

TheatreEspresso

WAKE UP TO HISTORY!



THE TRIAL OF ANTHONY BURNS

STUDY GUIDE

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About Theatre Espresso

Theatre Espresso creates, produces, and performs interactive dramas that bring history to life for students, in order to foster a generation of critical thinkers and true citizens. Since 1992, Theatre Espresso has toured its educational dramas to schools, museums, libraries, and courthouses throughout New England. Inspired by the highly successful Theatre-in-Education teams of Great Britain and by the belief that drama is a potent teaching tool, Theatre Espresso's work challenges students to make critical judgments, explore social relationships, reflect on the role of law and human rights in our society, and question accepted truths about the history of America. These plays confront students with complex situations—based on actual historical events—that provoke a variety of opinions and solutions. By asking students to consider themselves *participants in the drama*—inhabitants of 1706 Salem Village, members of the post-Civil War U.S. Congress, or Supreme Court Justices—the company engages students in examining contradictory events and testimony in order to reach their decision.

For more information about Theatre Espresso, visit our website at:

www.TheatreEspresso.org

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Learning Goals

- to explore the tension between human and moral law
- to examine the evolutionary nature of the U.S. justice system
- to determine what role the abolitionists played in the events leading up to the Civil War
- to explore the abolitionists' goals and strategies in defending Anthony Burns

About the Play

Massachusetts was at the center of the abolitionist movement in pre-Civil War America. However, escaping from slavery was illegal, and state judges were compelled by the Fugitive Slave Act of 1850 to return runaway slaves to their owners in the South. In 1854, a slave named Anthony Burns escaped to Boston where he lived as a free man until he was captured and placed on trial. Before the trial, local residents—including twenty-two-year-old Louisa May Alcott—descended upon Faneuil Hall for a freedom rally that erupted into a violent riot outside the Courthouse where Burns was held.

During the trial, Richard Henry Dana and a team of prominent Boston lawyers fiercely defended Burns' right to freedom. Citing the Fugitive Slave Law, Judge Edward G. Loring rejected their arguments and returned Burns to his Southern master. This action galvanized abolitionists and converted conservative citizens into militant freedom fighters. Indignation over the Burns case helped give birth to the Republican Party, propelled Abraham Lincoln to the White House, and eventually led to the Civil War. In 1858, a partisan Massachusetts Legislature voted to remove Loring as judge of probate for his unpopular verdict in the Burns case.

After viewing a dramatization of this critical case, students interview the characters, debate the issues, and render their own judgment on Loring's actions during the trial.
(*Grade Levels: 5 - 12*)

Historical Timeline

September 1850: The **Fugitive Slave Law** passes as part of the **Compromise of 1850**.

March 1854: Anthony Burns, an escaped slave from Virginia, arrives in Boston, Massachusetts.

Wednesday, 24 May: Burns is arrested as a suspect in a jewelry store robbery. At the Courthouse, Burns is confronted by his owner, Charles Suttle, and Suttle's slave agent William Brent. Burns acknowledges Suttle by calling him "master."

Thursday, 25 May: At the Courthouse, Richard Henry Dana, a prominent lawyer and supporter of the abolitionist cause, approaches Burns. Wary of his fate at the hands of an angry Colonel Suttle, Burns feels it is best not to resist. Despite Burns' reluctance, the Reverend Theodore Parker convinces him to allow Dana and other lawyers to defend him. Dana, now acting as Burns' lawyer, requests a delay in the trial. He is granted two days.

Friday, 26 May: Over two thousand abolitionists meet at Faneuil Hall. The crowd reaches a fevered pitch when Reverend Thomas Higginson bursts in and announces that a mob of angry Negroes is storming the Courthouse. The crowd surges out of the meeting and proceeds to the Courthouse. The group is disorganized and out of control, and numbers dwindle by the time they reach their destination. Marshal Freeman's guards are given advanced warning and prepare for the arrival of the abolitionists. The angry mob breaks a door down and a guard named James Batchelder is killed. Nine or ten attackers are arrested.

Saturday, 27 May: At Burns' hearing, crowds on both sides of the issue gather outside the Courthouse. The mayor orders U.S. troops to guard the Courthouse, making it very difficult for even the lawyers to make their way into the courtroom. Burns' lawyers request and are granted a delay until Monday. Marshal Freeman wires President Franklin Pierce, who supports the Fugitive Slave Act, to approve his use of U.S. troops. Pierce instructs him to use whatever means necessary to maintain order. That evening, Reverend Grimes tries to collect money to purchase Burns from Suttle, based on Suttle's verbal agreement to sell him.

