

**WASHTENAW COUNTY BAR ASSOCIATION
PUBLIC SERVICE COMMITTEE**

**CONSTITUTION DAY – SEPTEMBER 17, 2009
Classroom Activity – 6th Grade**

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CONSTITUTION DAY 2009

LAWYER IN THE CLASSROOM

ACTIVITY GUIDE - 6TH GRADE

PURPOSE: The goal of this activity is to introduce and discuss the Sixth Amendment guarantee of an impartial jury for criminal defendants. The materials illustrate how the American juror selection process differs from a similar process used in ancient times during the Roman Republic. The topic is intended to complement the 6th grade social studies focus on world history.

FORMAT:

1. Introduce yourself to the class and teacher. Explain that Constitution Day is observed on September 17th each year to think about the important protections and rights of all Americans granted by the United States Constitution.
2. Briefly explain origins of the U. S. Constitution: drafted by America's Founders as the fundamental law of the nation; intended to organize the government and define the rights and responsibilities of citizens and elected representatives. The Founders based the U. S. Constitution on longstanding principles and traditions that can be traced back to the Roman Republic.
3. Distribute copies of Comparison Table: Roman Republic and United States of America to students and teacher. Briefly review comparisons between the Roman Republic legal system based on the Twelve Tables and the American legal system based on the U. S. Constitution. (The legal systems are compared side-by-side on the 2 page Comparison Table).

Focus on Jury Selection in a Criminal Case: Explain that jurors were chosen by lot in the Roman Republic jury courts; only men could serve as jurors; and a majority of jurors decided a defendant's guilt or innocence. Explain that jurors are chosen through a process known as *voire dire* in U. S. courts; men and women can serve as jurors; a unanimous jury vote is required to determine guilt or innocence of a criminal defendant.

Introduce the Sixth Amendment right to an impartial jury.

“In all criminal prosecutions, the accused person shall have the right to a speedy and public trial, by an impartial jury of the state where the crime has been committed.”

4. Ask the students to help define the following terms (write on blackboard):

Selection “by lot”: random, haphazard, accidental, without plan or design

Selection by “voire dire”: French “to speak the truth,” questioning a person to determine suitability and qualifications as a juror, identify bias for or against the accused

“Impartial”: unbiased, disinterested, objective, neutral, fair

5. Introduce Constitution Day activities: Students will choose two separate juries for a criminal defendant using two different approaches similar to the procedures used in Roman Republic jury courts and in United States courts.

MATERIALS: Take copies for each student and the teacher: Birdsong Case – p. 4; Jury Sheet 1 & 2 – p. 7-8; Envelopes (6-7) with juror names (p. 9) for each small group; Comparison Table – enough copies to distribute to each student and teacher.

- a. Divide the class into small groups of 5-6 students (ask the teacher to help).
- b. Distribute copies of the case: State of Michiana v Robin Birdsong. Read the case aloud and tell students that they will choose two juries for Robin Birdsong.
- c. Distribute to each small group: Jury Selection Sheet 1, Jury Selection Sheet 2, and an envelope containing the names of all potential jurors. (Cut squares provided on p. 9 with each juror’s name and place squares in envelope).

6. **Activity 1: Jury Selection Sheet 1**: Ask the students to read the description of each potential juror and decide whether or not that person could serve as an impartial and unbiased juror for trial. Ask them to check “yes” or “no” beside each name and give a reason for their choice.

Activity 2: Jury Selection Sheet 2: After completing Activity 1, ask the students to draw 12 names from the envelope (without looking) and place a check beside the name of each person selected by lot.

Ask the students to compare the results of the jury members selected by both methods. Give the small groups 10-15 minutes to complete both activities.

7. Ask each small group to choose a spokesperson and go around the room to each group and ask them to explain their results. Questions for the small groups:

Are both juries impartial? Why or why not?

Which jury selection process seems fair and impartial?

If you were on trial for a crime, which jury chosen by your group would you want?

CASE

STATE OF MICHIANA v ROBIN BIRDSONG

Case No. 09- 0849

Robin Birdsong is a famous rock star who gives a concert every summer in Tuneville, Michiana. The concert is held in Cherry Hill Park and hundreds of Tuneville residents turn out each year for the event.

Robin donates the money earned from the concert ticket sales to HELP OUR PETS, (HOP) a local charity that finds homes for unwanted and stray animals.

Robin spent two weeks in Tuneville last July preparing for the concert. Recently, Robin has been charged by the State of Michiana with breaking into HOP's offices while he was in town and stealing a large sum of money.

Robin denies the charges and entered a plea of not guilty with the court. The case is set for trial and jury selection takes place today.

Robin is protected by the Sixth Amendment to the United States Constitution which guarantees that:

In all criminal prosecutions, the accused person shall have the right to a speedy and public trial, by an impartial jury of the State where the crime has been committed.

