

● Contents ●

Standards	viii
Introduction	1
General Tips	4
Research Suggestions	5
Evaluation	5
 Chapter 1 The Trial of Aaron Burr, 1807	
Introduction	8
Objectives	8
Lesson Plan	9
Trial Procedure	9
Diagram of Courtroom Seating	9
Suggested Schedule (role play)	10
Notes for the Teacher (role play)	10
Suggested Schedule (scripted version)	12
Notes for the Teacher (scripted version)	12
Roles Grid	13
Jury Grid	14
 Reproducibles	
Background Essay	15
Roles	17
Script	26
Documentary Evidence	42
Time Line	44
Glossary	44
Postscript	45
Discussion Questions	46
Extension Activities	47
Sources	48

Chapter 2 The Trial of John Brown, 1859

Introduction	52
Objectives	52
Lesson Plan	53
Trial Procedure.....	53
Diagram of Courtroom Seating.....	53
Suggested Schedule (role play)	54
Notes for the Teacher (role play).....	54
Suggested Schedule (scripted version)	55
Notes for the Teacher (scripted version)	55
Roles Grid	56

Reproducibles

Background Essay.....	57
Roles.....	59
Script.....	70
Documentary Evidence	83
Time Line	84
Glossary	84
Postscript.....	85
Discussion Questions	86
Extension Activities	88
Sources	89

Chapter 3 The Trial of Harrison H. Dodd, 1864

Introduction	92
Objectives	92
Lesson Plan	93
Trial Procedure.....	93
Diagram of Courtroom Seating.....	93
Suggested Schedule (role play)	94

Notes for the Teacher (role play).....	94
Suggested Schedule (scripted version).....	96
Notes for the Teacher (scripted version).....	96
Roles Grid	97

Reproducibles

Background Essay.....	98
Roles.....	101
Script	109
Documentary Evidence	121
Time Line	122
Glossary	123
Postscript.....	124
Discussion Questions	125
Extension Activities	127
Sources	128

Chapter 4 The Trial of Dr. Samuel Mudd, 1865

Introduction	130
Objectives	130
Lesson Plan	131
Trial Procedure.....	131
Diagram of Courtroom Seating.....	131
Suggested Schedule (role play)	132
Notes for the Teacher (role play).....	132
Suggested Schedule (scripted version).....	134
Notes for the Teacher (scripted version)	134
Roles Grid	135

Reproducibles

Background Essay.....	136
Roles.....	138
Script	146

Documentary Evidence	166
Time Line	167
Glossary	168
Postscript	169
Discussion Questions	170
Extension Activities	171
Sources	172

Chapter 5 The Trial of Bill Blizzard, 1922

Introduction	174
Objectives	174
Lesson Plan	175
Trial Procedure	175
Diagram of Courtroom Seating	175
Suggested Schedule (role play)	176
Notes for the Teacher (role play)	176
Suggested Schedule (scripted version)	177
Notes for the Teacher (scripted version)	177
Roles Grid	178

Reproducibles

Background Essay	179
Roles	182
Script	192
Documentary Evidence	207
Time Line	208
Glossary	208
Postscript	209
Discussion Questions	210
Extension Activities	212
Sources	214

Chapter 6 The Trial of Douglas Chandler, 1947

Introduction	216
Objectives	216
Lesson Plan	217
Trial Procedure	217
Diagram of Courtroom Seating	217
Suggested Schedule (role play)	218
Notes for the Teacher (role play)	218
Suggested Schedule (scripted version)	220
Notes for the Teacher (scripted version)	220
Roles Grid	221

Reproducibles

Background Essay	222
Roles	225
Script	237
Documentary Evidence	260
Time Line	260
Glossary	261
Postscript	261
Discussion Questions	262
Extension Activities	264
Sources	265