Monday, 29 May: Suttle's lawyer advises his client that it is against the law to sell or purchase a slave in Massachusetts. Suttle backs out of the sales agreement with Grimes. The court proceedings officially begin, and for the first time in Boston history, the courthouse is closed to the public.

Monday-Wednesday, 29-31 May: The evidence against Burns rests on two important facts. First, William Brent, Suttle's slave agent testifies that Burns disappeared on 24 March. Second, Burns' statements to Suttle after his arrest on 24 May help to confirm his identity. Burns' lawyers use a loophole in the Fugitive Slave Law and attempt to prove that Burns is not the same man who escaped from Colonel Suttle. To support their claim,

the defense presents nine witnesses who testify that they saw Burns before 24 March, the day that Suttle claims he escaped. By the end of the day on 30 May, the public believes that Burns will likely be released.

Thursday, 1 June: Judge Edward G. Loring renders his decision. Based on Burns' conversation with Colonel Suttle, his identity is deemed irrefutable and therefore Burns is to be returned to Virginia.

Friday, 2 June: Burns is brought by procession to a ship that will take him back to Virginia. The city is placed under martial law for most of the day.

Vocabulary

Abolition Movement: a social movement made up of people trying to end slavery in the United States

Abolitionist: someone fighting to end slavery

Compromise of 1850: an agreement reached by the U.S. Senate that established many controversial policies related to slavery

Fugitive Slave Law: This law was part of the "Compromise of 1850" in which antislavery advocates gained the admission of California as a free state, and the prohibition of slave-trading in the District of Columbia. The slavery party received concessions with regard to slaveholding in Texas. Passage of this law was so hated by abolitionists, that its existence played a pivotal role in ending slavery. This law also spurred the continued operation of the fabled Underground Railroad, a network of over three thousand homes and other "stations" that helped escaping slaves travel from the southern slave-holding states to the northern states and Canada.

Kansas-Nebraska Act: Passed in 1854, this law permitted slavery in the territories of Kansas and Nebraska, marking a turning point in slave ownership in the United States.

Martial Law: a temporary rule by military authorities over civilians, such as in an area of military operations in time of war, or when civil authority has broken down.

Massachusetts Personal Liberty Act (1855): As a result of the uproar over the *Fugitive Slave Law* of 1850, and the capture and extradition of Anthony Burns in 1854, Massachusetts passed so-called "personal liberty" acts aimed at thwarting federal requirements. The state laws guaranteed the writ of *habeas corpus*, the right to a jury trial and other procedural devices that protected runaways. The laws also made it difficult and costly for slave owners to prove their case in court. A key provision called for the removal of any state official who aided in the return of runaway slaves. The personal liberty laws, while anathema in the South, reflected the growing opposition of mainstream northern society to the "peculiar institution."

Key Players

ANTHONY BURNS was a fugitive slave who escaped from Virginia to Boston, Massachusetts in 1854.

RICHARD HENRY DANA was the leading abolitionist lawyer for Burns. Though he opposed the Fugitive Slave Law, he believed in the sanctity of the law and respect for those who must uphold it. After Burns' trial, he supported Judge Loring and opposed the State Senate's decision to remove him from his position.

REVEREND LEONARD GRIMES was a leader of the black abolitionist movement in Boston and pastor of the Twelfth Baptist Church of Boston, known as the fugitive slave church.

THOMAS WENTWORTH HIGGINSON was a minister and abolitionist from Worcester, Massachusetts. Higginson fervently opposed the Fugitive Slave Law and believed in defending the freedom of escaped slaves at any cost. He was one of the major organizers of the attempt to rescue Burns from the Boston Courthouse.

JUDGE EDWARD G. LORING was both a Judge of Probate and the Commissioner presiding over fugitive slave cases in Massachusetts.

COLONEL CHARLES F. SUTTLE was the owner of the slave Anthony Burns.

OFFICER JAMES BATCHELDER was a Marshal's guard who was killed during the storming of the Boston Courthouse.

WENDELL PHILLIPS was a prominent abolitionist lawyer and orator. He was put on trial for his role in the failed attempt to rescue Burns.

LOUISA MAY ALCOTT was from a prominent family in Concord, Massachusetts who was active in the abolitionist movement. Author of *Little Women*, Alcott became a famous writer.