Keeping in mind that Robin is entitled to an impartial jury, review the list of potential jurors in the Jury Pool. Use your best judgment based on the information given about each potential juror to decide whether or not that person would be fair and impartial in hearing Robin's case. The twelve jurors you choose will decide whether Robin is guilty or not guilty of the crime.

Jury Pool

1. **Jury Sheet 1.** After each name check "yes" or "no" if you think the person can give Robin an impartial trial. Give a brief reason for your decision. After reviewing the total list, choose 12 jurors for Robin's trial.
2. **Jury Sheet 2.** Draw 12 names from the envelope (without looking) and check the name of each person drawn randomly. You have now selected 12 jurors by lot for Robin's trial.

How do the two lists of jurors compare? Which process do you think best guarantees Robin's right to an impartial jury?

Comparison Table of Legal Systems:

ROMAN REPUBLIC

Governed By: Twelve Tables

Around 509 BC, ordinary citizens of the Roman Republic claimed their liberties were not protected by the government because unwritten laws were applied to them by judges who were always members of the upper classes of society. To answer these complaints, the government sorted laws that “always existed” into categories and wrote them down on Twelve Tables.

The Twelve Tables contained the rights of Roman citizens before their government and they were placed on public display in the Roman Forum for all to see. Rules to settle arguments over property; rules for making contracts and wills; rights of ordinary citizens; and punishments for various crimes were all contained in the Twelve Tables.

Courts & Juries: Around 80 BC the Romans established jury courts to hear the trials of Roman citizens who were accused of a crime. Each jury court had a judge and as many as 75 jurors who were chosen by lot. Only men from the upper classes of society could serve as jurors. The guilt or innocence of the accused was decided by a majority vote of the jurors. If the jury was evenly split, the defendant would go free. Persons found guilty could not appeal the jury decision.

The accused remained free while both sides prepared for trial. Both sides had the right to challenge jurors and ask that they be replaced, but no formal process to determine bias existed.

Roman Republic and United States

UNITED STATES OF AMERICA

Governed By: U. S. Constitution

In Colonial America, ordinary citizens believed their rights were frequently violated under English rule. In 1787, after the Revolutionary War, America’s founders drafted a Constitution for governing the United States of America. American citizens wanted protections for individual rights included in the Constitution.

Twelve Amendments to the Constitution were proposed stating individual rights of ordinary American citizens that could not be taken away by the government. Only 10 of the proposed Amendments were approved by all of the States. Those 10 Amendments are known to day as the Bill of Rights.

Courts & Juries: The Sixth Amendment to the Constitution guarantees Americans the right to a fair trial. “In all criminal prosecutions, the accused person shall have the right to a speedy and public trial, by an impartial jury of the State where the crime has been committed, the right to know the crime he or she is accused of, the right to confront witnesses against him or her, the right to compel witnesses in his or her favor, and the right to assistance of defense counsel. Jury verdicts can be appealed.

Men and women serve as jurors and must be:

1) American citizens, 2) speak English, 3) live in the county where the trial is held, 4) at least 18 or older, and 5) have no prior felony convictions. Jurors are expected to be “impartial” and know little or nothing about the case. *Voire Dire* (to speak the truth) allows questioning to decide if a person is biased for or against the accused before they are allowed on the jury. Each side may eliminate any juror for a good reason and some jurors for no reason at all until twelve jurors are selected to hear the trial. This helps assure that both sides think the jurors deciding the case will be fair.

ROMAN REPUBLIC

Governed By: Twelve Tables

Only male Roman citizens could accuse another of a crime and ask to prosecute him or her before a jury court. The accuser had to take an oath that his prosecution was in good faith.

Accusers could conduct their own prosecution. Defendants could either represent themselves or be represented by someone with public speaking experience but not an expert in the law. Lawyers existed, but they offered advice outside the court trial and they could not be paid.

Trials included opening speeches, examination and cross examination of witnesses, other evidence such as documents, and closing speeches. The Romans considered evidence about the defendant's character to be very important. The judge could order punishment for any witness who lied.

The jury of 75 people hears the testimony and considers the evidence and decides the defendant's guilt or innocence by majority vote. If jurors are evenly split, the defendant goes free.

Crimes & Punishments: Serious crimes including false witness, counterfeiting, adultery, possessing a weapon to commit a crime and possessing poison were punished by death. Guilty persons could be buried alive, thrown off a cliff, burned, or killed by beasts in the Roman Coliseum.

Lesser crimes included stealing or killing an animal or a slave, excess brutality by a teacher, and mutilating the limb of another person.

Punishments for lesser crimes included fines, flogging, banishment, and forced labor in government mines.

UNITED STATES OF AMERICA

Governed By: Constitution of the United States of America

Any citizen can accuse another person of a crime and ask to have the crime investigated and prosecuted by the State. If the State determines that a crime has been committed, the State on behalf of the people represents the victim. Criminal defendants are guaranteed the right to an attorney, and, in some cases, an attorney may be appointed by the court to represent a criminal defendant.

