

## WHY THE MEDIEVAL TRIAL OF JOAN OF ARC IS OF PARTICULAR INTEREST TODAY

*THE TRIAL OF JOAN OF ARC.* By Daniel Hobbins. Harvard University Press 2005. Pp. 251. \$24.95. ISBN: 0-767-401894-X.

Joan of Arc was a courageous and combative woman, a resistance fighter who lived in a man's world during the Middle Ages. The official records of her infamous trial in 1431 reveal peculiar traits of the medieval legal system and of the women who lived in an era when religion was a major preoccupation of the people and a significant influence in the courts. Small, pious, and unaccustomed to the art of combat, Joan of Arc continuously claimed she was driven by voices sent to her directly from God to save France from English rule during the Hundred Year's War. Despite her unimpeachable piety, virginity and moral purity, her sacrificial loyalty to France, and her miraculous bravery in combat, she was burned alive at the stake for wearing men's clothing and for heresy! In fact, Joan of Arc was tried and unjustly convicted in France by the very same Frenchmen whom she saved from the dreaded English. No one came to her aid, not even the French King Charles VII, whom Joan saved from the clutches of the English and the apathy of the French and whom she brought to power through her own vision and military leadership.

In his excellent work, *The Trial of Joan of Arc*, Professor Daniel Hobbins has translated the court proceedings from Latin into English. Hobbins is an Assistant Professor of History at the University of Texas at Arlington. In his informative introduction, Professor Hobbins places the trial in its legal and historical context, provides an overview of the trial and its major players, discusses extensively the nature of the inquisitorial procedure,<sup>1</sup> and explains how the trial records were compiled. Hobbins also explores the woman, Joan of Arc, and her place in fifteenth-century French society. For Hobbins, Joan was a product of her times. Thus, it was not unusual for a pious woman to hear voices from God. But wearing men's clothing and adopting the role of a military leader was unusual in the Middle Ages and cost Joan her life,

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1. See Henry Ansgar Kelly, *Inquisitions and Other Trial Procedures in the Medieval West* (Ashgate Publg. 2001).

even though she claimed that she had to wear these clothes to protect herself from being raped by soldiers and ultimately by her jailers.

Hobbins also explains why there is a French and Latin version of the trial transcript. The notary, Guillaume Manchon, and a Parisian lawyer, Thomas de Courcelles, took notes quickly in French during the trial. At the end of each day, they both compared notes and wrote the official *French Minutes* of the day. Unfortunately, the original *French Minutes* of the trial have disappeared and only two partial copies derived from them have come down to us.<sup>2</sup> These are known as the Orléans manuscript (“O”) located in the Bibliothèque Municipale in Orléans and the Urfe manuscript (“U”) located in the Bibliothèque Nationale in Paris.<sup>3</sup>

When and why did the Latin record of the court proceedings come about? Soon after the end of the trial, the Chief Judge, Pierre Cauchon, ordered Thomas de Courcelles and Guillaume Manchon to gather all the documents relating to the trial, to translate the French interrogations into Latin, and to put all this material in order as a new copy of the entire proceedings. (5) This Latin text is more than just a compilation. It is a highly mediated work of authorship, a narrative tissue weaving together the French Minutes and the supporting documentation. (5) In other words, it is a perfect law and literature text to be examined and interpreted. Like Martin Luther King’s *Letter from the Birmingham Jail*,<sup>4</sup> the Latin text was cast in the form of an open letter addressed “to all who will read the present letter or public instrument.” (5) The Latin record “is a hybrid text that is both documentary and literary.” (5)

Three of the five original Latin manuscripts survive, one by Jules-Etienne Quicherat (1841-49), another by Pierre Champion (1920-21) and the third by Pierre Tisset and Yvonne Lanhers (1960-71). (6)<sup>5</sup> Even though the original Latin text was generated by Joan of Arc’s opponents, Hobbins prefers to work from the Latin text because, as he demonstrates persuasively, it is more reliable than the French text for the following reasons. The Latin text is an original manuscript composed immediately after the trial. (8-9) The original *French Minutes* have disappeared. The

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2. Karen Sullivan, *The Interrogation of Joan of Arc* 149 (U. Minn. Press 1999).

