesus that He was mad;⁷ and the fact that His neighbors at Nazareth threatened to kill Him by hurling Him from a cliff⁸—these various recitals have furnished a handle to skeptical criticism in every age. They might as well have been omitted from the Gospel histories; and they would have been omitted by designing and untruthful men.

Again, touching the question of bias and prejudice, it is worthy of observation that skeptics fail to apply the same rules of criticism to sacred that they employ in profane literature. It is contended by them that the Evangelists are unworthy of belief because their writings record the words and deeds of their own Lord and Master. It is asserted that this sacred and tender relationship warped and blinded their judgment, and dis-

¹ Matt. xxvi. 70-72.

² Matt. xxvi. 46-50.

³ Matt. xxvi. 56.

⁴ Matt. xiv. 28-31.

⁵ Mark x. 35-42; Matt. xx. 20-25.

⁶ Matt. xi. 2, 3.

⁷ Mark iii. 21.

⁸ Luke iv. 28, 29.

qualified them to write truthfully the facts and circumstances connected with the life and ministry of the founder of their faith. But these same critics do not apply the same tests of credibility to secular writers sustaining similar relationships. The Commentaries of Cæsar and the Anabasis of Xenophon record the mighty deeds and brilliant achievements of their authors; but this fact does not destroy their reliability as historical records in the estimation of those who insist that the Gospel writers shall be rejected on grounds of bias and partiality. The Memorabilia of Xenophon, "Recollections of Socrates," is the tribute of an affectionate and admiring disciple; and yet, all the colleges and universities of the world employ this work as a text-book in teaching the life and style of conversation of the great Athenian philosopher. It is never argued that the intimate relationship existing between Xenophon and Socrates should affect the credibility of the author of the Memorabilia. The best biography in the English language is Boswell's "Life of Johnson." Boswell's admiration for Dr. Johnson was idolatrous. At times, his servile flattery of the great Englishman amounted to disgusting sycophancy. In spite of this, his work is a monumental contribution to historical literature. The "Encyclopedia Britannica" says that "Boswell has produced the best biography the world has yet seen"; but why not reject this book because of its author's spaniel-like devotion to the man whose life he has written? If Matthew, Mark, Luke, and John are to be repudiated on the ground of bias, why not repudiate Cæsar, Xenophon, and Boswell? It is re-

spectfully submitted that there is no real difference in logic between the tests of credibility applicable to sacred, and those required in the case of profane writers. A just and exact criticism will apply the same rules to both.

As to the second qualification above mentioned, under the second legal test of credibility laid down by Starkie, that is, the opportunity of observing facts and circumstances about which testimony is given, it may safely be said that the majority of the Evangelists possessed it in the highest degree. The most convincing testimony that can possibly be offered in a court of law is that of an eyewitness who has seen or heard what he testifies. Now, it is reasonably certain that all of the Gospel writers were eyewitnesses of most of the events recorded by them in the Gospel histories. Both Matthew and John were numbered among the Twelve who constantly attended the Master in all His wanderings, heard His discourses, witnessed the performance of His miracles, and proclaimed His faith after He was gone. It is very probable that Mark was another eyewitness of the events in the life and ministry of the Savior. It is now very generally agreed that the author of the Second Gospel was the young man who threw away his garment and fled at the time of the arrest in the Garden.¹ If Mark was actually present at midnight in Gethsemane peering through the shadows to see what would be done to the Nazarene by the mob, it is more than probable that he was also a witness of many other events in the life and ministry of

¹ Mark xiv. 51, 52.

the great Teacher. But, whether this be true or not, it is very well settled that the Second Gospel was dictated to Mark by Peter, who was as familiar with all the acts and words of Jesus as was Matthew or John. The Christian writers of antiquity unanimously testify that Mark wrote the Gospel ascribed to him, at the dictation of Peter. If their testimony is true, Peter is the real author of the Second Gospel. That the Gospel of Mark was written by an eyewitness is the opinion of Renan, the skeptic, who says: "In Mark, the facts are related with a clearness for which we seek in vain amongst the other Evangelists. He likes to report certain words of Jesus in Syro-Chaldean. He is full of minute observations, coming doubtless from an eye-witness. There is nothing to prevent our agreeing with Papias in regarding this eye-witness, who evidently had followed Jesus, who had loved Him and observed Him very closely, and who had preserved a lively image of Him, as the Apostle Peter himself."¹ The same writer declares Matthew to have been an eyewitness of the events described by him. He says: "On the whole, I admit as authentic the four canonical Gospels. All, in my opinion, date from the first century, and the authors are, generally speaking, those to whom they are attributed; but their historic value is diverse. Matthew evidently merits an unlimited confidence as to the discourses; they are the Logia, the identical notes taken from a clear and lively remembrance of the teachings of Jesus."¹

