

The Resurrection – a lawyer's view

Keith Matthee SC

“... whether Jesus was what He proclaimed Himself to be, must surely depend on the truth or otherwise of the resurrection.”

– Former Chief Justice of England, Lord Darling

ABOUT THE AUTHOR

Keith Matthee obtained his BA LLB at the University of Natal. He was admitted as an advocate in 1979.

He left law in 1979 for eight years to work for the Student Christian Association and then for the Methodist Church. During this period he worked on various university campuses in South Africa. From 1981 to 1982 he was based at St Aldates, Oxford. In 1987 he obtained a Bachelor Of Divinity degree from Rhodes University, majoring in New Testament Studies and Hellenistic Greek. He has been a lay preacher in the Methodist Church since 1978.

He returned to the bar as an advocate in 1987. Since 1991 he has served in an adjudicating role in different forums, including serving as an arbitrator, a presiding officer in the Industrial Court, an assessor in the Labour Appeal Court, and on a number of occasions as an Acting Judge in the High Courts of Port Elizabeth, Grahamstown, East London, Mthatha, Cape Town and Gauteng.

He has appeared in all the courts of South Africa, including the Constitutional Court and the Supreme Court Of Appeal. In 2002 he was appointed as Senior Counsel by President Mbeki. In 2007 he relocated from the Eastern Cape to Cape Town and for a number of years was a member of the Cape Town Bar.

He is the author of *Decolonising Jesus, The Emperor Has No Clothing, Whose Way* and together with his wife, *One Man One Woman*. He recently has completed a Doctor of Laws thesis at Free State University, *Subjective strands in the jurisprudence of the Constitutional Court and related implications for Civil Society*.

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He married Roslyn Dorrington in 1980 and they have two sons, a daughter and six grandchildren. He stays fit by running, marathon horse rides and hoping that the Sharks rugby team will win more finals! He and his wife now live in Greyton.

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Dedicated to my daughter,
Bryony Lindiwe

“And if Christ has not been raised, then your faith is a
delusion ... and we are to be pitied more than all men.”

Paul in 1 Corinthians 15 verses 17 and 19

Foreword

A couple of years ago Keith Matthee passed a challenge my way from a young man in an encounter session he had been running at one of South Africa's top schools. The schoolboy had claimed with absolute confidence that "Scientists just don't believe in the resurrection any more!" This certainly got me going because I know that I do, and I have friends around the world who are top-rated scientists who, I happen to know, also believe just that.

I guess the real question is whether this belief is scientifically founded or not. Science, after all, is a sharp instrument that targets mainly those areas of reality which relate to reproducible events. Of course, that doesn't mean that one-off events don't happen. History, for a start, is full of them. And the claim of the resurrection by its very definition, and like the 'Big Bang', is one of the great singularities of all time. But can Science say anything meaningful about singularities? Perhaps.

This took me back to another encounter with Keith Matthee when I chaired a session presented by him at a Campus Mission a few years ago at Rhodes University. The title of his lecture was the same as this book: 'The Resurrection – a lawyer's view'. I remember how compelling the argument was then which is

reproduced here much as he presented it, but happily, in somewhat greater detail. The point that struck me then was that the forensic sciences, of course, use scientific methodology all the time to solve crimes which are each also, by definition, one-off events. These facts then become data inputs into the legal arguments that jurists, such as Keith Matthee, consider when making judgements on the available evidence.

But can we weigh that evidence more precisely? Another interesting observation which came my way recently was the use of Bayesian statistical theory to evaluate the evidence for the resurrection. Bayes' Theorem deals, among other things, with assigning conditional probabilities to events or propositions and providing a numerical value to the question of whether they are likely to be true or not. The McGrews¹ have crunched the numbers on the cumulative case for the resurrection of Jesus of Nazareth using Bayesian statistics and have come up with a surprisingly substantial numerical probability indicating that the claims are, indeed, very likely to be true.

Another 'but' is whether we have the physics that might at least allow room for this sort of event within our current scope of experience. After all, it's not something we see every day. While some have speculated in this area, it would seem, for conventional physics, that we probably

¹ McGrew, T&L. 2008. *The Argument from Miracles: The Cumulative Case for the Resurrection of Jesus of Nazareth*. In: Craig, WL & Moreland, JP, *Natural Theology*, Wiley-Blackwell, Chichester, UK.

don't yet have that. However, despite the huge advances in the neurosciences over the past years, the question of mind-body dualism and human consciousness remains wide open. The scientific argument for consciousness, or what has also been called a soul, as a real substance separate from the physical body, is as strong and vibrant as ever. (Many materialists would no doubt hotly contest that.) The point is that there is plenty of room here, even in our necessarily limited grasp of reality, for an omnipotent God to act in a conscious spiritual dimension and within a being He has made in His own image. If that is true, even if we don't now understand the 'how', then the resurrection of Jesus of Nazareth remains wide open in principle, and thus an event of truly cosmic significance, and indeed the source of the Hope we believe it to be.

Keith Matthee's excellent short book provides some of the raw legal data and the juristic argument on which the case is built. It makes compelling reading and it is a great pleasure and privilege to introduce this work. I trust others will find it as stimulating and exciting as I have done.

Peter Rose

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Author's preface

During one of my stints as an acting judge, one of the judges in the division told some of us with great enthusiasm about Dawkins' best seller, *The God Delusion*. What surprised me was his failure to bring his not inconsiderable critical faculties to bear on the arguments of Dawkins.

In my thirty-five years of ministry on many university campuses I have also often been surprised and dismayed, when it comes to issues of the Christian faith, by the failure of academics and students to apply their minds to the evidence with rigour.

Similarly, at many dinner parties and the like I have found that people will display surprising openness and a lack of critical thought while discussing the latest spiritual fad, especially if it is not rooted in history and merely requires that we display warm fuzzy feelings towards one another and our environment – and not necessarily in that order of preference! Move on to the cross and the resurrection and immediately there is a chill in the air and a refusal to assess the evidence in an even-handed way.

I do not profess to understand this phenomenon. Perhaps part of the answer lies in Paul's words that the cross is foolishness to the wisdom of the world and that God chose the foolish things of the world to shame the wise.

It is my hope that the approach I have adopted in this short book will be useful to enquirers who are prepared to take a risk and give this foolishness another chance by looking at the evidence for the resurrection with an open mind.

It is also my hope that Christians will find this book of some assistance, both to reassure themselves that it is okay intellectually to believe in the resurrection, and to share their faith with others who are seeking truth.

To those who helped me along the way, a big thank you. In this regard, lest I offend anyone by not mentioning them by name, I only mention by name my long-suffering wife, Roslyn Stewart.

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1

“... everything is not always what it first appears to be ...”

When I started practising as an advocate, my greatest fear was having one of my clients sentenced to death.

Within a matter of months of starting to work as an advocate I was presented with a matter to which there seemed no other conclusion than my client being hanged by the neck until he was dead.

What followed was a rollercoaster ride which, among other things, changed my whole attitude to so-called ‘watertight’ cases.

In a nutshell, the evidence I was confronted with was as follows. During the day, my client had, in front of a number of independent witnesses, executed the

deceased by shooting him twice in the back of the head and once in his back. At the time of the shooting the deceased was on his knees begging for mercy.