Standards

	Social Studies Standards 9–12 Benchmark 1-C World	Common Core State Standards	National Standard U.S. History
Chapter 1: The Trial of Aaron Burr		CCSS.ELA-Literacy.RH.6-8.4 CCSS.ELA-Literacy.RH.6-8.7 CCSS.ELA-Literacy.RH.6-8.8 CCSS.ELA-Literacy.RH.6-8.9 CCSS.ELA-Literacy.RH.6-8.10 Era 6 Standard 1	NSS-USH 5-12.3 Era 3: Revolution and the New Nation
Chapter 2: The Trial of John Brown		CCSS.ELA-Literacy.RH.6-8.4 CCSS.ELA-Literacy.RH.6-8.7 CCSS.ELA-Literacy.RH.6-8.8 CCSS.ELA-Literacy.RH.6-8.9 CCSS.ELA-Literacy.RH.6-8.10 Era 7 Standard 4	NSS-USH 12.4 Era 4: Expansion and Reform
Chapter 3: The Trial of Harrison H. Dodd		CCSS.ELA-Literacy.RH.6-8.4 CCSS.ELA-Literacy.RH.6-8.7 CCSS.ELA-Literacy.RH.6-8.8 CCSS.ELA-Literacy.RH.6-8.9 CCSS.ELA-Literacy.RH.6-8.10 Era 7 Standard 4	NSS-USH 12.5 Era 5: Civil War and Reconstruction
Chapter 4: The Trial of Dr. Samuel Mudd		CCSS.ELA-Literacy.RH.6-8.4 CCSS.ELA-Literacy.RH.6-8.7 CCSS.ELA-Literacy.RH.6-8.8 CCSS.ELA-Literacy.RH.6-8.9 CCSS.ELA-Literacy.RH.6-8.10 Era 7 Standard 4	NSS-USH 12.5 Era 5: Civil War and Reconstruction
Chapter 5: The Trial of Bill Blizzard	Analyze the pattern of historical change as evidenced by the Industrial Revolution, to include: Conditions that promoted industrialization Evolution of work/business	CCSS.ELA-Literacy.RH.6-8.4 CCSS.ELA-Literacy.RH.6-8.7 CCSS.ELA-Literacy.RH.6-8.8 CCSS.ELA-Literacy.RH.6-8.9 CCSS.ELA-Literacy.RH.6-8.10 Era 7 Standard 1	NSS-USH 12.6 Era 6: The Development of Industrial U.S.
Chapter 6: The Trial of Douglas Chandler	Analyze and evaluate international developments following WWII, the Cold War and Post-Cold War to include: War crime trials	CCSS.ELA-Literacy.RH.6-8.4 CCSS.ELA-Literacy.RH.6-8.7 CCSS.ELA-Literacy.RH.6-8.8 CCSS.ELA-Literacy.RH.6-8.9 CCSS.ELA-Literacy.RH.6-8.10 Era 8 Standards 3 and 4	NSS-USH 12.7 Era 7: Emergence of Modern Postwar U.S. America NSS-USH Era 9

● Introduction ●

The treason trial of Aaron Burr was called by one historian the “greatest criminal trial in American history and one of the notable trials in the annals of law.”¹ It was the only time in American history that a court tried such an important elected official of the United States for treason. Aaron Burr was the former vice president. Nearly every significant personality in American politics at that time was either directly or indirectly involved, including two signers of the U.S. Constitution, future President Andrew Jackson, a former Virginia governor, the most important General in the West, and President Thomas Jefferson. The issues involved included the definition of treason, the constitutional rights of defendants, and the very meaning of the separation of powers.

Objectives

1. Students will understand the constitutional definition of treason and how it was applied in this case.
2. Students will be familiar with how the trial impacted the politics of this era.
3. Students will understand how lawyers and judges matched old law, new law, and current politics to shape the country in the early national period.

¹ Corwin, Edward S. *John Marshall and the Constitution*. New Haven, CT: Yale University Press, 1919: 86.