Pre-Lesson Plans

The Fugitive Slave Law of 1850 – Part One

Goals

1. to examine the goals and rationale behind the Fugitive Slave Law of 1850
2. to acquaint students with the idea of working in role

Objectives

1. to briefly review major conflicts of pre-Civil War America
2. to interpret selected text from the Fugitive Slave Law
3. to speculate on the objectives of legislators who drafted the Fugitive Slave Law

Method

1. Discuss the role of historians in society. What do they do? What are some of their goals? Methods? How do they interpret the past? What are their limitations?
2. In pairs, ask students to discuss what they think was happening in pre-Civil War America—around 1850. Ask each pair to share their thoughts with the class and list them on the blackboard. In groups of five or six, instruct students to go up to the board and put a question mark next to any item that they are not sure of (their own or someone else's). At this point, don't worry about misconceptions.
3. Explain to the students that they will be playing present day historians faced with interpreting a document from 1850.
4. In role as the president of the National Historical Society, the teacher welcomes fellow historians (the students) to this special conference on important historic documents. Explain that the purpose of this conference is to interpret a newly discovered draft of the Fugitive Slave Law. Divide the historians into their previous groups. Hand out copies of the edited law (available online at <http://www.nationalcenter.org/FugitiveSlaveAct.html>).
5. Ask the groups to read the document out loud. Tell them the Society wishes to publish a pamphlet that helps people understand the Fugitive Slave Law. The main questions that need to be answered are: What is this document trying to accomplish? Why would such a law be drafted? Who would be interested in seeing this law passed? Allow time for group discussions.
6. Ask groups to report their findings. Write the major points on the board. After each group has finished their report, lead a discussion about the major points. Is there a consensus around any of the interpretations? Are their differences in opinion?

The Fugitive Slave Law of 1850 – Part Two

Goal: to explore the effects of the Fugitive Slave Law of 1850 on specific populations in pre-Civil War America

Objectives

1. to brainstorm possible consequences of the Fugitive Slave Law
2. to express an intellectual understanding of Fugitive Slave Law in an emotional and physical context

Method

1. Review the comments written on the board in Step Two of the previous lesson plan. Ask the students to add any new thoughts they have about pre-Civil War America. They can add new question marks or erase any old ones that they made personally. They can also erase their own comments if they have changed their minds. Remind students not to erase anything written by another student.
2. Discuss the following questions:
 - a. What might the effect of the Fugitive Slave Law be on the following populations: southern slaves, northern abolitionists, escaped slaves, slave owners?
 - b. Under what conditions might the Fugitive Slave Law be overturned?
3. In groups of six, ask students to create a tableau (frozen picture) of the effect of the Fugitive Slave Law on the populations discussed in step two. The tableau may be realistic or abstract, but it should represent two or more of these populations.
4. Ask each group to create a second tableau of the same populations after the Fugitive Slave Law has been overturned. Again the tableau may be realistic or abstract.
5. On a count of ten (teacher counting out loud), ask students to transform from their first tableau into their second one. Remind students to take the full ten seconds to make the transformation. You can say “freeze” to mark the end point. Let them practice the transformation a second time.
6. Ask each group to share their transformation from one tableau to the other with the class, counting to ten for each group. After each presentation, ask the student observers for words or phrases that express the emotions of the piece.

Post-Lesson Plans

Tracing the Lives of the Characters

Goals

1. to trace the effect of the trial of Anthony Burns on the lives of those involved
2. to develop writing skills through drama

Objectives

1. to conduct research on what happened to the characters in the play following the trial
2. to conduct character interviews
3. to write eulogies of selected historical figures

Method

1. Based on the list of historical characters, ask each student to select a character to research. Several students may research the same character. Students should focus primarily on what happened to their character after the trial of Anthony Burns in 1854. Suggested resource materials are listed at the end of this study guide.
2. Ask each student to write an “autobiography” (first person account) of their character’s life. These can be collected or shared with the class.
3. Divide the students into pairs (A and B) so that no pair has researched the same character. A takes on the role of the historical character they researched. They should play that character toward the end of their life. B is in role as a reporter. B interviews A, writing down all important information. Switch, so that B takes on their character and A interviews them.
4. Ask students to write a eulogy of the person they interviewed focusing on what happened to that person after the trial.

Follow-up: Improvise two-person scenes between the researched characters several years after the trial. Decide where they might meet. What would they say to each other?

Free Anthony Burns

Goal: to explore the goals and methods of three groups of abolitionists in attempting to free Anthony Burns

Objectives

1. to identify and discuss tactics taken by abolitionists in the case
2. to determine the pros and cons inherent in each strategy
3. to debate and determine which course of action will produce the best results

Method

1. Ask students to identify tactics used by the abolitionists to try to free Anthony Burns. The following objectives were explored in the play:
 - a. break him out of prison
 - b. buy him
 - c. put him on trial

Students may come up with additional ideas.