The medical evidence confirmed the positioning of the three execution shots and that the deceased had died as a result of these shots.

As the trial judge said in his judgment: "To anybody watching, this can only have appeared to be a deliberate cold-blooded killing without any justification..."

My client's version to me was that he had shot the deceased in self defence. He told me that the deceased had approached him armed with a knife and was attempting to stab him in the heart when he was forced to shoot the deceased.

When I confronted him with the medical evidence, his response was that the doctor had examined the wrong body! Much to the exasperation of all, I applied for the deceased to be exhumed. On a Saturday morning I travelled to the town where the deceased had been buried and, along with the accused and the state advocate, witnessed the body being removed from his coffin so that the district surgeon could check the original doctor's findings. The deceased had already been dead for nearly three years. As an aside, one of the things which struck me was that while the rest of us could not endure the smell in the mortuary despite our masks, the district surgeon effortlessly completed his task without the aid of a mask!

When the district surgeon confirmed the original doctor's findings my client said they had exhumed the wrong body! At this stage I became truly desperate as I simply could not see how my client could avoid the death penalty.

In my desperation, and once again to the intense irritation of everyone else, I persuaded the district surgeon to support me in an application to have my client referred for mental observation. To be frank, I had absolutely no basis for my application other than a last resort to find something which would at least give me some ammunition to try and persuade the judge not to impose the death penalty.

I had always been puzzled by the alleged conduct of my client on the day of the shooting. The apparent cold-bloodedness of the shooting simply did not tie up with how I had come to know him. Unbeknown to them, the doctors at the Psychiatric Hospital found the missing piece of the puzzle.

Although they found that he was perfectly normal and healthy, in their report of his medical history they mentioned, in passing, that he had always suffered from epilepsy.

Clutching at this straw I went back to the town where the shooting had taken place and once again consulted with a number of family members and other people who had grown up with my client. This time round I focused specifically on his epilepsy. As I heard their stories of my client's struggle with epilepsy and

how he had been viciously mocked since he was a young boy, not least by the deceased who had grown up with him, eventually it all made sense to me.

When I confronted him with my new information and insights, my client finally confessed to what had actually happened that day. In a nutshell, for the umpteenth time since my client was about four years old, the deceased and his friends had ridiculed and mocked him in public, this time in the presence of his girlfriend. Simply put, he “snapped”, took out his revolver and shot the deceased. As the judge said later in his judgment: “The accused did not kill the deceased for fun, or out of malice, or for no reason at all ... He killed the deceased because he saw the deceased as his tormentor, and because of an emotional explosion of anger, frustration and humiliation for which the deceased was himself partially responsible, and which caused the accused to lose control of himself and to resort to violence on the spur of the moment.”

My client was sentenced to eleven years imprisonment.

If I had put my client’s original version to the court he would have been sentenced to death. It was only my dread of one of my clients being executed that compelled me to clutch at every straw, no matter how irritating to all! My client lied to me initially as he and his humble family could not see the relevance of his epilepsy and

of the history between him and the deceased. In fact they probably thought this history might make matters worse for him. So he came up with the best story he could think of, literally to save his neck. He was not sophisticated enough in the law to realise that if he had persisted with his original story, given the medical report of where the shots entered the body of the deceased, he would certainly have been sentenced to death.

All the above convinced me of the arbitrariness of the death penalty and that no matter how watertight a case appears to be, mistakes can be made.

The reader might ask: what is the relevance of this case to the task at hand?

It is that one must always approach a matter with an open mind, no matter how watertight the case might seem. Thus one might feel that the scientific evidence against the claim that Jesus rose from the dead is watertight. I would encourage the reader to approach what follows with a mind open to the possibility that perhaps everything is not what it first appears to be when it comes to the alleged resurrection of Jesus.

2

“... afraid of a breach
with the spirit of
the age, afraid of
ridicule ...”

In *The Great Divorce* CS Lewis draws a graphic word-picture of heaven and hell. In a very telling exchange between two “dead” theologians one of them says:

“We simply found ourselves in contact with a certain current of ideas and plunged into it because it seemed modern and successful. At College, you know, we just started automatically writing the kind of essays that got good marks and saying the kind of things that won applause. When, in our whole lives, did we honestly face, in solitude, the one question on which all turned: whether after all the

Supernatural might not in fact occur? When did we put up one moment's real resistance to the loss of our faith?"

He continues: "I have nothing to do with any generality. Nor with any man but you and me. Oh, as you love your own soul, remember. You know that you and I were playing with loaded dice. We didn't *want* the other to be true. We were afraid of crude salvationism, afraid of a breach with the spirit of the age, afraid of ridicule ... "

Despite huge ongoing scientific advances, when it comes to matters spiritual, the spirit of the age today has no place for rigorous investigation and testing of the evidence and assumptions. Feelings, personal experiences and unsubstantiated rhetoric rule supreme, often clothed in religious or scientific language. How often is an argument preceded with "Oprah Winfrey says ..." or, "They say ...", or "Scientists say ...", not bothering to clarify who "they" or "the scientists" are or to test the evidence, sources and assumptions of the argument?

In his book *Witness To AIDS*, Edwin Cameron (now a judge in the South African Constitutional Court), dealing with such an unscientific approach by AIDS denialists, responds as follows: "But this is surely not enough. Truth and falsehood are established by contestation – by vigorous debate in which the evidence for and against a proposition is examined, re-examined and eventually judged provisionally sufficient or provisionally wanting. This is how 'paradigms' shift."

In *Strength to Love*, Martin Luther King argues for the need for toughminded people who always examine the facts before they reach a conclusion. He concludes his argument with these words: “A civilisation that continues to produce softminded men purchases its own spiritual death on an instalment plan.”

In *Freedom For My People*, ZK Matthews shares with his readers Alexander Kerr's advice to him, when he left Fort Hare University in 1925 to become the first black man to be appointed Headmaster of Adams College: “You may be tempted into facile views of the difficulties around you ... You may be tempted to cut yourself off from the rest of your people, or on the other hand to an unthinking advocacy of what the mob clamours for. But I am sure you will examine all things with a clarity of intellectual vision, free from passions unless it be a moral passion for the good, and when you have thought things through to present your views with temperate courage.”

It is difficult to imagine more helpful advice in the present age. It is with this advice in mind that I have attempted to tackle the task before me.

3

“... so long and boring!”

For most of my working life my bread and butter has involved dealing with and assessing evidence; seeking to convince a judge, or be convinced when serving as a judge or arbitrator, that the evidence supports a certain conclusion. Inevitably this has impacted upon all of my life, often to the irritation of my long-suffering wife, who operates primarily intuitively.

Thus for me if Jesus did not actually rise from the dead then my faith would be a delusion. And given the many costly decisions I have made based on my belief in the resurrection, I would wholeheartedly support Paul's words that I would then deserve more pity than anyone else in all the world.

Essentially, if you take away the resurrection, my Christian faith is an absurdity.

In what follows I will seek to set out as simply as possible why, as a lawyer, I am convinced of the truth of the resurrection.

In a trial there is very little which can be assumed without furnishing evidence to the trial court to support a contention. It is for this reason that lawyers seek to reach agreement before a trial on as many matters as possible, otherwise trials would go on forever and cost even more than they do.

In a delightful passage from *Bleak House*, one of Charles Dickens' characters is not persuaded of this noble intent!