That Luke was an eyewitness of many of the things

¹ "Intro. Vie de Jesus."

recorded by him, and that the others were related to him by eyewitnesses, is perfectly clear from the introductory verses of his Gospel. In addressing his royal patron, Theophilus, he assures him that those who communicated the information contained in the Gospel to him were eyewitnesses; and follows by saying that he himself had had "perfect understanding of all things from the very first."¹ The evident meaning of this is that, desiring full information for Theophilus, he had supplemented his own personal knowledge by additional facts secured from eyewitnesses to those things which, not being of the Twelve, he himself had not seen.

St. John was peculiarly well qualified to record the sayings and doings of the Christ. He was called "the disciple whom Jesus loved." He was admitted into the presence of the Savior, at all times, on terms of the utmost intimacy and friendship. At the Last Supper, his head reposed confidently and lovingly upon the bosom of the Master. Together with Peter and James, he witnessed the resurrection of Jairus' daughter; was present at the Transfiguration on the Mount, and at the agony of the Savior in the Garden. From the cross, Jesus placed upon him the tender and pathetic burden of caring for His mother; and, running ahead of Peter, he was the first among the Twelve to arrive at the open sepulcher. By means of a favorable acquaintanceship with the High Priest, he was enabled to gain access to the palace and to be present at the trial of Jesus, as well as to introduce Peter, his friend.

¹ Luke i. 2, 3.

It is thus clearly evident that the Evangelists were amply able, from any point of view, to truthfully and accurately record the events narrated in the Gospel histories. As eyewitnesses, being on the ground and having the situation well in hand, they were certainly better qualified to write truthful history of the events then occurring than historians and critics who lived centuries afterwards.

But it is frequently contended that, if the Evangelists were eyewitnesses of the leading events which they recorded, they committed them to writing so long afterwards that they had forgotten them, or had confused them with various traditions that had in the meantime grown up. There may be some little truth in this contention, but not enough to destroy the credibility of the witnesses as to events such as the Crucifixion and Resurrection of Jesus. These are not matters to be easily forgotten or confused with other things. The date of the composition and publication of the different Gospels is not known. But Professor Holtzmann, of Heidelberg (a man who cannot be said to be favorable to Christianity, since he was for several years the leader of the freethinkers in the Grand Duchy of Baden), after many years of careful study of the subject, declared that the Synoptic Gospels, the first three, were committed to writing between the years 60 and 80 of our era.¹ This was only from thirty to fifty years after the death of Jesus. Could men of average memory and intelligence who had been almost daily preaching the life and deeds of Jesus during these

¹ "Die synoptischen Evangelien," pp. 412-14.

thirty or fifty years have forgotten them? The testimony of Principal Drummond, of Oxford, is very pertinent at this point. He says: "If we suppose that the Synoptic Gospels were written from forty to sixty years after the time of Christ, still they were based on earlier material, and even after forty years the memory of characteristic sayings may be perfectly clear. . . . I have not a particularly good memory, but I can recall many sayings that were uttered forty, or even fifty, years ago, and in some cases can vividly recollect the scene."¹

If the Evangelists were eyewitnesses, which the records seem clearly to indicate, they possessed one of the strongest tests of credibility.

(3) In the third place, as to their *number* and the *consistency* of their testimony.

The credibility of a witness is greatly strengthened if his testimony is corroborated by other witnesses who testify to substantially the same thing. The greater the number of supporting witnesses, fraud and collusion being barred, the greater the credibility of the witness corroborated. But corroboration implies the presence in evidence of due and reasonable consistency between the testimony of the witness testifying and that of those corroborating. A radical discrepancy on a material point not only fails to strengthen, but tends to destroy the credibility of one or both the witnesses.

Now, the fierce fire of skeptical criticism during all the ages has been centered upon the so-called discrepancies of the Gospel narratives. It is asserted by many

¹ Marcus Dods, "The Bible, Its Origin and Nature," p. 184.