



HOT Season for Young People 2014-15 Teacher Guidebook

BURDEN OF JUSTICE: 1863

THEATER CRAFT



Photo by Rick Malkin

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Thank you, teachers, for giving your students this wonderful opportunity. They will certainly enjoy the experience. You are creating memories of a lifetime, and Regions is proud to be able to help make this opportunity possible.

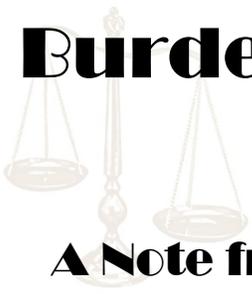
Jim Schmitz
Executive Vice President, Area Executive
Middle Tennessee Area

CONNECTIONS



2014-15
HOT Season
for Young People

Burden of Justice: 1863



A Note from the Director

When I was first commissioned to write this play, the thought was that Aaron James would be the main character, that he would be the one to tell his story. And the first step for me was going to be to read the source material I was given, which was a stack of photo copies of about 300 pages of trial transcripts. Then came a challenge that I had not expected: The difficulty in actually reading the handwritten transcripts. The pen and ink writing, the sometimes strange letter formations, the rambling lack-of-structure of some of the closing arguments... it was sometimes like deciphering a code.

I found myself more and more fascinated with the actual writing. I was intrigued when I thought about the fact that someone had to hear all those words, and then physically write them down. I became freshly aware that these were real people, real events... in a way that I would not have found if I was reading a typed-out document. It was then that I knew that the voice of the story had to be the real “voice” of the transcripts, the person who wrote down the words that were spoken.

What that gave me was a real person that I could craft into a great storyteller, and a way to immerse an audience into this historical event that is rich in questions about truth, justice, patriotism, ideologies and so much more. I hope everyone enjoys the “deciphering” of the truth as much as I have.....

Carolyn German
Playwright, Director

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*Guidebook written and compiled by
Cassie LaFavor.
Edited by Susan Sanders.*



“Burden of Justice: 1863” is a professional production employing members of Actors' Equity Association.

The Skirmish at the Irish Shanty

Some 10,500 armed conflicts occurred during the Civil War, ranging from battles to minor skirmishes. Burden of Justice: 1863 tells the story of a skirmish between Union soldiers and local citizens in western Dickson County, TN, at a place called the Irish Shanty on July 2, 1863.

About the show – Burden of Justice: 1863

The year is 1863, mid-way thru the Civil War. The place is Washington City. David McConnick is a clerk in the office of Judge Advocate General Holt. On his desk is the transcript of the trial of Dr. Aaron James, which he scribed in Clarksville, TN during his duties of Clerk of the Court for the US Forces. The trial is over, and a guilty verdict has been returned. But today McConnick receives a document that could change all of that. McConnick speaks directly to the audience, engaging them in a “legal drama” that seeks to the answer the question: “Was Aaron James guilty or not?” The clerk enthusiastically re-enacts the highpoints of the trials, puzzling together the details, using the testimonies that keep the scales of justice tipping back and forth between innocence and guilt. Based on the actual trial transcript, this one-man show highlights not only specific Civil War history, but also some more challenging themes like Justice and Citizenship.

The Characters (all played by 1 actor):

David McConnick – Our “narrator” that guides us through history; Clerk of the US Forces Headquarters, transcribes court proceedings.

John R. Curry – 1st Lieutenant in the 8th Kentucky Calvary.

James O. Shakelford – Council for the Defense.

John Devers – A Captain in the US Forces.

William Few – a southern farmer from Humphries County, TN; One of the men at the Irish Shanty on July 2.

Judge Advocate Tydings – Prosecutor for the US Forces.

Dr. Payton Washburn – a doctor in Dickson County, TN; One of the men at the Irish Shanty on July 2.

Dunigan – A citizen of Dickson County, neighbor of Aaron James.

Judge Advocate James Holt – Legal Advisor to President Lincoln.

“I knew that the voice of the story had to be the real ‘voice’ of the transcripts, the person who wrote down the words that were spoken.”

~ Carolyn German about her choice to write from the point of view of David McConnick, court clerk.

Note: All of the characters in the play, including those mentioned but not portrayed, are based on the actual transcript from 1863. David McConnick was the clerk who transcribed the proceedings, but that is the extent of the historical information available about him. McConnick’s words were created by the playwright. The other characters and their testimonies are based on the actual trial transcript or other historical documents.

Credits

Carolyn German – Playwright and Director

Carolyn German has been a theater professional for over 30 years, having worked as an actor, director, lyricist, producer, playwright, composer and performance coach. As a producer, German has brought several shows to TPAC’s Education and Outreach Program, including “The Story Builders”, which she also wrote and directed. That production of was subsequently honored as “Best Production of 2003” by theater critic Kevin Nance of The Tennessean. Other writing credits include her critically-acclaimed “MOSAIC”, and the historical biography of a key figure in the Civil Rights Movement, “Signs of a New Day: The Z. Alexander Looby Story”. During her time with the Cultural Arts Division of Metro Nashville Parks, she managed two theater venues, and created the New Play Reading Series, a Young Performers Program, and a Cabaret Artist Series. Carolyn is a founding member of “the Spontaneous Comedy Company”, Nashville’s Premiere Improv and Sketch Comedy group. Ms. German also brings her theater-arts expertise into other arenas through corporate training and public speaking.