"The one great principle of the ... law is, to make business for itself. There is no other principle distinctly, certainly, and consistently maintained through all its narrow turnings. Viewed by this light it becomes a coherent scheme, and not the monstrous maze the laity are apt to think it. Let them but once clearly perceive that its grand principle is to make business for itself at their expense, and surely they will cease to grumble."

My daughter sat in on one of my judgments a few years ago. Afterwards I asked her what she thought about it. Without hesitation she replied, "so long and boring!" My attempts at vindicating myself by explaining to her that I had to back up everything I said in my judgment failed to change her opinion.

In what follows I will assume certain things, thereby hopefully minimising the risk of it being “so long and boring!” I will attempt to assume only things which are not contentious. If there is anything which I assume which presents you, the reader, with a problem, please do not hesitate to engage me on the issue.

4

Is it worth the effort and risk?

“One Solitary Man

Nineteen wide centuries have come and gone,
And he is the centrepiece of the human race and the
Leader of the column of progress.
I am far within the mark
When I say that all the armies that ever marched
And all the navies that were ever built,
Have not affected the life of man upon earth
As powerfully as has that One Solitary
Life.” (Author Unknown)

Although some philosophers might argue otherwise,
one of my starting points as a lawyer must be
that normally people do not rise from the dead.

Accordingly, there would be a burden of proof on those who claim that Jesus rose from the dead.

So my starting premise must be that Jesus did not rise from the dead. However, given the startling claims made by the followers of Jesus, the implications of these claims, the impact on world history of these claims and the stature of many of the men and women who have sacrificed their lives in service of these claims, it would be foolhardy at least not to carefully evaluate the evidence for these claims.

If one finds that there is credible evidence which suggests that Jesus did rise from the dead, the scientific method of the 21st century would require the following:

- Revisit the starting premise that Jesus did not rise from the dead
- Conduct an experiment to test the premise that Jesus rose from the dead
- Depending on the outcome of the experiment, either change the starting premise or abide by the original premise that Jesus did not rise from the dead. Obviously there might be a need to conduct further experiments before a final decision is taken.

Central to a scientific approach is always being open to the possibility that one is wrong. Either way, adopting a scientific approach to the evidence for the resurrection involves a risk. My challenge to the reader is to take this

risk and read on. Given the startling claims about and implications of the resurrection of Jesus, it would be shortsighted to simply reject the premise that Jesus rose from the dead without looking at the evidence honestly and with new eyes, and without being open to the possibility that perhaps Jesus did rise from the dead.

Over the many years of my work on university campuses I have never failed to be amazed at how learned and erudite professors, steeped in research and assessing evidence, write off the claims of Jesus based on no more than what they remember they heard at Sunday School. One wonders how they would respond to a student putting “My Sunday School Teacher” as a reference in his or her bibliography!

In the same vein it is with a measure of amazement that I read Richard Dawkins’ best seller *The God Delusion*. In his chapter entitled “Arguments for God’s existence”, there is no attempt by him whatsoever to deal with the alleged resurrection of Jesus, other than a passing comment that some other writer has shown that, among other things, the concept of resurrection was “borrowed” from other religions in existence. There is no attempt by Dawkins to substantiate the truth of the findings of this other writer, or to subject the sources of this other writer to the same scrutiny as Dawkins applies to the New Testament documents.

In any event he fails to address the obvious question: even if earlier religions believed in a resurrection, of what

evidential value is this when assessing the evidence for the alleged resurrection of Jesus? In a court of law such evidence would be inadmissible for lack of relevance.

Simply stated, if the resurrection of Jesus is true, the consequences are so enormous that it must be worth the effort and risk of having a fresh and honest look at the evidence.

5

Reliability of the sources

For a lawyer, the sources for an argument are crucial.

The primary source for the issue at hand is the New Testament.

Dealing with the reliability or otherwise of the New Testament as the main source for evidence immediately exposes me to the danger of becoming “so long and boring”! To avoid this danger, for the purposes of the task at hand, as a starting point I will only accept the New Testament as an accurate portrayal of what the early Christians believed, taught and lived as regards the resurrection of Jesus. **I will not assume that such belief was accurate or true.**

In any event, to do otherwise would be to beg the question as my purpose is to investigate whether the evidence can sustain the belief in the New Testament account that Jesus did rise from the dead.

An argument often presented in Christian circles when it comes to the reliability of the New Testament documents, is the relatively small gap in time between the events portrayed and the age of the earliest existing fragments of New Testament manuscripts.

For example, the gap between Caesar's Gallic wars and the earliest available copy of his account of these wars is about 900 years. Other examples include gaps of more than 1000 years for Plato, Aristotle, Thucydides and Tacitus. The gap between the oldest manuscript portion of the New Testament and the events it describes is in the region of 30 years.

Another leg to this argument is the number of ancient manuscripts in existence. There are 7 for Plato, 5 for Aristotle, 20 for Tacitus, 10 for Caesar and 5 for Thucydides. In contrast there are some 4 000 for the New Testament.

Despite the above, the argument goes, no one doubts the accuracy of the works of Caesar, Plato, Aristotle, Thucydides and Tacitus, so why do people doubt the accuracy of the New Testament documents?

Whilst there is some merit in this argument for consistency (although the danger in this argument is obvious), the basic difference between the two sets of documents is that the one primarily records "normal" events (sadly nothing is more normal in the 21st century than war, greed, cruelty and the lust for power), whilst the other records the "abnormal" – dead

men still do not normally rise from the dead!

So, as a lawyer, I have to treat the source for the resurrection differently where reliance on the source is sought to establish the truth or otherwise of the claims about the resurrection of Jesus. However, if I merely accept the New Testament account as an accurate record of what early Christians believed, taught and lived as regards the alleged resurrection of Jesus, then I would be entitled to treat it in the same way, for example, as I treat the source for Caesar's Gallic wars.

6

We all have agendas

“Were they unbiased observers, or did they have an agenda that coloured their writing?” (Dawkins asking about the writers of the New Testament.)

The argument for consistency referred to in the previous chapter becomes an important one if I merely accept the New Testament account as an accurate record of what early Christians believed, taught and lived as regards the resurrection, and not as proof that these things were true. Intellectually it would be dishonest to accept the basic historicity of Caesar’s account of his Gallic wars, but refuse to accept the basic historicity of the New Testament account as an accurate reflection of what the early Christians believed, taught and lived about the resurrection. There is no better example of such inconsistency as Dawkins in his unquestioning reliance

on ancient texts which support his agenda as opposed to his treatment of the New Testament documents.

As part of his attack on the Gospels Dawkins writes:

“All were written long after the death of Jesus, and also after the epistles of Paul, which mention almost none of the alleged facts of Jesus’ life. All were then copied and recopied ... by fallible scribes who, in any case, had their own religious agendas.”

It is quite clear from a reading of Dawkins that he fails to apply the same caution to his own interpretation of evidence, for no one has a clearer agenda than he has. There is no clearer evidence of this agenda than Dawkins’ reluctant concession that Jesus “probably existed”. He gives no basis whatsoever for his reluctance, not least in making no reference to the unequivocal reference by Josephus (a first century Jewish historian) to the existence of Jesus, his crucifixion and that his disciples had reported that “he had appeared to them three days after his crucifixion and that he was alive.” He also makes no reference to Tacitus, generally regarded as the greatest historian produced by the Roman world, and his clear reference to the existence of Jesus (see chapter 9 where I deal with Tacitus).