Lesson Plan

Trial Procedure

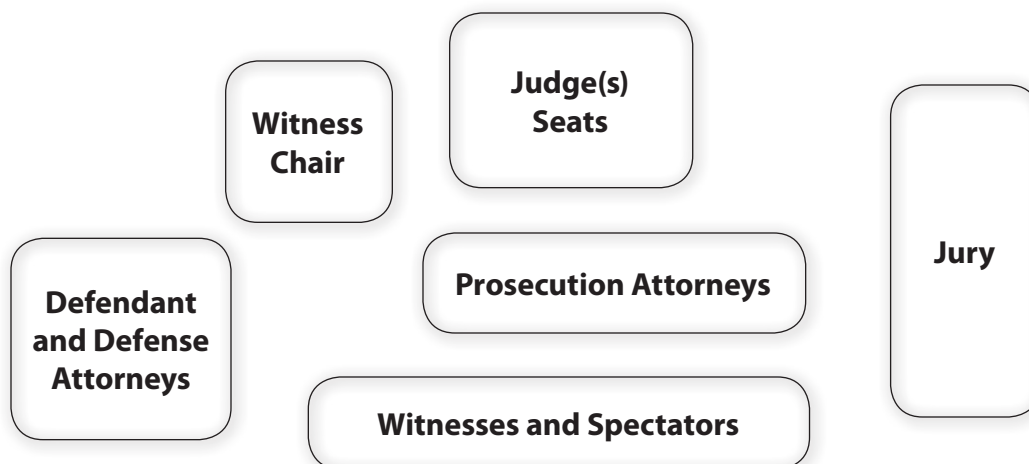
1. Classroom should be set up as a courtroom (see Diagram).
2. Jury, attorneys, witnesses, and any courtroom spectators should be seated.
3. Judge John Marshall enters and the court clerk instructs everyone in the courtroom to “rise.”*
4. The judge then “charges the jury” with their responsibilities.
5. The judge then instructs the clerk to read the charges against the defendant. Aaron Burr pleads “not guilty,” and the trial proceeds according to the following schedule:
 - a. Opening remarks by the prosecuting attorney(s)
 - b. Opening remarks by the defense attorney(s)
 - c. Direct testimony and cross-examination of prosecution witnesses
 - d. Direct testimony and cross-examination of defense witnesses
 - e. Summary remarks by the prosecution attorney(s)
 - f. Summary remarks by the defense attorney(s)
 - g. Jury retires to deliberate
 - h. Jury returns to the court and judge asks them for their verdict
 - i. If Burr is declared guilty then Judge John Marshall immediately sentences him to death by hanging. If he is found innocent then he is immediately set free



Teaching Tip

For attorney roles, choose students who are well-organized and not afraid to speak in front of class.

Diagram of Courtroom Seating



*If you are having two judges then Cyrus Griffin will enter too.

Teaching Tip

You can limit the length of the trials by omitting roles or by setting speaking time limits.



Suggested Schedule (role play)

Day One: Background, role assignments, and initial preparation

Day Two: Preparation

Day Three: Begin trial

Day Four: Conclude trial and debrief using Discussion Questions

Day Five: Conclude debrief and assign Extension Activities

Notes for the Teacher (role play)

1. Read and discuss with students the Background Essay.
2. Divide the class into prosecution and defense. Either assign students specific roles or have them decide as a group who will be the attorneys and which witnesses they will present for the case. Unless you have a very capable student it is advisable for the teacher to perform the role of Justice John Marshall. Students are not accustomed to being the authority figure in a classroom. Historically, the actual trial was heard by two judges, John Marshall and Cyrus Griffin, and a jury. According to the trial transcript, Griffin played a very minor part in the proceedings so you may decide to go with only one judge—or to have a student play the part of Griffin. It is ideal if you can have a jury hear the case but if that is not possible then you can have the judge(s) decide the case.
3. Students should be given the remainder of any class time and the next class to prepare for the trial. Attorneys should present their theories of the case and frame questions for each of the witnesses. Witnesses should write out a deposition (what they plan to say on the witness stand) and practice their direct testimonies and any expected cross-examination questions. You may decide to allow them to refer to their depositions while testifying rather than relying totally on memory.
4. Before the beginning of the trial, the attorneys from both sides should exchange copies of the deposition (or role descriptions) of their witnesses to aid them in framing cross-examination questions. Note that for this trial, this is especially helpful to the prosecution.
5. If you want to complete the trial in one class session, then you will need to allot and enforce strict time limits depending on the length of your class period. Assuming a 60-minute class period the time would look like this:
 - 5 minutes for the judge (teacher) to read the charges and receive Burr's "not guilty" plea
 - 2 minutes for prosecution opening remarks