Brandon Boyd – Actor

Brandon Boyd came to Nashville 23 years ago to work for the Nashville Children's Theatre. Since then he has performed for Nashville Shakespeare Festival, Tennessee Repertory Theatre, People’s Branch, Crystal Cruise Lines, Broadaxe Theatre, Arkansas Repertory Theatre, and American Stage in St. Petersburg, FL among others. Most recently, Brandon appeared in *100 Saints You Should Know* for Actor's Bridge Ensemble and *Shooting Star* for Tennessee Women's Theatre project. On Friday nights from 9pm to 11pm, Brandon hosts The Cosmic Punk Fergus Radio Free Shakedown on 103.7 FM, Radio Free Nashville, reminding you that that which flummoxes also pheuselates. Mr. Boyd thanks Carolyn German for this opportunity and his wife and son for their love and support.



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Tennessee and the Civil War

About the time period - Middle Tennessee during the time of the Skirmish:

- *June 1861, Tennessee became the eleventh state to secede.*
- *Middle Tennessee land was often fought over by armies, but often controlled by guerrillas and bushwhackers. Civilians were caught in the middle.*
- *Martial Law was declared by the occupying Union forces in early 1862, and Middle Tennessee would remain an occupied territory until 1865.*
- *Middle Tennessee residents were strongly anti-Union for several reasons – the people's belief in their right to secede from the Union, the loss of loved ones in the fighting, concern for safety and security of those that had been shipped away to northern prisons, required oaths of allegiance, and the seizure of property, grain, and livestock from local farmers and others by Union forces were some of the main reasons.*
- *The Union's requirement that oaths of allegiance be signed by local citizens did not promote good relationships between citizens and the Union military. Local citizens were often required to sign loyalty oaths to regain freedom after being arrested or captured, and this usually required the person signing to put up a monetary or property bond. If the citizen violated an oath of allegiance, his property, money, or even his life was forfeited.*
- *Middle Tennessee was a main site of guerrilla activity during the Civil War. Common ambush sites were found all along the Cumberland River. Harpeth Shoals, Palmyra, Waverly, and the Nashville and Northwestern Railroad were some of the most common areas for guerrilla operations. The Cumberland River and the Nashville and Northwestern Railroad (under construction at the beginning of the war) were important supply lines, and became sites of intense guerrilla activity throughout much of the war.*

Civil War Battles Fought in Tennessee:

Some 10,500 armed conflicts occurred during the Civil War ranging from battles to minor skirmishes. After Virginia, Tennessee had the highest numbers of battles fought within her borders. Of the ten costliest battles of the Civil War, the Battle of Stones River, Battle of Shiloh, and the Battle of Fort Donelson ranked 8th, 9th, and 10th, respectively. Below is a listing of the main battles of the war that were fought in TN as found in the *Civil War Sites Advisory Commission Report on Battlefields*.

Bean's Station – Dec. 14, 1863 – Grainger County

Blountsville – Sept. 22, 1863 – Sullivan County

Blue Springs – Oct. 10, 1863 – Greene County

Brentwood – Mar. 25, 1863 – Williamson County

Bull's Gap – Nov. 11-13, 1864 – Hamblen/Greene Counties

Campbell's Station – Nov. 16, 1863 – Knox County

Chattanooga (Lookout Mountain and Missionary Ridge) – Nov. 23-25, 1863 – Hamilton County