At this stage it would be instructive to include an extract from Josephus, from his *Antiquities* 18.63. (I use the translation of Paul Maier who argues persuasively

that the standard text must be edited to exclude, as fourth century Christian additions, the reference to Jesus as the Messiah or Christ, and the bald assertion that he did rise from the dead. For his editing and translation he relies primarily on the discovery in 1972 by Professor Schlomo Pines of the Hebrew University in Jerusalem of an ancient Arabic manuscript in which the extract from Josephus is expressed “in a manner appropriate to a Jew”.)

“At this time there was a wise man called Jesus, and his conduct was good, and he was known to be virtuous. Many people among the Jews and the other nations became his disciples. Pilate condemned him to be crucified and to die. But those who had become his disciples did not abandon his discipleship. They reported that he had appeared to them three days after his crucifixion and that he was alive. Accordingly, he was perhaps the Messiah, concerning whom the prophets have reported wonders and the tribe of the Christians, so named after him, has not disappeared to this day.”

A recent encounter with a young atheist illustrates a similar inconsistency. Having rejected the resurrection accounts in the New Testament documents, as part of his argument he referred me to a book which was allegedly written before the New Testament scriptures. I enquired from him what the gap in time was between

the alleged events and the existing manuscript evidence recording these alleged events. He was unable to tell me. Yet he had blindly accepted it for the purposes of his argument whilst rejecting the use of the New Testament documents for my argument because there was a gap between the events and the existing record of such events.

As an aside, I suspect the young atheist was relying on Dawkins for his argument as, after trying to play the numbers game about how many scientists believe in the resurrection, he attempted to explain away why there are world-renowned scientists who *do* believe in the resurrection by arguing that it was because they were raised as Christians. So by implication, he argued that they did not have the courage to say otherwise or were simply too indoctrinated to break away from their Christian roots. (An argument not dissimilar to Dawkins when he tries to explain away why great scientists like Galileo, Newton and Pascal remained firm in their Christian beliefs.)

Not only is such an argument patronising, it also makes no sense, as someone, like Galileo for example, at great cost to himself, went against the teachings of the church on certain issues as a result of his scientific investigations. Why would he continue to hold on to his faith in the risen Jesus if it was in conflict with his findings as a scientist? Furthermore, this argument does not explain why there are reputable scientists who believe in the risen Jesus who were *not* raised as Christians.

World-renowned astronomer Professor David Block is one name that springs to mind.

A further illustration of the bias of Dawkins is the dismissive way in which he deals with two of the great minds of the twentieth century, GK Chesterton and CS Lewis. Having in effect argued that no one with any grey matter can believe in the resurrected Jesus, he deals with the problem that even atheists or agnostics would concede that these two men *did* have some grey matter as follows:

“There are still some people who are persuaded by Scriptural evidence to believe in God. A common argument, attributed among others to CS Lewis (who should have known better) ... ”

And elsewhere, with contempt, he describes GK Chesterton as “Those Catholic stalwarts GK Chesterton and ...”

Furthermore, as will become apparent in a later chapter, the contradictions in the Gospels on which he relies to disprove God, I believe are central to my positive assessment of the evidence for the resurrection of Jesus. It will also become apparent that his approach in this regard reveals a lack of experience in how to deal with evidence.

So to answer Richard Dawkins’ question, in effect a rhetorical one, when referring to the writers of the New Testament scriptures, “Were they unbiased observers, or did they have an agenda that coloured their writing?”

– **they were not unbiased and *did* have an agenda.**

Accordingly the cautionary rule, dealt with in Chapter 7 hereafter, must apply.

7

Further sources and assumptions

As a source secondary to the New Testament I will accept the commonly held position among historians that Josephus, previously referred to, is the leading extra-biblical historical source for the Roman and Jewish world of the first century.

Josephus was born in AD 37, the son of a Jewish priest. His life included living in the wilderness for three years as a disciple of a hermit named Banus, successfully interceding in Rome with the Roman Empress Poppaea for the lives of Jewish priests, being one of the leaders of a revolt in Judea against Rome, escaping death at the hands of the Romans by assisting Emperor Vespasian as a mediator and interpreter in Judea and finally settling in Rome, where he dedicated the rest of his life to writing.

His writings include *Jewish Antiquities* and *The Jewish War*. When he died about AD 100, a statue of him was built

in Rome. As is the case with all historians, he wrote with some bias. According to Paul Maier his main prejudices were that “Jews have a proud and cultured history, as well as the highest form of religious belief ... (and) Romans, however, now enjoy God’s favor because of the apostasy and villainy of the Jewish Zealot leaders ...” This was at a time when Christians had already suffered greatly at the hands of Roman emperors for their refusal to worship the emperors, and more than two hundred years before a Roman emperor embraced Christianity.

I will also accept that Tacitus, previously referred to, and dealt with in chapter 9, is regarded by the overwhelming majority of historians as the leading first century historian produced by Rome.

I also will accept that by the time the alleged eyewitnesses of the resurrected Jesus had died, thousands of people had been brutally murdered for accepting their testimony that Jesus had risen from the dead.

And I will accept that in principle the legal approach to evidence was no less developed 2000 years ago than it is today. Even a cursory reading of Roman Law’s approach to evidence confirms this assumption. A useful example is the words of caution by Emperor Trajan to Governor Pliny in the latter’s efforts to prosecute Christians in 112 AD: “Charges not signed with the accuser’s name must not be admitted in evidence against anyone, as it is introducing a very dangerous precedent,

and by no means agreeable to the spirit of the age.”

A further example is Paul’s first letter to the Corinthians, chapter 15, wherein he deals with the evidence for the resurrection and where his training as a lawyer is obvious. Often there is an arrogance in 21st century people concerning the so-called “backwardness” of earlier generations which does not stand up to rigorous examination. The assessment of evidence is one such area.

Dealing with the assessment of the evidence for the resurrection, I will also apply the principle of evidence described as the cautionary rule. Hoffman and Zeffert in *The Law of Evidence* write that “the cautionary rules have been evolved because the collective wisdom and experience of judges has found that certain kinds of evidence cannot safely be relied upon unless accompanied by some satisfactory indication of trustworthiness.” Examples of such evidence are the evidence of single witnesses, accomplices, those who have a reason to lie and young children.

A final assumption by me, and one mentioned before, is that if the resurrection did not happen, the Christian edifice collapses. No one realised this more than the first leaders of the Christian church.

As indicated earlier, I have tried to avoid long and boring details and arguments where I felt these would not be necessary. However, once again I would encourage the reader to contact me and engage me on any of these matters that I have assumed for the purposes of my argument.

8

Mistaken identity?

“Unless I see the scars of the nails in his hands and put my finger on those scars and my hand in his side, I will not believe” (Thomas in John 20 vs 25)

I now turn to the evidence of the eyewitnesses who stated that they had seen and engaged with the risen Jesus.

When assessing the evidence of eyewitnesses a number of considerations need to be taken into account. An obvious question is whether or not the eyewitness had the opportunity to identify the person. In other words, is it possible that although well-intentioned, they got the wrong man?