3. Two other versions of the *French Minutes* are available, one in French and one in English: *La Minute française de l’Interrogatoire de Jeanne la Pucelle, d’après le réquisitoire de Jean d’Estivet et les manuscrits de d’Urfé et d’Orléans* (Paul Doncoeur & Yvonne Lanhers eds., Melun, France: d’Argences 1952) and Walter Sidney Scotts, *The Trial of Joan of Arc; Being the Verbatim Report of the Proceedings from the Orleans Manuscript* (Associated Booksellers 1956).

4. See Susan Tiefenbrun, *Semiotics and Martin Luther King’s “Letter from Birmingham Jail,”* 4 *Cardozo Stud. L. & Literature* 255 (1992).

5. Karen Sullivan, *supra* n. 2.

claims made by Scott, the author of an English translation of the *French Minutes*, that Pierre Cauchon deliberately ordered Courcelles to falsify the Latin record in order to blacken the memory of the victim are unsubstantiated. (9-10) Hobbins prefers to work with the official Latin compilation because it includes many more documents than the *French Minutes*: numerous letters, consultations, opinions of individual lawyers, and conclusions of the faculty of theology and canon law at the University of Paris. (10) The Latin text also includes the seventy charges against Joan and her selected responses. But some people concerned about the reliability of the Latin text remind us that Courcelles, the Latin translator, was one of only three people who recommended in favor of torture for Joan. (10) Hobbins even admits that a few discrepancies between the French and Latin texts indicate a possible attempt by Courcelles to modify Joan's testimony. (11) There is also talk of conspiracy and cover-up by Courcelles and others placing doubt on the reliability of the Latin text. (10-11) Nevertheless, Hobbins demonstrates that the Latin text taken as a whole is more reliable than the *French Minutes*.

If all these translated texts of the trial records are available, why do we need Hobbins' new English translation? Without directly answering this question, Hobbins explains that his English translation of the Latin text is more reliable than a translation of the *French Minutes* and is more convenient to use than the lengthy and complete English translation of the Latin text by W.P. Barrett, *The Trial of Jeanne d'Arc*.<sup>6</sup>

The historic trial of Joan of Arc has fascinated writers for centuries. Anatole France, Andrew Lang, Jules Michelet, Jules-Etienne-Joseph Quicherat, Voltaire, Jean Anouilh, Mark Twain, Friedrich Schiller, and George Bernard Shaw all wrote about the trial of Joan of Arc. Shaw wrote a play about Joan's trial, *Saint Joan*, and also wrote an important Preface to that play in which he brilliantly analyzes Joan's innocence or guilt and the general failures of the legal system.<sup>7</sup> As a law professor, I plan to use Daniel Hobbins' book in my law and literature class when I discuss George Bernard Shaw's work and the important legal issues embedded in that text. In addition, I plan to refer my students to Daniel Hobbins' book for my course on Women and International Human Rights Law. The usefulness in a law school curriculum of this book containing a competent translation of a medieval trial court record is clear, especially if law scholars and teachers want to bring reality into

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6. W.P. Barrett, *The Trial of Jeanne d'Arc* 3 (Gotham House 1932).

7. George Bernard Shaw, *Saint Joan: A Chronicle Play in Six Scenes and an Epilogue* (Penguin Classics 2001).

the classroom as well as history and comparative analysis.

The trial of Joan of Arc has particular relevance today when our political leaders calmly sit around discussing justifications for the use of torture<sup>8</sup> and when outraged listeners accuse these leaders of being “medieval.” Daniel Hobbins’ new English translation of the Latin record of the court proceedings is a convenient resource for comparative law discussions about medieval law, the procedure of ecclesiastical trials, the difference between canon law<sup>9</sup> and civil law, and the nature of medieval trials in France.