Chattanooga – Aug. 21, 1863 – Hamilton County

Chattanooga – June 7-8, 1862 – Hamilton County

Collierville – Nov. 3, 1863 – Shelby County

Columbia – Nov. 24, 1864 – Maury County

Dandridge – Jan. 17, 1864 – Jefferson County

Dover – Feb. 3, 1863 – Stewart County

Fair Garden – Jan. 27, 1864 – Sevier County

Fort Donelson – Feb. 11-16, 1862 – Stewart County

Fort Henry – Feb. 6, 1862 – Stewart/Henry Counties

Fort Pillow – Apr. 12, 1864 – Lauderdale County

Fort Sanders – Nov. 29, 1863 – Knox County

Franklin – Apr. 10, 1863 – Williamson County

Franklin – Nov. 30, 1864 – Williamson County

Hartsville – Dec. 7, 1862 – Trousdale County

Hatchie's Bridge – Oct. 6, 1862 – Hardeman/McNairy Counties

Hoover's Gap – June 24-26, 1863 – Bedford/Rutherford Counties

Jackson – Dec. 19, 1862 – Madison County

Johnsonville – Nov. 4-5, 1864 – Benton County

Memphis – Aug. 21, 1864 – Shelby County

Memphis – June 6, 1862 – Shelby County

Mossy Creek – Dec. 29, 1863 – Jefferson County

Murfreesboro – Dec. 5-7, 1864 – Rutherford County

Murfreesboro – July 13, 1862 – Rutherford County

Nashville – Dec. 15-16, 1864 – Davidson County

Parker's Cross Roads – Dec. 31, 1862 – Henderson County

Shiloh – Apr. 6-7, 1862 – Hardin County

Spring Hill – Nov. 29, 1864 – Maury County

Stones River – Dec. 31, 1862 – Jan. 2, 1863 – Rutherford County

Thompson's Station – Mar. 5, 1863 – Williamson County

Vaught's Hill – Mar. 20, 1863 – Rutherford County

Wauhatchie – Oct. 28-29, 1863 – Hamilton/Marion/Dade Counties



What Really Happened at the Irish Shanty?

Was Dr. Aaron James a Confederate guerilla?

If proven guilty, Dr. James would be sentenced to death. Consider the facts!

Prosecution Version

On July 1, 1863, Union soldiers were informed of guerrilla activity at the Irish Settlement in western Dickson County. Scouts from the 8th Kentucky Cavalry Volunteers under the command of Capt. John Devers traveled down the Cumberland to the Irish Settlement. Capt. Devers ordered Lt. John Curry to take 12 men and ride forward to the Irish Shanty as an advance scout. The Irish Shanty is described as a grog shop where whisky, thread, dress patterns, needles, and other such commodities could be purchased.

Arriving at the Irish Shanty, Lt. Curry moved forward to get a better look at the area. Curry states that he saw 20-30 men and horses in the edge of the woods to the south. He also saw horses hitched to the fence and several men in the yard and on the porch. Those in the yard and on the porch were William Few, Martin McGuire, James Shelton, Payton Washburn, Euphrates Shelton, John Box, Jonas Spicer, Aaron James, and the owner of the Shanty, Catherine Seaboren.

When the soldiers are noticed by those at the Shanty, both Spicer and Box immediately begin running. Lt. Curry orders them to halt several times. When the men do not halt, Lt. Curry then orders his men to fire, and charge the Irish Shanty. The Union soldiers reported gunfire from the men in the edge of the woods, as well as 3 shots from the house and 3 shots from Jonas Spicer as he fled. Private James Meece and other soldiers pursued Box and Spicer. Spicer was caught with a pistol that appeared to have just been fired. Box escaped. The other men in the yard were ordered to surrender.

Aaron James then stumbled out the front door, cursing and swearing at the soldiers. He was ordered to surrender. According to Lt. Curry, James stated that he fought the Lieutenant at the Shoals and Palmyra (well-known guerilla locations) and proceeded to threaten Lt. Curry's life. The testimony from the Union soldiers states that Aaron James had been drinking, but they felt he was pretending to be drunk.

All were arrested except for Martin McGuire and Catherine Seaboren. The Union scouts found 3 pistols belonging to Jonas Spicer, Euphrates Shelton and William Few, each with 3 loads out of a possible 6. A double barreled shotgun was found belonging to James Shelton. Seven horses and a mule that belonged to those arrested were also found.

During the return trip to Clarksville, Lt. Curry reports that Aaron James continues to curse and yell in between reasoning with his captors to let him go. The soldiers report that Aaron James was sober at this time.

Defense Version

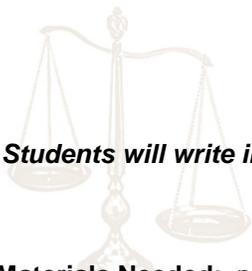
William Few, John Box, and Dr. Payton Washburn arrived a little past 10:00 a.m. William Few had purchased a cow and a calf from the Seaborens, who owned the Irish Shanty. He was going to collect the animals and drive them back to his farm. Dr. Washburn had been summoned to Few's house early that morning to attend to a sick child. Few asked his brother-in-law, John Box, and Dr. Washburn to go with him and help drive the animals.

Jonas Spicer arrived around 11:00 a.m. He had promised his lady friend, Ellen Choate, that he would go to the Irish Shanty and buy her a dress pattern and shoes.

Dr. Aaron James had been trading horses the day before with Euphrates Shelton, and spent the night at the home of Shelton's uncle, James Shelton. James Shelton had his shotgun loaded with buckshot in case he saw a deer on the trip. He also had his hunting horn and three hound dogs with him. All three men arrived a few minutes before noon, after stopping on the way for whisky. When they arrived, Aaron James was put to bed in the house, as he was intoxicated. Euphrates asked Catherine to boil 4 dozen eggs, and William Few amended that request to be 10 dozen eggs. Catherine starts a fire in the front yard and begins boiling eggs in a large kettle.

The defense says there were no other men or horses in the area other than those that were captured. They also say there was no gunfire from the woods, house, yard, or from Spicer. In essence, the defense claims that the Union soldiers became excited and in reality all the firing came from the Union soldiers themselves.

According to the defense, all the men were law abiding, honest citizens. As for Aaron James, much of the defense is based on the Doctor's level of intoxication. Character witnesses consistently claim Aaron James is a peaceable man, except when drinking. They all claim that he becomes violent and argumentative when drinking, and the defense claims he doesn't know what was said to the soldiers during his capture.