In a trial a number of considerations come into play at this point. The sort of questions a judge must ask herself include:

- Was the identified person well known to the witness?
- Did the witness have adequate time and opportunity to identify the person?
- Was there sufficient light at the time of the alleged identification?
- Was the witness the only person to identify the person?
- Was there anything about the identified person which would stand out?
- Did the identification happen in a crowd?
- Did the distance between the witness and the identified person at the time of the alleged identification prevent a reliable identification?

Turning to the New Testament accounts, it appears the eyewitnesses had far more than a fleeting glimpse of Jesus. The accounts speak of men and women, to whom Jesus was well known, speaking, walking and eating with the resurrected Jesus.

Furthermore, according to the New Testament accounts, Jesus appeared on a number of occasions to all his disciples, including to Thomas the sceptic, who, when invited by Jesus to put his finger in the holes in his hands, confesses Jesus as his Lord and God. On another occasion the New Testament states that Jesus appeared to five hundred of his followers at the same time. The cautionary rule concerning the evidence of a single witness thus does not apply. On this version

which we read in the New Testament there simply is no room for doubt or wrong identification.

But, as already stated, these witnesses had good reason to lie. They had invested three years of their lives in him. Many had given up everything to follow him. Given this, the cautionary rule must remain a factor as one assesses the other options.

Let us then look at this possibility, that the witnesses got together after the crucifixion and decided to fabricate the lie that he had risen from the dead.

9

Calvarygate?

To assess the possibility that the early Christians conspired to lie about the resurrection, let us first look at the prevailing attitudes to and treatment of Christians.

Gaius Cornelius Tacitus was a senator in the Roman Senate. He was also a historian of the Roman Empire. His two major historical works were *The Annals* and *Histories*. These works cover the reigns of Roman emperors such as Tiberius, Claudius and Nero, and span the period from the death of Augustus in AD 14 to the death of the emperor Domitian in AD 96.

Tacitus was a young boy living in Rome during the time of the persecution of Christians by Nero in 64 AD. In Book XV. xlv of *The Annals*, in the aftermath of the devastating fire in Rome, Tacitus described Nero's treatment of Christians as follows:

“But neither human help ... nor all the modes of placating Heaven, could stifle scandal or dispel the belief that the fire had taken place by (Nero’s) order. Therefore, to scotch the rumour, Nero substituted as culprits, and punished with the utmost refinements of cruelty, a class of men, loathed for their vices, whom the crowd styled Christians. Christus, the founder of the name, had undergone the death penalty in the reign of Tiberius, by sentence of the procurator Pontius Pilate, and the pernicious superstition was checked for a moment, only to break out once more, not merely in Judaea, the home of the disease, but in the capital (Rome) itself, where all things horrible or shameful in the world collect and find a vogue. First, then, the confessed members of the sect were arrested; next, on their disclosures, vast numbers were convicted, not so much on the count of arson as for hatred of the human race. And derision accompanied their end: they were covered with wild beast’s skins and torn to death by dogs; or they were fastened on crosses, and, when daylight failed were burned to serve as lamps by night. Nero had offered his Gardens for the spectacle, and gave an exhibition in his Circus, mixing with the crowd in the habit of a charioteer, or mounted on his car. Hence, in spite of a guilt, which had earned the most exemplary punishment, there arose a sentiment of pity, due to the impression that they were being sacrificed not for the welfare of the state but to the ferocity of a single man.”

During the reign of Emperor Trajan (98–117 A.D.), one of his governors, Pliny the Younger, wrote as follows to Trajan:

“In the meanwhile, the method I have observed towards those who have been denounced to me as Christians is this: I interrogated them whether they were Christians; if they confessed it I repeated the question twice again, adding the threat of capital punishment; if they still persevered, I ordered them to be executed. For whatever the nature of their creed might be, I could at least feel no doubt that contumacy and inflexible obstinacy deserved chastisement. There were others also possessed with the same infatuation, but being citizens of Rome, I directed them to be carried thither.”

Later he continued:

“I judged it so much the more necessary to extract the real truth, with the assistance of torture, from two female slaves, who were styled deaconesses: but I could discover nothing more than depraved and excessive superstition. I therefore adjourned the proceedings, and betook myself at once to your counsel. For the matter seemed to me well worth referring to you, – especially considering the numbers endangered. Persons of all ranks and ages, and of both sexes are, and will be, involved in the prosecution. For this contagious superstition is not

confined to the cities only, but has spread through the villages and rural districts; it seems possible, however, to check and cure it.” (Book X. xcvi in *Letters* by Pliny).

Replying, Trajan wrote:

“The method you have pursued, my dear Pliny, in sifting the cases of those denounced to you as Christians is extremely proper...”

However, as we have seen earlier, he cautions Pliny:

“Informations without the accuser’s name subscribed (charges not signed with the accuser’s name) must not be admitted in evidence against anyone, as it is introducing a very dangerous precedent, and by no means agreeable to the spirit of the age.” (Book X. xcvi in *Letters* by Pliny).

I have made a thorough search of the writings dealing with first century Christians and have not found one scrap of evidence to even suggest that any of the disciples broke ranks when faced with this cruel persecution.

One of the most effective ways of prosecuting a group is to divide and rule. As the saying goes, thieves fall out. Except for John, every disciple suffered a cruel death – likewise many of the rest of these alleged eyewitnesses. Despite this there is no evidence of a

breaking of ranks. If it was a deliberately concocted lie, an explanation must be sought for this failure to break ranks, despite the cruel consequences to them.

Furthermore, propagating this eyewitness account of the resurrection brought with it no riches, privilege or power – only rejection, loss of jobs, and in many cases death. The contempt with which Tacitus writes about Christians is ample evidence of the fact that there simply was no gain to be had by these eyewitnesses in standing firm and united in their account of the resurrection.

Justice Cameron in his book at one stage deals with one of the arguments of the AIDS denialists as follows:

“Why – if AIDS is but a mistaken “impression” – would conventional medical science propound such a stunning falsehood?”

In response to this question he continues by highlighting one of the answers used by the denialists.

“But all too many of them also have a baser motive ... (They see) a sinister profit-grasping motive behind over-stated AIDS figures.”

Elsewhere he deals with other possible self-interest reasons forwarded by the denialists. He writes:

“Why would such numbers of seemingly respectable persons tell such lies? Dogmatists in both camps [here he is talking of Aids and Holocaust denialists] say that most of these people are dupes – herd-followers with no independent means of thinking. Happy to repeat conventional ‘truths’ without examining the evidence afresh, they cling to mass thinking because it is easier and more convenient – and because it secures their jobs and income.”

Whilst I agree with Justice Cameron’s refutation of these arguments by the denialists when it comes to AIDS, contained in his questions and the motives and reasons suggested by the denialists, are useful pointers to assess the value of the evidence of the alleged eyewitnesses to the resurrection.

A consistent theme is self-interest.

What was in it for the alleged eyewitnesses? Rejection, and probably a cruel death.

What they were alleging was certainly not a “conventional” truth. It was a nonsense to most groupings at the time. It was not an example of “mass thinking”. In fact the Christians were an insignificant and powerless minority. It was not a message which would “secure their jobs and income”. On the contrary.

It then needs to be asked: Why did they persist with “such a stunning falsehood”?