Trials include opening statements, examination and cross examination of witnesses, other evidence such as documents, and closing arguments. Witnesses who lie may be charged with perjury and prosecuted.

The jury of 12 hears the testimony and considers the evidence presented in the trial case. The judge gives the jury instructions about what each side must prove to the jury, and then the jury considers the evidence in private to reach a verdict. The jury must agree on guilt or innocence or the defendant goes free.

Crimes & Punishment: Crimes are defined and include arson, kidnapping, murder, possession a weapon to commit a crime and many kinds of theft. Punishment includes time in jail or prison, probation, fines, restitution and, in some cases, death. (Michigan does not have a death penalty).

STATE OF MICHIANA v ROBIN BIRDSONG
JURY POOL JURY SHEET 1

YES NO WHY

1. Apple Keys: Robin's high school guitar teacher who attends every concert _____
2. Jay Blues: Only listens to opera and has never heard of Robin Birdsong _____
3. Melody Smith: Volunteers weekly at HOP and rescued 4 dogs and a parrot _____
4. Billy Tenor: A local radio announcer who jogs past HOP office every day _____
5. Susie Soprano: Software engineer and President of Robin's Fan Club _____
6. Chris Clef: Wants a job in Robin's band and plays keyboard _____
7. Pat Tromboni: Delivers pizzas and was robbed two years ago _____
8. Henry Highnote: Was laid off at HOP and is now unemployed _____
9. Terry Tonedead: His neighbor works with Robin's cousin's sister in law _____
10. Harmony Bell: Teaches 6th grade and volunteers at the Red Cross _____
11. Freddie Alto: Grew up in the same town as Robin's grandmother _____
12. Gertie Grammy: Sells popcorn and hot dogs at concerts in Cherry Hill Park _____
13. Flash Flutey: Internet crime reporter in Tuneville, covered HOP robbery _____
14. Sally Turnip: Owns a flower shop and promotes edible gardening _____
15. Tony Treble: A security guard at the Tuneville Outlet Mall _____
16. Mimi Timestep: Local tap dancer in Cherry Hill Park performances _____
17. Bettie Rhyme: Writes poetry and watches Animal Planet weekly _____
18. Lana Lovely: Librarian in Tuneville who loves Italian art and history _____
19. Curly Popp: Walked his dog past HOP on the night of the robbery _____
20. Tom Riddle: Local magician accused of identity theft three years ago _____
21. Viola Sweet: Has a farm in Tuneville and raises goats and chickens _____
22. Pat Cowherd: Director of Tuneville Community Veterinary Hospital _____
23. Barbie Belltone: Rescues abandoned puppies and kittens for HOP _____
24. Stan Shunpike: Drove the night bus past HOP about the time of the robbery _____
25. Conrad Birdie: Robin's favorite uncle and biggest concert sponsor _____
26. Elphie Green: Lives next door to HOP's director and dislikes his kids _____
27. Jo Rocker: Was caught stealing video games from the mall last winter _____
28. Stewart Drum: Has a bicycle grocery delivery business and a pet snake _____
29. Lucy Lucky: Gets free concert tickets from Robin's band member _____
30. Ted Stomper: Plays hockey for the Tuneville Tumblers _____

STATE OF MICHIANA v ROBIN BIRDSONG
JURY POOL JURY SHEET 2

Check Each Name Selected By Lot

1. Apple Keys: Robin's high school guitar teacher who attends every concert _____
2. Jay Blues: Only listens to opera and has never heard of Robin Birdsong _____
3. Melody Smith: Volunteers weekly at HOP and rescued 4 dogs and a parrot _____
4. Billy Tenor: A local radio announcer who jogs past HOP office every day _____
5. Susie Soprano: Software engineer and President of Robin's Fan Club _____
6. Chris Clef: Wants a job in Robin's band and plays keyboard _____
7. Pat Tromboni: Delivers pizzas and was robbed two years ago _____
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29. Lucy Lucky: Gets free concert tickets from Robin's band member _____
30. Ted Stomper: Plays hockey for the Tuneville Tumblers _____

Jury Pool

Apple Keys ¹	Jay Blues ²	Melody Smith ³	Billie Tenor ⁴	Susie Soprano ⁵	Chris Clef ⁶	Pat Tromboni ⁷
Henry Highnote ⁸	Terry Tonedear ⁹	Harmony Bell ¹⁰	Freddie Alto ¹¹	Gertie Grammy ¹²	Flash Flutey ¹³	Sally Turnip ¹⁴
Tony Treble ¹⁵	Mimi Timestep ¹⁶	Bettie Rhyme ¹⁷	Lana Lovely ¹⁸	Curley Popp ¹⁹	Tom Riddle ²⁰	Viola Sweet ²¹
Pat Cowherd ²²	Barbie Belltone ²³	Stan Shunpike ²⁴	Conrad Birdie ²⁵	Elphie Green ²⁶	Jo Rocker ²⁷	Stewart Drum ²⁸
Lucy Lucky ²⁹	Ted Stomper ³⁰					