Evidence versus Opinion

Students will write informative/explanatory texts for a factual opening statement, followed by a closing argument using evidence to support their claims.

Materials Needed: paper, copy of page 4 (“What really happened at the Irish Shanty?”) from this guidebook, previous knowledge of basic court terms (glossary found on page 12) and proceedings

Warm-Up:

- As students enter the classroom, have 2 categories listed on the board – *Facts and Evidence* and *Opinions and Arguments*. What is the difference in evidence and opinion? How might these 2 opposing concepts affect a trial?
- Working in pairs, ask students to read and analyze the description of what happened during the ‘Skirmish at the Irish Shanty’ found on page 4. They should identify and list “fact and evidence” and “opinion and argument” items they find in the text.
- Then, discuss some of the responses written in each category as a class. What were the most compelling pieces of evidence? What evidence do you feel is missing? What part of the story is opinion? How does opinion play into each argument?

If students are not familiar with court terms and trial procedure, you may wish to go over some basic information with them prior to this lesson. A Glossary of Court terms can be found on page 12.

Instructional Procedures, Part 1:

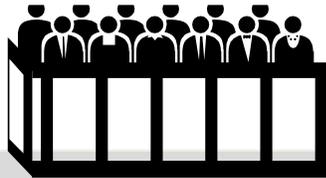
- Next, talk about the difference in writing an informative/explanatory text and writing an argument/persuasive text.

Argument Writing	Explanatory Writing
<ul style="list-style-type: none"> Seeks to make people believe something is true or to <i>persuade</i> people to change their beliefs or behavior. Provides information about causes, contexts, and consequences of processes, and presents a case with the solid evidence, while acknowledging counterarguments on a debatable issue. Supports the writer’s claim(s) with sound reasoning and relevant and sufficient evidence. 	<ul style="list-style-type: none"> Attempts to make the reader <i>understand</i> rather than to persuade him or her to accept a certain point of view. Provides information about causes, contexts, and consequences of processes. Supports the writer’s thesis with evidence and supporting detail.

- Both of these types of writing (and speaking) are used in trials. Both prosecution and defense lawyers will give an opening statement and a closing argument during the course of a trial. Opening statements are more factual, laying out what will happen during the trial and what evidence will be shown. Closing arguments are more persuasive, pointing out all of the evidence that support their side and why their argument is better.
- In their pairs, build a case either for prosecution or defense (divide the class so that both sides are represented). Consider: What are the most compelling bits of evidence? What evidence is missing? What methods will you use to convince the jury (explanatory parts and persuading parts)? Is your witness’ testimony credible?
- Each pair will now write an opening statement explaining the facts and evidence in their case and a closing argument persuading the jury to believe their claims. Speeches should be 1 page in length, and be organized in a way that is easy to follow and uses evidence to support claims.
- Once students have finished writing their opening statements and closing arguments, ask volunteers to present their prosecution and defense speeches to the class.

Closure – After each pair of volunteers, ask students in the class to be the jury. Consider their arguments and evidence. Whose argument was better? Who had the evidence? Cast a vote and see which side wins. Finally, discuss the outcomes of all the votes. Did students vote the same way each time, or did some arguments sway them differently? Do they think Aaron James was guilty?

Extension – Now that students understand part of the responsibility of a lawyer and jury during a trial, hold a mock trial with your class! The following page gives you information on holding a mock trial. You may choose to let students perform as improv, or find a script to use.



Opening Statement Tips

- Prosecution presents their opening first, followed by the Defense.
- Keep it simple – this is not the time to share everything.
- The goal of the opening statement is to map out your case in a story, NOT to argue. Explain what happened in story form that paints a picture of your side of the case.
- Include theme/theory (Ex. “This is a case about desperation.”)
- Use future tense “The evidence will show...”, “We will prove...”, etc.
- Identify major witnesses and what they will testify, as well as what evidence will be shown.
- Defense will make a point to bring up Innocent until Proven Guilty beyond a Reasonable Doubt. Remind the court that Burden of Proof belongs with the prosecution. Accusation does not mean a person is guilty.
- Conclude with the request for verdict – Ex. “Therefore, we request a not guilty verdict.”

Closing Argument Tips

- Prosecution presents closing argument first, then the defense. The prosecution then gets the chance for a rebuttal limited to the scope of the defense closing.
 - Attorney should argue facts that came into evidence. The goal is to connect everything together with clarity in a persuasive way.
 - Defense should be sure to discuss how the prosecution proved or did not prove their case.
 - Use strong language and be convincing. Say things like “The evidence proved” not “we think” or “we hope”. If you don’t believe in your case, why would the judge or jury?
 - Prosecution focuses on all the strong points in their case and the weak points of the defense. Be sure to state that you met your burden of proof and go through every point you needed to prove.
 - The Defense should focus on all the holes in the prosecution case. Focus on all doubts and push the burden of proof needed to win. Argue what the prosecution failed to prove. Accusation does not mean a person is guilty. Remember - Innocent until proven guilty.
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Information on Mock Trial

The mock trial has proven to be an effective learning tool for students, helping them develop useful knowledge about the law, questioning techniques, critical thinking, and oral advocacy skills. Good mock trials will also leave student participants with an appreciation of the difficulties that judges, lawyers and juries face in attempting to present all relevant facts and legal arguments and insure the just resolution of the issues involved.