Another issue which must be addressed is that if the resurrection was a false creation of the alleged eyewitnesses, then given the cruel consequences of believing this lie, these eyewitnesses must have been evil people to allow thousands of people to sacrifice so much, including their lives, for a lie.

There is no evidence whatsoever in the writings of the first century to suggest that these eyewitnesses were callous or evil people. Possibly misguided and ignorant, yes; deceitful and indifferent to the suffering caused by their teaching? No.

At one point in his letter to Emperor Trajan, Pliny relates some of the information he has learned about these Christians:

“They affirmed, however, the whole of their guilt, or their error, was, that they were in the habit of meeting on a certain fixed day before it was light, when they sang in alternate verses a hymn to Christ, as to a god, and bound themselves by a solemn oath, not to any wicked deeds, but never to commit any fraud, theft or adultery, never to falsify their word, nor deny a trust when they should be called upon to deliver it up; after which it was their custom to separate, and then re-assemble to partake of food – but food of an ordinary and innocent kind ...” (Book X. xcvi in *Letters* by Pliny).

Clearly not a picture consistent with evil and callous people. Here it needs to be remembered that we are dealing

with the possibility or probability of these eyewitnesses deliberately giving false evidence about having seen the risen Jesus. We have already seen in the previous chapter that there was no room for mistaken identity. So if their testimony was false, they set out with premeditation to mislead people, regardless of the cost to these people. Such callous disregard for others simply does not ring true when considering the nature and conduct of these eyewitnesses.

A further issue to be considered when assessing the probabilities involved, is the total absence in the writings of Josephus or of any other historian from the time, of any evidence to counter these claims by the alleged eyewitnesses.

Jesus was a sufficient threat to the Jewish and Roman establishment of the day to have been executed. Thus when these eyewitness accounts started circulating, the probabilities are overwhelming that these same people would have moved heaven and earth to obtain evidence to counter these eyewitness accounts.

I know there are various theories about his body being stolen or of him not being dead and, having freed himself, marrying Mary and living to a ripe old age.

As a lawyer, my starting point must be to deal only with admissible evidence, not hearsay, rumour or speculation as propounded in Dan Brown's *The Da Vinci Code*. I have searched the writings of the day and have not turned up one writer who at the time produced any evidence to counter the eyewitness accounts.

Obviously this, on its own, proves nothing. However, it is an important factor to be borne in mind when the probabilities are weighed up at the end of the day.

There are two further bits of evidence with regard to considering the option of the early eyewitnesses having concocted a lie, but I will return to them later.

10

Walking the talk – changed men

“For this contagious superstition is not confined to the cities only, but has spread through the villages and rural districts; it seems possible, however, to check and cure it.”

(Governor Pliny in a letter to Emperor Trajan in 111 AD referring to his belief that he could stop Christianity in its tracks.)

Following on from the above, I now turn to another aspect of the lives of these eyewitnesses for which any judge would need an answer.

If we look at the male disciples of Jesus we note that they were a very unimpressive bunch of men, especially when the chips were down for Jesus, i.e. during his arrest, trial and execution. From the evidence before us, it would

seem only John had sufficient courage to be at the cross when Jesus was executed. My source for this is the Gospels themselves. In this regard, another evidential principle to be taken into account when assessing evidence in court, is to work from the premise that people do not normally give self-incriminating evidence or evidence which places themselves or their cause in a bad light, unless it is true.

The eleven surviving disciples were central to the birth and continued life of the early Christian church. Consequently the probabilities are overwhelming that the early church would place them in as favourable a light as possible. This would be especially true of someone like Peter who, according to Jesus' words, was to be the rock upon which Jesus would build his church. And yet the portrayal of Peter at the hour of Jesus' greatest need is that of a coward, not able to rise above his concern for his own safety. Similarly, the other disciples also deserted Jesus at his arrest, and in John 20 we read that soon after the crucifixion the disciples were behind locked doors as they were afraid.

In a court case this sort of evidence would ring very true, and any judge worth their salt would conclude that the only reasonable explanation for such negative evidence about the disciples was that because it was true, the writers of the Gospels felt there was no alternative but to tell it as it was.

So here we have a picture of a pathetic group of broken and petrified men *before* the alleged resurrection of Jesus. And yet, as previously alluded to, by the time

these self-same men had died they had turned the world upside down, only one of them dying a natural death.

When assessing evidence and the probabilities involved, a court would seek an explanation for such a change. And what are the possible explanations for such a change?

One possibility is that they were too proud to admit that they had given up everything to follow a fraud and so pushed ahead regardless of the consequences for themselves and their followers. This option would require the disciples to be more than simply mistaken; they would have to have been less than honest and honourable men.

Another possibility is that they all – to a man – psyched themselves up into such a state, or were so traumatised, that they all became delusional.

The picture already painted of these men (by Pliny, for example) is simply not consistent with either of these two possibilities. Another important consideration when assessing both the above possibilities is that, as already stated, there is no evidence of anyone who broke ranks. Given the cost to themselves and their followers, it would be asking a lot of a judge to find that the probabilities favour either of the above possibilities in the face of the failure to break ranks.

A third option is that in their fear and angst the risen Jesus actually appeared in their midst, and on the strength of this they believed, regardless of what was done to them.

11

Where do the probabilities lie?

I have been writing judgments based on the evidence presented to me since 1991. Sometimes this task has been easier than at other times. When one is confronted with accounts of the same incident, which are vastly different from one another, the task becomes very difficult. In such a case one needs to look at issues such as:

- The credibility of the witnesses.
- Was their evidence consistent?
- Was their evidence corroborated by the other evidence given to support their version?
- Do they have anything to gain if the court finds in their favour?
- Is there any evidence from an independent

source which supports either version?

- Where do the probabilities lie?

Often, after going through the above, one still is unable to come to any conclusion. It is at this stage that one rereads the evidence over and over, looking for that something that no-one could have engineered or thought up before giving evidence which would clearly support a court accepting one version over the other.

In the case before me, I have looked at the eyewitness accounts, at the probabilities involved, at the credibility of those eyewitnesses. I have looked to other sources of the time, at the absence of any evidence to counter these eyewitness accounts, at the evidence that at the end of the day all they had to gain for persisting with their testimony was a cruel death, at the dramatic change of behaviour pre- and post the alleged resurrection.

In all honesty, the worst conclusion I can come to for these eyewitnesses is that a case has been made by them which requires a response from those who claim that Jesus did not rise from the dead.

To put it in legal terms, at worst for these eyewitnesses who testified to seeing the risen Jesus, they have presented a *prima facie* case which, if not answered by their adversaries, must lead to a finding that at least on a balance of probabilities, they were telling the truth when they testified that Jesus did rise from the dead.

Dealing with the evidence for the resurrection, English jurist Sir Edward Clarke KC stated the following:

“As a lawyer I have made a prolonged study of the evidences for the events of the first Easter Day. To me the evidence is conclusive, and over and over again in the High Court I have secured the verdict on evidence not nearly so compelling. Inference follows on evidence, and a truthful witness is always artless and disdains effect. The Gospel evidence for the resurrection is of this class, and as a lawyer I accept it unreservedly as the testimony of truthful men to facts they were able to substantiate.”

But what if I am still unable to come to any conclusion on the evidence before me? Is there that bit of evidence in the present matter which clinches it for me?