- 2 minutes for defense opening remarks
 - 15 minutes for direct testimony from prosecution witnesses
 - 5 minutes for cross-examination of selected prosecution witnesses
 - 15 minutes for direct testimony of defense witnesses
 - 5 minutes for cross-examination of selected defense witnesses
 - 2 minutes for prosecution closing remarks
 - 2 minutes for defense closing remarks
6. If you have a large class and the ability to spend more class time on this activity more possibilities exist to expand the time for direct testimony and cross-examination.
 7. Advise student-attorneys to be very careful about cross-examination. Most experienced trial attorneys have difficulty with this skill and often do more harm to their case than good. The best advice you can give student-attorneys is to never ask a question if they don't already know what the answer will be. Although in this particular trial, you should advise the prosecution that, since their best hope of a conviction lies in proving that Burr was constructively present on Blennerhassett's Island, they will need to effectively cross-examine the defense witnesses. Remember that in cross-examination an attorney can use statements, such as "Isn't it true that blah, blah, blah...?"
 8. On the day of the trial arrange the classroom to look like a courtroom (see Diagram) with a judge's seat (the teacher's desk), a chair for those giving testimony, a seat for the defendant, desks for the attorneys and witness seats.
 9. Try to match roles to student personalities and academic strengths. For student-attorneys it is particularly important that you select students who are well-organized and not afraid to speak in front of the class. You should emphasize this point if you decide to let students be a part of the role assignment process.
 10. Note that you can limit the length of the trial by omitting roles.
 11. When the jury is deliberating over the verdict you can engage the rest of the class with the Discussion Questions.
 12. Historically, the government's case revolved around linking Burr's prior actions to the events on Blennerhassett's Island. The government tried to make the case that even though Burr was not actually on the island when armed men were assembling for the purpose of launching some kind of military adventure that constituted "levying war against the US," he was nevertheless guilty of treason. The defense relied on showing that without any "overt act" on the part of Burr—actually leading the armed men on the island—he could not be deemed a traitor, regardless

of any alleged conspiratorial actions. Thus, for the purpose of the role play and scripted versions, I have made the witnesses to Burr's actions prior to the assembly on the island prosecution witnesses and those testifying to actions on the island defense witnesses. This gives students on either side a reasonable chance to "win" the simulated case. Thus, the role play version may illicit a different verdict than what transpired in the actual case. The scripted version is close to what in fact transpired in the real trial and concludes with the jury's actual verdict.

13. In order to make the case easier to follow I have also incorporated elements of the grand jury trial into the actual trial that followed. The decision to indict Burr for treason turned on the testimony of General Wilkinson, who made such a poor impression on the jury that they very nearly indicted him, too. He did not testify in the actual trial. Burr requested a copy of the original cypher, or coded, letter (found in Documentary Evidence) from President Jefferson. Initially, Jefferson refused, citing executive privilege. Marshall ordered the letter delivered to the court, or he would hold the president in contempt of court, just like any other citizen. Jefferson relented and delivered the letter. You may decide to allow the prosecution to enter this document into evidence either in conjunction with a witness or as part of the opening and closing remarks.

Suggested Schedule (scripted version)

Day One: Read and discuss with students the Background Essay. Assign speaking parts for scripted trial and begin reading of the trial.

Day Two: Conclude reading of scripted trial and conduct debriefing using Discussion Questions.

Day Three: Extension Activities.

Notes for the Teacher (scripted version)

1. On the day of the trial arrange the classroom to look like a courtroom (see Diagram) with a judge's seat (the teacher's desk), a chair for persons giving testimony, seat for the defendant, desks for the attorneys, and witness seats.
2. Read and discuss with students the Background Essay.
3. Assign students roles in the play using the Roles Grid with the additional role of narrator. Note that the attorneys have the lengthiest speaking parts.