Types of Mock Trials: Mock trials may draw upon historical events, trials of contemporary interest, school and/or classroom situations, or hypothetical fact patterns. Most mock trials use some general rules of evidence and procedure, an explanation of the basic facts, and brief statements for each witness. Other mock trial formats range from improvisation activities where rules are created by the student participants (sometimes on the spot) and no scripts are used, to serious attempts to simulate the trial process based on simplified rules of evidence and procedure to dramatic reenactments of historical trials in which scripts are heavily relied upon. The kind of mock trial you hold is entirely up to you.

Participants: Judge (could be a visitor to class with legal experience or the teacher), prosecutor/plaintiff's attorney(s), defense attorney(s), witnesses for the prosecution, witnesses for the defense, bailiff, jury composed of twelve people (one of whom should be named jury foreman); alternates may also be designated.

Simplified Steps in a Jury Trial:

1. Calling of Case by the Bailiff: "All rise. The Court of _____ is now in session. Honorable Judge _____ presiding. Everyone remains standing until the judge enters and is seated. The bailiff then says, "Please be seated."
2. Opening Statements: The prosecutor (criminal case)/plaintiff's attorney (civil case) and then the defendant's attorney explain what their evidence will be and what they will try to prove. Attorneys should introduce the case in the future tense. (i.e., "...the evidence WILL show...the witness WILL testify...")
3. Prosecution Case: Witnesses are called to testify (direct examination) and other physical evidence is introduced. The purpose of direct examination is to allow witnesses to develop the facts in support of the case. Each witness called is cross-examined (questioned so as to break down the story or be discredited) by the defense. The cross-examiner seeks to clarify or cast doubt upon the testimony of opposing witnesses. Inconsistency in stories, bias, and other damaging facts may be pointed out to the judge through leading questions.
4. Defendant's Case: Same as Step 3, only witnesses are cross-examined by the prosecution.
5. Closing Arguments: A closing argument is a review and analysis of the evidence presented. An attorney for each side reviews the evidence presented and asks for a decision in his/her favor. Attorney for the plaintiff reviews and analyzes the evidence as presented, indicates how the evidence has satisfied the elements of the charge or claim, points out the law applicable to the case, and argues for a judgment for the plaintiff. Plaintiff's attorney may reserve time left over for rebuttal (optional). Rebuttal is limited to the scope of the defense's closing argument. The closing argument for the defense is essentially the same as for the plaintiff. It should indicate how the evidence does not satisfy the elements of the charge or claim, stresses the facts favorable to the defendant and asks for a judgment for the defense. If the prosecution chooses to make a rebuttal it takes place after the defense rests.
6. Jury Instructions: The judge explains to the jury appropriate rules of law that it is to consider in weighing the evidence. As a general rule, the prosecution (or the plaintiff in a civil case) must meet the burden of proof in order to prevail. In a criminal case this burden is very high.
7. Deliberation and Verdict: The jury goes into a private room to discuss the case and reach a decision. They may talk to no one except the judge if they have questions. When a decision has been made, the jury returns to the courtroom and the foreman announces the verdict.



Suggestions for Finding More Information:

TN Bar Association - <http://www.tba.org/info/tennessee-high-school-mock-trial-0>

American Mock Trial Association - <http://www.collegemocktrial.org/>

Free Mock Trials scripts on StreetLaw.org - http://www.streetlaw.org/en/publications/free_mock_trials

Classroom Law Project - <http://www.classroomlaw.org/programs/mock-trial/>

Tips and Advice from Center for Civic Values - <http://www.civicvalues.org/mock-trial/program/tips-and-advice.html>



'Voir Dire' - To Speak the Truth

The process of asking potential jurors questions to help with selection is called 'voir dire', a French term meaning "to speak the truth." What is the importance of an impartial jury?

Materials Needed: paper and pencil

Discussion – In *Burden of Justice: 1863*, the trial is a military commission, which means that a commission of three men (Union soldiers, in fact) decided the verdict instead of a jury. However, during the performance, the actor will also ask the audience to consider themselves part of the jury and to judge what they think - Was Aaron James guilty, or not guilty? How do you make this decision?