Yes, there is. And for that I return to the option of the alleged eyewitnesses getting together to formulate “a lie”.

12

Inconsistencies in the Gospel accounts

Given the notoriety of Jesus and the threat he posed to the establishment, and the stakes for these alleged eyewitnesses, arriving at such a lie would involve careful planning and strategising, especially regarding the fabrication of evidence for such a lie.

As I have already alluded to, there is simply no evidence to suggest that these eyewitnesses were devious people. Be that as it may, if we accept for the time being that they *were* devious and cunning people, then obviously they would have been very careful about the evidence they fabricated to support their lie.

This leads to two aspects of the evidence for the resurrection. I will deal with one aspect in this chapter and the other in the next chapter.

If the early disciples and alleged eyewitnesses were

devious people the question needs to be asked as to why there are differences in the Gospel accounts of the resurrection? Logically the early disciples and eyewitnesses would surely have tried as best they could to harmonise their versions of the resurrection.

Any experienced advocate or judge would not automatically draw an adverse conclusion if two eyewitness versions differed. On the contrary, the conclusion is often reached that the differences show the absence of collusion and that the witnesses are honest witnesses. The reason for the differences might simply be different observations or perspectives or memories of the same event. The important thing is that the *material* aspects of the versions support one another, and this is the case with the accounts of the resurrection.

As an illustration: a few years ago I presided as a judge in a matter in which a person had sued the state for unlawful arrest, detention and assault. I was confronted with two very different versions of what had happened. About the only points on which the parties agreed were that at the time the complainant had been drinking in public and was mildly inebriated, and that there were a number of policemen involved in his arrest.

There were two totally different versions concerning how the arrest and detention were effected, not least regarding how much force was used and/or needed and the manner in which the complainant was deposited into

the back of a police van. The complainant’s version was that he was placed in the back of the van in a rather robust fashion after his face had, intentionally and with force, been pushed onto the tarmac. The police’s version was that the complainant had been treated with the utmost civility!

The complainant led the evidence of all his friends who were present. Their agenda obviously was to help the complainant. Only one policeman gave evidence. As is the danger of leading more than one witness, there were a number of differences in the evidence of the complainant and his friends. As the police only led one witness, obviously no such problem arose for the police.

At the end of the day, two factors, among other things, persuaded me to accept the complainant’s version. Firstly, his and his friend’s admission that he was inebriated. This self-incriminating evidence suggested honesty. Secondly, the differences in their evidence were a further indicator to me that the complainant and his friends had not colluded in their story. Obviously if there were fundamental differences there would have been a problem. I might add that my judgment in favour of the complainant was left intact by the Supreme Court Of Appeal and the Constitutional Court.

As mentioned before, Dawkins uses differences in the Gospel accounts to support his agenda that there is no God. Interestingly, in his examples he does not refer to the resurrection accounts. If Dawkins were ever to preside at

a trial of one of my clients I would never lead the evidence of more than one witness! Dawkins' approach to evidence is fatally flawed. It reveals an approach to assessing evidence which any experienced judge would reject.

Here we must remember that we are dealing with the option of the alleged eyewitnesses getting together deliberately to formulate "a lie". As already stated, given the notoriety of Jesus and the threat he posed to the establishment and the stakes for these alleged eyewitnesses, arriving at such a lie would involve careful planning and strategising, especially regarding the fabrication of evidence for such a lie. With this in mind, the differences in the Gospel accounts fundamentally undermine such a conspiracy theory. Similarly, the differences in the versions of the drunk complainant and his friends undermined the police's conspiracy theory.

Obviously if the differences were fundamental there would be a problem from an evidential point of view. But there are no fundamental differences in the resurrection accounts. Some different detail, different emphasis, different perspectives, yes, but the Gospel accounts speak with one voice about the empty tomb, the role of the women as the first eyewitnesses and that the risen Jesus appeared to his disciples.

13

Coup de grace – the role of women as witnesses

As I have mentioned before, in a difficult trial after one has read and reread and read the evidence again, one tries to find that one bit of evidence which clinches the decision one way or the other. In the present matter I have already argued that the evidence clearly favours the probability that the eyewitnesses were not lying and conspiratorial witnesses. However, for argument's sake, let us accept that the present matter is one of those difficult trials, especially given that dead men do not normally rise from the dead! Is there such a clincher in the present matter?

I am of the firm opinion that there is. For me, the clincher is the role that women are assigned in the

eyewitness accounts.

To help us to assess the evidential value of the role of women in the resurrection accounts, some background is needed.

In any Jewish legal and religious proceedings at that time, the testimony primarily relied on was that of circumcised men. The testimony of women, children and slaves was not accorded the same status as that of circumcised men. At best, some Jewish writings of the day indicate that women could give testimony *if* no male witness was available. Daniel-Rops, in *Jesus and His Times*, referring to the attitude to women at the time, writes:

“Upon men alone was laid the obligation of celebrating the Passover. Under the pretext that the law required a man to see that his son was educated in its precepts, his daughter, no instruction at all.”

The approach to women in the wider secular society at the time can be seen in the following extract from RW Lee’s chapter on “Testamentary Succession” in his *An Introduction To Roman–Dutch Law*:

“5. **Who may witness a Will.** In the Roman Law ‘those persons only can be witnesses who are legally capable of witnessing a testament. Women, persons below the age of puberty, slaves, persons deaf or dumb, lunatics, and

those who have been interdicted from the management of their property or whom the law declares worthless and unfitted to perform the office, cannot witness a will.' ”

According to the Gospel writers, who were the first eye-witnesses of the empty tomb and the risen Jesus? Women!

This bit of evidence would be any litigation lawyer's dream – it is of such a nature that the only reasonable conclusion to be drawn from it is that those who wrote the Gospels stated that the first witnesses of the resurrection were women because they *were* women. Any other explanation would make no sense whatsoever. If anything, the authors would have bent over backwards in their accounts to write women out of the evidence, or at least place them in the company of a man when they first encountered the empty tomb and the risen Jesus. In fact, when they run to tell the male disciples, look at the response of the male disciples! In Luke we read that the disciples thought that what the women said was nonsense.

As if that were not enough, the focus of the first eyewitness accounts is Mary Magdalene. In Luke we read that she had been cured of possession of “seven demons”. Thus, from an evidential point of view, not only did she have the handicap of being a woman, she was *also* known to have a history of severe mental and emotional problems.

There is simply no logical explanation for the evidential role assigned to someone like Mary

Magdalene other than that was exactly what happened and the authors of the Gospels were constrained to tell it as it was, even if it weakened their case.

For me it is the *coup de grace* for accepting the version of the Gospel writers. The obvious thing would have been to write the women out of the story and assign the first eyewitness accounts to circumcised Jewish men such as Peter and the other disciples. I find the fact that this did not happen compelling evidence in support of the accounts of these alleged eyewitnesses.

To illustrate my thinking I turn to the writings of a fellow lawyer, Saul of Tarsus, otherwise known as Paul. In 1 Corinthians 15 verses 4–8 Paul lists the witnesses to the resurrection. This is in the context of Paul's belief that if Jesus did not rise then the faith of the Corinthians "is futile" – and thus his preaching and faith "is useless". As previously stated, Paul believed that without the resurrection the Christian edifice collapses and Christians are then the most to be pitied.