Roles Grid

Role	Historical Character	Student Name
Judge(s)	John Marshall	
	Cyrus Griffin*	
Clerk/Bailiff		
Defendant	Aaron Burr	
Prosecution Attorneys	George Hay	
	William Wirt	
	Gordon MacRae	
Prosecution Witnesses	General William Eaton	
	Commodore Truxton	
	General John Morgan	
	Colonel George Morgan	
	Thomas Morgan	
	General Wilkinson**	
Defense Attorneys	Benjamin Botts	
	Luther Martin	
	Edmund Randolph	
	John Wickham	
Defense Witnesses	Jacob Allbright	
	Peter Taylor	
	William Love	
	Dudley Woodbridge	
	Simeon Poole	
	Maurice P. Belknap	
	Edmund P. Dana	
	Israel Miller	
	Pearly Howe	
Narrator		

*Participated in the trial but played a secondary role to Chief Justice John Marshall

**Was a key personality in the decision to indict Burr but only testified before the grand jury that indicted Burr for the crime of treason against the United States.



Teaching Tip

Try to match roles with student personalities and academic strengths.



Teaching Tip

You can add an interfering spectator role. Someone who inappropriately shouts out something about the innocence or guilt of accused.

Jury Grid

Note: Ideally the jury should be composed of students who are not directly associated with the class doing the role play. However, as with the real trial, it was nearly impossible to form a jury that did not have some bias—one way or another—about Burr.

	Student		Student
Member 1 (Foreman)		Member 7	
Member 2		Member 8	
Member 3		Member 9	
Member 4		Member 10	
Member 5		Member 11	
Member 6		Member 12	

Background Essay

Aaron Burr was commissioned as an officer in the Continental Army, rising to the rank of lieutenant colonel. He served heroically during the American Revolution. After the Revolution he settled in New York where he practiced law and eventually became involved in politics. He sided with Thomas Jefferson and the Democratic-Republicans and was selected to run for vice president when Jefferson was nominated for president in 1800. Burr was deeply mistrusted by Alexander Hamilton and the Federalists who viewed him as an ambitious schemer of low character. Thomas Jefferson also came to distrust Burr and opted not to choose him for vice president when he ran for re-election in 1804. He said that he “never indeed thought him an honest, frank-dealing man, but considered him as a crooked gun, or other perverted machine, whose aim you could never be sure of.”¹ Burr ran instead for the office of governor of New York but was defeated by the Federalists. Rumors spread that Hamilton himself had been calling Burr a dangerous man who could not be trusted to govern. Burr challenged Hamilton to a duel. The two men met for their duel in Weehawken, New Jersey, just across the river from New York. Hamilton was shot dead by Burr, who was promptly charged with murder in both New York and New Jersey. In March 1805, with his reputation and political career shattered, Burr left Washington for the West, turning his focus to the potential of establishing a new republic in the recently acquired lands in Louisiana. It became clear that Burr was not alone in his scheming. He had a number of supporters that included a senior British diplomat, Anthony Merry, and a United States senator, Jonathan Dayton of New Jersey. Most significantly, he had the financial backing of a

wealthy and eccentric Ohioan named Harman Blennerhassett, as well as the military backing of the General-in-Chief of the Army in the Louisiana Territory, James Wilkinson. Burr even tried to enlist thirty-nine-year-old Andrew Jackson into his arrangements. Jackson, however, did not want any part of the scheme because he detested General Wilkinson and, as he said later, “it rushed into my mind like lightning that Burr might be a traitor.”²

The first indications of Burr’s true intentions appeared in the pages of the Federalist newspaper, *Gazette of the United States*. The paper declared that Burr was not a Democratic-Republican, or a Federalist, but the head of a “revolutionary party on the Western waters” who was determined to put the newly acquired western lands under a separate government. This was the beginning of rumors that spread across the newspapers of the country linking Burr to this alleged plot.³

In December 1806, General James Wilkinson decided to betray Burr and reveal the contents of a coded secret letter that Burr had written to him detailing aspects of the plot. He decoded the letter, slightly altering it to disguise his own involvement, and then turned over the contents to President Jefferson. The letter proposed that soldiers commanded by Burr and Wilkinson would assemble in boats and be prepared to use the western waterways as a path to embark on



Aaron Burr

1 Newmyer, Kent R. *The Treason Trial of Aaron Burr: Law, Politics, and the Character Wars of the New Nation*. New York: Cambridge University Press, 2012: 14.

2 Sedgwick, John. *War of Two: Alexander Hamilton, Aaron Burr, and the Duel That Stunned the Nation*. New York: Berkley Books, 2015: 378.

3 Ibid.: 371.

Image source: Aaron Burr. iStock.com/ivan-96.