Instructional Procedures:

- Ask students to name some of the rights and freedoms afforded to citizens of the United States (freedom of speech, freedom of the press, right to assemble, right to trial by jury, etc.). Create a list of student responses on the board.
- If they have not listed it already, tell students that they are granted the right to trial by jury by the Sixth and Seventh Amendments to the United States Constitution. Discuss some reasons why trial by jury is an important right (cases are decided by peers, impartial parties hear cases, a group of citizens must weigh the evidence and agree on a verdict).
- Discuss selection of jurors: Potential jurors are randomly selected from voter registration or driver's license lists, then lawyers from each side question them to determine their eligibility for jury service. During this process, called *voir dire* (a French term meaning "to speak the truth"), potential jurors will be asked questions such as how they might know the plaintiff or defendant, and if there is a reason they might not consider evidence fairly. This helps them choose the fairest people to be on the jury. Why is it important for jurors to be fair and impartial?
- Students will now imagine they are a jury, and will hand down a verdict of guilt or innocence based on the evidence presented in a provided scenario (below). Remind students about the Burden of Proof, then allow them time to review the information individually and decide on a verdict, without discussing the case with anyone else. Ask them to jot down what evidence proves the accused is guilty or not guilty in their opinion, and if anything in the case might change their decision.
- When each student has completed their individual assessment, divide the class into groups of 12. Have each group work together to come up with a unanimous verdict based on the evidence offered and through discussion among the group members. Give them time to talk about their opinions, the facts they were given, and the Burden of Proof. They must come up with a unanimous decision, even if this requires some students to listen to evidence and change their decision based on new information not previously considered. What is the verdict?
- Finally, have students write a paragraph comparing and contrasting the experience of working individually and in a group. As they write, have them answer the following questions:
 - Was the group verdict different than your individual verdict? If it was different, what made you change your mind? If it was the same, did someone with a differing opinion present evidence that almost changed your mind?
 - What challenges did you face while working individually? In a group?
 - What were the advantages and disadvantages of working individually? In a group?

BURDEN OF PROOF

In the United States, a person accused of a crime is INNOCENT until proven GUILTY. A jury may not find a person guilty if there is REASONABLE DOUBT of his/her guilt. If the evidence presented does not reasonably convince the jury of a person's guilt, they must find him/her NOT GUILTY.

The Scenario

On June 20, an intruder broke into an art museum. The next morning, the museum security guard noticed 5 paintings were missing, and immediately called the police. Upon searching the museum, the police found 2 other items missing as well – a pair of replica crowns from 16th-century Spain. The police found muddy footprints at each crime scene.

On August 24, Jimmy Jacobs attempted to sell a replica 16th-century Spanish crown at a pawnshop. The shop owner contacted police, who searched Jacobs' home, where they found a second crown replica and a large collection of swords and armor. They also found a pair of shoes that matched the muddy footprints found at the museum. They did not find any of the stolen paintings. Jimmy Jacobs maintains that he is innocent and that he collects European antiques. He states that he bought the crowns on the internet and later decided to sell them.



Point of View – A Socratic Seminar

Materials needed: Guidebook (director's note on front page), copies of the Skirmish descriptions found on the page 4 for each student.

Instructional Procedures:

- Read the Director's Note on the opening page of this Guidebook aloud to students.
- Discuss - While a story can be told from two different points of view, it can also be told from many different perspectives. Perspective is how we see or feel about something. It could mean that people describing the same event have differing opinions because they were physically located in different places and therefore saw the event differently, or for some reason their opinion is different from someone else who saw or heard about the same event. How does perspective, or point of view, come into play in writing? When Carolyn German mentions the "voice" of McConnick telling this story, what does she mean? How do you think that will affect the story, if at all?
- Give each student a copy of the provided summaries of the Skirmish from page 4. Students should read both the Prosecution and Defense account of the Skirmish.
- Explain the idea of Socratic Seminar to your students.
- Before beginning, students should re-read the assigned text and write one question in each of the following categories:
 - World Connection (connecting the text to the real world)
 - Close-Ended (Question with a "correct" answer, allows everyone to come to an agreement about events or characters in the text.)
 - Open-Ended (will require proof and group discussion to discover or explore the answer)
 - Universal Theme/Core (encourages group discussion about universality and a theme of the text)
 - Literary Analysis (dealing with how an author chose to compose a literary piece, such as how the author manipulates point of view, characterization)
- Finally, hold your Socratic Seminar with the class. Here are a few question ideas to help guide the seminar if you wish:
 - ✓ How does point of view affect a story?
 - ✓ Whose point of view do you want to know more about when you read the description? Why?
 - ✓ How do you think the story would differ with Aaron James as the main character instead of David McConnick? How would it change if Lt. Curry was the main character? Whose point of view would be the most objective?
 - ✓ Do you agree with the playwright's choice to make McConnick the narrator? Why?
 - ✓ How can the opposing sides have stories that don't match when they were all in the same place?
 - ✓ How does your own life experience affect how you view a situation or story?
 - ✓ Is one side of the story true and one side false? Can you support your answer with any evidence?

About Socratic Seminar:

The Socratic method of teaching is based on Socrates' theory that it is more important to enable students to think for themselves than to fill their heads with "right" answers.

A Socratic seminar is not used for the purpose of debate, persuasion, or personal reflection. Through a process of listening, making meaning, and finding common ground, students work toward shared understanding rather than proving an argument.