What went wrong in Joan’s trial? Joan of Arc’s trial is considered by many legal scholars to be a travesty of justice as well as a perfect example of a medieval ecclesiastical trial conducted as an inquisitional procedure characterized by secrecy and torture.<sup>10</sup> The trial was so unfair that about twenty years later King Charles VII demanded a re-trial in order to rehabilitate Joan of Arc’s reputation as well as the reputation of the King of France himself, who was crowned as a result of Joan’s superhuman efforts. In 1920 Joan of Arc was actually sainted, an ironic reversal that sheds light on the unfairness of her trial.

Historians, lawyers, judges, writers, artists, and filmmakers all over the world continue to be intrigued by the unfairness of the trial that may reflect on our own modern-day trial procedures. The trial records reveal the corruption and lack of independence of the judges. Joan is being tried for heresy, and her judges are bishops. Joan is being tried for wearing men’s clothing when she saved France from being occupied by the English, and her judges are pro-English. The Chief Judge, Pierre Cauchon, was the Bishop of Beauvais, a paid advisor for the English occupational government, and a careerist in search of a better post under English rule. When Joan of Arc was captured in Compiegne, the English paid handsomely to acquire her as a prisoner. The English paid for the trial and its interrogations. They had a vested interest in her conviction. Cauchon was in charge of the whole trial and worked with

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8. E.g. Jess Braven, *Leading The News: White House Will Reverse Policy Ban Evidence Induced by Torture*, Wall St. J. A3 (Mar. 22, 2006).

9. Canon law is defined as the legal institutions established by the Church in the twelfth to the sixteenth century. Canon law includes the law of elections, complex rules of clerical ordination, the remedy of restitution, the protection of the poor, the use of oaths and vows, the law of property and economy, the law of baptism, the crime of blasphemy (or heresy), the protection against double jeopardy, laws of papal privileges, the law of excommunication and religious discipline. Canon law was considered to be the law of love and was instituted in contrast to Roman civil law that was notorious in its brutality. See *Review Essay: In the Steps of Gratian: Writing the History of Canon Law in the 1990s*, 48 Emory L. J. 647 (1999).

10. See generally Frank R. Hermann, S.J. & Brownlow M. Speer, *Facing the Accuser: Ancient and Medieval Precursors of the Confrontation Clause*, 34 Va. J. Intl. L. 481 (1994).

the Inquisitor of France and over a hundred clerical legal assistants. To the pro-English Chief Judge, Joan represented nothing less than the enemy who wanted to give France back to the French. The record reveals the political nature of the trial, the packing of the jury with bipartisan members who were pro-Burgundian and in favor of English rule, the brutality of the trial proceedings and interrogations, and the use of threats and torture to extract a confession. It also illustrates the overwhelming presence of Church doctrine during the trial, the unjust conviction of the accused, the horrific nature of the sentence, as well as the blatant disregard for the rights of the accused. Joan was denied the right to counsel and the right to be confronted with the witnesses against her. Joan did not even have the right to hear the seventy charges against her that were eventually read aloud to her in a language she could not understand. Moreover, the court clerk's notes were occasionally falsified, the number of pro-English judges was arbitrarily increased, and the public and secret interrogations were brutal and designed to entrap Joan by forcing her to answer irrelevant questions destined to exhaust the accused.<sup>11</sup> Even though Pierre Cauchon consistently and painstakingly attempted to be procedurally correct throughout the trial in order to withstand any objections regarding the unfairness of the trial, the list of the procedural errors of this trial is overwhelming. A discussion of these trial defects in a law class would be an effective tool for learning the law and how it should work.

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11. Lucia A. Silecchia, *Things Are Seldom What They Seem: Judges and Lawyers in the Tales of Mark Twain*, 35 Conn. L. Rev 559, 5599 (2003).

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