With this foremost in his mind, Paul the lawyer presents his evidence for the resurrection to his readers in Corinth. One of the most striking aspects of his list of witnesses is his failure to include the first eyewitnesses to the resurrection, who, as we have seen, were women. In fact there is no specific reference to women in his list.

Theologians have come up with fascinating explanations for this, but for me as a lawyer, the reason is obvious – Paul

the lawyer knew that, given the prevailing view of women as witnesses, not only would it not strengthen his argument to include them, it could in fact weaken his case or become a convenient distraction to those opposing him, particularly if he highlighted the fact that they were the first eyewitnesses to the empty tomb.

This sort of call happens every day in our courts. Let us use criminal matters as an example. After assessing all evidence, prosecutors must decide which evidence to include or exclude to prove their case.

So, for example, there might be an eyewitness who would make an excellent witness. However, on closer scrutiny the prosecutor finds out that there is a long-standing feud between the witness and the accused. The prosecutor now has to weigh up his options about whether or not to use this witness. On the one hand the witness might have had a clear view of the incident and is not a person who will be intimidated by the defence. On the other hand there is the danger that the defence would seek to exploit this feud, arguing that the witness has a reason to lie to incriminate the accused person. In the light of this and even though the potential witness would be a good eyewitness, the prosecutor might decide that he has enough other witnesses and therefore it would be best not to use the evidence of such a person as it might weaken his case by giving the defence an unnecessary red herring.

To me this is the most probable explanation for Paul

leaving women out of his list of eyewitnesses. Given his context, it would not have strengthened his argument and in fact would unnecessarily have given his opponents some ammunition to use against his argument. In any event, from Paul the lawyer's point of view, there were more than enough circumcised men to serve as witnesses.

Obviously Paul's letter to the Corinthians is of a different nature to the Gospel accounts of the resurrection. The former is an argument being put forward by a lawyer. The latter is simply an account of what happened by non-lawyers, by people who were constrained to tell it as it was and not by people who conspired to devise a lie that Jesus had risen from the dead. If the latter was true of them, the inclusion of Mary Magdalene and the other women as the first eyewitnesses simply has no rational explanation that I can think of.

If it was the intention of the early church to concoct a lie and fabricate supporting evidence for this lie, then the inclusion of the women as the first witnesses simply makes no sense whatsoever, unless their testimony was true, especially as on their own version there were hundreds of male witnesses. And here we need to remember what I assumed in the beginning, namely that the approach to evidence in Roman Law times was as exacting as it is today – Paul's approach in the above Corinthian passage and the caution by Emperor Trajan to Governor Pliny referred to earlier in chapter 7, are ample proof of this.

14

Advice to clients

“...The crux of the problem of whether Jesus was, or was not, what He proclaimed Himself to be, must surely depend upon the truth or otherwise of the resurrection.”

(Former Chief Justice of England, Lord Darling)

In practice there comes a time, after one has sifted through all the documentation, consulted with the client and their witnesses, and reflected on the case of the opponent, when the client asks what one thinks of their chances or of their case. A prudent lawyer would not normally give a definitive answer to such a question!

Does the same apply in the present matter?

At this stage I repeat what I said earlier in this book:

“If one finds that there is credible evidence which suggests that Jesus did rise from the dead, the scientific method of the 21st century would require the following:

- Revisit the starting premise that Jesus did not rise from the dead
- Conduct an experiment to test the premise that Jesus rose from the dead
- Depending on the outcome of the experiment, either change the starting premise or abide by the original premise that Jesus did not rise from the dead. Obviously there might be a need to conduct further experiments before a final decision is taken.”

As a lawyer I can take the matter no further than to state that at the very least, notwithstanding that dead men do not generally rise from the dead, the evidence clearly suggests that Jesus *did* rise from the dead.

If you were my clients I would advise as follows. On the evidence before me and given the enormity of the possible consequences for you if Jesus did rise from the dead, I would strongly urge you to adopt the scientific method and on the strength of the evidence before you, conduct an experiment, and in faith, ask the risen Christ to come into your life and so demonstrate conclusively to you that He is risen.

However, just as I cannot prove to you that the sun will rise tomorrow or that my wife of some

30 years loves me, although the evidence clearly points to the truth of both assertions, so I cannot prove to you that Jesus did rise from the dead.

For what it is worth, I very tentatively and incoherently took that step some 37 years ago, and as I have continued to study the evidence for the resurrection and in faith acted on my conclusion that Jesus did rise from the dead, so my original decision has been confirmed over and over and over.

My acting on my conclusion has involved life-changing decisions for me and for my family, often at great cost. All these decisions were dependent on my belief in the fact of the resurrection of Jesus.

As a lawyer I am satisfied that mine is not a vain hope based on lies and I can, without any fear of my hope and faith being vain, invite you to conduct that experiment as I did so long ago. (It would be patronising for anyone to suggest that because I have invested so much of my life in my faith in Jesus, I am no longer able to assess whether or not mine is a vain hope – along the lines of what Dawkins, and the young atheist I referred to earlier, suggested of people such as Newton, Galileo, CS Lewis and GK Chesterton.)

Albert Schweitzer, doctor and surgeon, concert organist, doctor in divinity and recipient of the Nobel Peace Prize, speaking in effect of the attitude required in such an experiment, wrote:

“He comes to us as One unknown, without a name, as of old, by the lake-side, He came to those men who knew Him not. He speaks to us the same word: ‘Follow thou me!’ and sets us to the tasks which He has to fulfil for our time. He commands. And to those who obey Him, whether they be wise or simple, He will reveal Himself in the toils, the conflicts, the sufferings which they shall pass through in His fellowship, and, as an ineffable mystery, they shall learn in their own experience who He is.”

Let me leave you with the words of a far more eminent jurist than I could ever hope to be – the former Chief Justice of England, Lord Darling:

“We, as Christians, are asked to take a very great deal on trust; the teachings, for example, and the miracles of Jesus. If we had to take all on trust, I, for one, should be sceptical. The crux of the problem of whether Jesus was, or was not, what He proclaimed Himself to be, must surely depend upon the truth or otherwise of the resurrection. On that greatest point we are not merely asked to have faith. In its favour as living truth there exists such overwhelming evidence, positive and negative, factual and circumstantial, that no intelligent jury in the world could fail to bring in a verdict that the resurrection story is true.”

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In 111 AD, referring to his belief that he could stop Christianity in its tracks, Pliny wrote to Emperor Trajan: “For this contagious superstition is not confined to the cities only, but has spread through the villages and rural districts; it seems possible, however, to check and cure it.” At the heart of this ‘contagious superstition’ was the alleged resurrection of Jesus.

Writing nineteen centuries later the former Chief Justice of England, Lord Darling, wrote:

“The crux of the problem of whether Jesus was, or was not, what He proclaimed Himself to be, must surely depend upon the truth or otherwise of the resurrection.”

In the Foreword to this book, Professor Rose commenting on the legal case for the resurrection writes:

“Keith Matthee’s excellent short book provides some of the raw legal data and the juristic argument on which the case is built. It makes compelling reading and it is a great pleasure and privilege to introduce this work.”

Keith Matthee is at the Cape Town Bar. He was appointed as Senior Counsel by President Mbeki in 2002.