A Socratic seminar begins with a discussion leader (student or teacher) asking an open-ended question. A typical opening prompt is: What do you think this text means? Silence is fine. It may take a few minutes for students to warm-up. Socratic seminars should be given at least fifteen minutes, but can last longer.

For more information on Socratic Seminar, visit <http://www.greece.k12.ny.us/instruction/ela/SocraticSeminars/overview.htm>



Playing Multiple Characters

Lesson by Robyn Berg

In *Burden of Justice: 1863*, one actor plays all ten characters. In this lesson, students will explore acting techniques to clearly embody multiple characters.

Teacher Note: The lesson can be applied to any show utilizing a minimum of actors to play multiple characters. The following instructions are general, with some examples given that connect to *Burden of Justice: 1863*, but this lesson can be adapted as needed for any story you are teaching in your classroom.

Materials Needed: paper and pencil to journal about characters, open space

Instructional Procedures:

- Begin by asking students to journal about a community member they know, such as a Lawyer, Doctor, or Soldier. This will be Character A. (For other stories, examine the themes of the work of art and make specific choices accordingly, like father and daughter for *King Lear*, or boss and employee for *A Christmas Carol*, etc.)
- Guide the journaling by asking students to provide 4 or 5 descriptive words for this person such as brave, intelligent, kind, evil etc. Next, ask participants to think a little bit more specifically about how the person walks and talks. Encourage students to record things like 'walks heavy' or 'speaks slowly', etc. Students should begin with traits they know about this person, but can fill in gaps with their own imagination if necessary.
- Let students review their lists briefly and then invite them to an open space and guide them through a physical and vocal exploration--ultimately "becoming" this Character A.
- Start with the physical traits, asking students to find a walk that showcases the descriptive words they recorded. For example: How do you embody bravery? How do you move intelligently? What is the eye contact like for a kind person? What kind of steps do evil beings take? Layer on the specific observations they made about movement, such as: How do you embody bravery and also walk heavy?
- Ask students to pause the movement briefly and find a voice for this character by selecting a one-word greeting that suits the character (such as 'hello,' 'darling,' 'yo,' etc.). Now, they should explore delivery of the greeting as they resume movement, passing other students in the open space. Encourage them to keep the body they found while layering on the voice. Again, guide the exploration with questions like: Do brave individuals speak quietly? Loudly? Do evil beings use a high pitch? A low pitch? Does your character have any kind of accent? Let them have fun, be silly and create for a few minutes! They don't have to find the character's body and voice on the first try. Encourage them to try a few different things, ultimately settling on what feels right for the character.
- Now, students will return to their journal (putting character A on pause for a bit) and to brainstorm on an opposing figure that will become Character B. (For example, in *King Lear* a child figure is used to contrast the parental figure, in *A Christmas Carol* the boss and employee characters have contrast, etc.). In this case, if A is a Doctor, B could be a patient or a competing Doctor. If A was a Soldier, B could be a commanding officer or the enemy on a battlefield. If A was a Lawyer, B could be the Defendant or opposing council. Repeat the exact journaling process from earlier for your new character, first recording descriptions of this new character B and then honing in on specific physical and vocal qualities.
- Ask students to return to the open space and repeat the exploration process for their character B, reviewing description lists and then being guided to make physical and vocal choices, ultimately "becoming" this character B. Encourage vastly different choices for character B, so that the two characters don't become muddled in a gray area, but live on opposite ends of a spectrum (this will make the upcoming transformation between the two much clearer).
- Students return to their journals again and become simple playwrights. They will now put the 2 characters together, imagining that they know each other. Students will write a short dialogue between the two characters. Consider: How do they know each other? What is the relationship? What might A say to B? How would B respond?



- Students quickly memorize one line for each character (perhaps their favorite exchange in the dialogue they just wrote). This should be something short that shows each character clearly, such as “A (Doctor) – How are you feeling today? B (Patient) – I don’t feel very well, Doc.” Then, return to the floor for exploration. The teacher guides them to walk the space as A, saying their line over and over, truly connecting to the vocal and physical choices already made for this character. Then, the teacher asks them to switch and walk the space as B, repeating the process.
- Take a few minutes to discuss performing multiple characters at once. Focus on the transitions: How does the actor physically move from one character to the next and back again? Is one character looking left and the other looking right? If one character is making a gesture how do you change it to work for the second character? During this next part, the transition needs to be obvious, so taking time to make the changes from one character to the next is important. They will need to allow time for the body and voice to transition from character A to character B. Don’t rush from one line to the other! Let the body change shapes. Let the voice find its new volume or pitch. Let the breath do something different for each character. Let the eye contact alter.
- Give students time to rehearse the lines of their two characters together, taking time to transform in between (rehearse these all at the same time so as to lessen self-consciousness during the exploration). After the students have had time to polish their “split personality,” volunteers will share their performance with the group. The audience shares thoughts on what they see and hear...specifically the vocal and physical ticks that made each character unique.

Five Suggestions for Creating a Variety of Characters in a Multi-Character Piece

- POSTURE** How does each character stand? Ramrod straight back? Slouched? Shoulders up around the ears? Tense? Very relaxed? Are they proud? Embarrassed? Focus on how the character holds themselves.
- PACE** Fast walk? Slow stroll? A sideways scuttle? With a skip, hop or a jump? Do they shuffle their feet or pick their knees up in a high march?
- FACE** Do they wrinkle the nose? Squint the eyes? Purse the lips? Do they have a wide happy smile, or a grimace? Make sure the physical characterization includes the face. That way, if you're doing a fast conversation between two characters, you may only have to move from one facial expression to the next to differentiate.
- VOICE** Every character should have a specific voice. Is their tone high, middle or low? Do they speak fast or slow? Voice is an excellent way to identify between characters.
- SIGNATURE GESTURE or SOUND** If you're doing a number of different characters a great marker for you and the audience is to give your character a re-appearing gesture or sound. Every time the audience hears the noise, they connect it to the specific character.



Glossary of Court Terms

Accused - The person against whom an accusation is made; one who is charged with a crime or traffic infraction.

Acquittal - verdict that a criminal defendant is not guilty, or the evidence is insufficient to support a conviction.

Admissible - A term used to describe evidence that may be considered by a jury or judge in civil and criminal cases.

Arraignment - A proceeding in which a criminal defendant is brought into court, told of the charges in an indictment or information, and asked to plead guilty or not guilty.

Bail - The release, prior to trial, of a person accused of a crime, under specified conditions designed to assure that person's appearance in court when required. Also can refer to the amount of bond money posted.

Bench trial - A trial without a jury, in which the judge serves as the fact-finder.

Burden of proof - The duty to prove disputed facts. In civil cases, a plaintiff generally has the burden of proving his or her case. In criminal cases, the government has the burden of proving the defendant's guilt.

Capital offense - A crime punishable by death.

Case file - A complete collection of every document filed in court in a case.

Clerk of court - The court officer who oversees administrative functions, especially managing the flow of cases through the court.

Conviction - A judgment of guilt against a criminal defendant.

Counsel - Legal advice; a term also used to refer to the lawyers in a case.

Court reporter - A person who makes a word-for-word record of what is said in court, generally by using a stenographic machine, shorthand or audio recording, and then produces a transcript of the proceedings upon request.

Cross-examination - The examination of a witness upon a trial or hearing, or upon taking a deposition, by the party opposed to the one who put him on the witness stand to testify.

Defendant - An individual (or business) against whom a lawsuit is filed. In a civil case, the person or organization against whom the plaintiff brings suit; in a criminal case, the person accused of the crime.

Direct Examination - The initial questioning of a witness by the party who called the witness.

Due process - In criminal law, the constitutional guarantee that a defendant will receive a fair and impartial trial. In civil law, the legal rights of someone who confronts an adverse action threatening liberty or property.

Evidence - Information presented in testimony or in documents that is used to persuade the fact finder (judge or jury) to decide the case in favor of one side or the other.

Grand jury - A body of 16-23 citizens who listen to evidence of criminal allegations, which is presented by the prosecutors, and determine whether there is probable cause to believe an individual committed an offense.

Judgment - The official decision of a court finally resolving the dispute between the parties to the lawsuit.

Jury - The group of persons selected to hear the evidence in a trial and render a verdict on matters of fact.

Motion - A request by a litigant to a judge for a decision on an issue relating to the case.

Objection - A protest or exception made by a party against an action by the opposing party.

Petit jury (or trial jury) - A group of citizens who hear the evidence presented by both sides at trial and determine the facts in dispute. Federal criminal juries consist of 12 persons. Federal civil juries consist of at least six persons.

Plaintiff - A person or business that files a formal complaint with the court.

Plea - In a criminal case, the defendant's statement pleading "guilty" or "not guilty" in answer to the charges.

Prosecute - To charge someone with a crime. A prosecutor tries a criminal case on behalf of the government.

Reasonable Doubt - The degree of certainty beyond which accusations must be proven in order to obtain a criminal conviction.

Record - A written account of the proceedings in a case, including all pleadings, evidence, and exhibits submitted.

Sentence - The punishment ordered by a court for a defendant convicted of a crime.

- Suspended Sentence - Postponing the execution of the sentence upon certain conditions.
- Deferred Sentence - Postponing the imposition of the sentence or finding for a period of time upon certain conditions. Does not operate as a suspension of sentence.

Standard of proof - Degree of proof required. In criminal cases, prosecutors must prove a defendant's guilt "beyond a reasonable doubt." The majority of civil lawsuits require proof "by a preponderance of the evidence" (50 percent plus), but in some the standard is higher and requires "clear and convincing" proof.

Testimony - Evidence presented orally by witnesses during trials or before grand juries

Transcript - A written, word-for-word record of what was said, either in a proceeding such as a trial, or during some other formal conversation, such as a hearing or oral deposition.

Verdict - The decision of a trial jury or a judge that determines the guilt or innocence of a criminal defendant, or that determines the final outcome of a civil case.

Witness - A person called by either side in a lawsuit to give testimony before the court/jury.



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