2. Divide students into three or more groups (depending on the number of tactics identified). Ask each group to take on the role of abolitionists in 1854. Assign a tactic from Step One to each group. Groups should identify a leader to head the discussion and a secretary to write down important points. Ask each group to brainstorm the pros and cons of their tactic.
3. Each group presents their findings to the class.
4. Hold an emergency meeting of abolitionists. Let students know that they can argue for or against any of the tactics brought forth. In role as Wendell Phillips, the teacher welcomes fellow abolitionists to the meeting. Tell the crowd that Anthony Burns has just been arrested and is being held in the Courthouse. Ask for suggestions for what steps should be taken. Lead a debate on each suggestion and then vote on what actions to take.

Follow up: As reporters in 1854, ask students to write an editorial about the outcome of the emergency meeting of abolitionists. Students can share the highlights of their editorial with the class.

Personal Liberty Act

Goals

1. to examine how the Anthony Burns case affected American history, specifically the antislavery movement
2. to participate in a mock legislative process

Objectives

1. to explore the difficult issues of law and morality raised during the drama
2. to develop oratory and presentation skills
3. to determine possible solutions to the struggles faced by those opposed to the Fugitive Slave Law
4. to work collaboratively to devise a law that prevents the disorder and derision experienced in Massachusetts when Anthony Burns was returned to slavery

Method

1. Discuss the issues raised during the Anthony Burns trial. Why did Judge Loring feel that he had to return Anthony Burns to slavery? Did the citizens of Massachusetts agree with his decision? Could Loring have maintained Burns' freedom without violating the Fugitive Slave Law? What could the State Legislature do to prevent fugitive slaves from being returned to their owners in the future? Discuss the conflict between State law and Federal law. How are these conflicts resolved?
2. Review the Fugitive Slave Law. Ask students to assume the role of State Legislators. In role, they must create a law that will counteract the Fugitive Slave Law.
3. Divide students into small groups. Ask them to write down the major points to be included in this new law. Then, bring the class back together and ask groups to present their ideas. Keep a list of all items on the board. Ask the students if they have any suggested modifications for any of the ideas listed. Once all the ideas are on the board, ask the class to vote on whether each one should be included in its new law.

Follow-up: Discuss the passing of the Personal Liberty Act (available online at: <http://usinfo.state.gov/usa/infousa/facts/democrac/20.htm>). This Act and the resulting Personal Liberty Laws were written in response to Massachusetts citizens' reaction to the Fugitive Slave Law, particularly the Burns case.

Moral Law versus Human Law

Goals

1. to explore the tension between moral law and human law
2. to draw connections between issues raised in the drama and similar modern-day legal struggles

Objectives

1. to review the tension between moral law and human law as it relates to the trial of Anthony Burns
2. to identify modern examples when the tension between moral law and human law has been debated in the courts
3. to conduct research on selected modern court cases
4. to argue the merits of their selected court case

Method

1. Lead a discussion about the tension between moral law and human law as it was portrayed in the performance of *The Trial of Anthony Burns*.
2. Ask students for examples in other times in history when this tension has existed (e.g., the Japanese Internment Camps). Ask for examples from recent events (e.g., holding illegal aliens in prison without trial following the attack on the World Trade Center). Write these suggestions on the board. Come to a consensus (or vote) on a specific case that the class would like to explore.
3. Divide the class in half. Ask each half of the class to research one side of the issue (use newspapers, magazines and information on the web).
4. Set up a mock trial where one-half of the class becomes the plaintiff and the other half becomes the defense. Members of each group assume the roles of witnesses and lawyers. Allow the groups enough preparation time. Bring in a “judge” from outside the class to preside over the trial.

Additional Resources

Publications

Adams, Charles Francis. 1968. *Richard Henry Dana: A Biography*. 1890. Detroit: Gale.

The Boston Slave Riot and the Trial of Anthony Burns. 1854. Boston: Fetridge and Company.

Dana, Richard Henry. 1968. *The Journal of Richard Henry Dana, Jr., Volume II*. Ed. Robert F. Lucid. Cambridge: Belknap-Harvard University Press.

Edelstein, Tilden. 1968. *Strange Enthusiasm: A Life of Thomas Wentworth Higginson*. New Haven: Yale University Press.

Finkelman, Paul. 1988. *Fugitive Slaves and American Courts*. Volume 3. Slavery, Race and the American Legal System. New York: Garland.

“The Fugitive Slave Case in Boston.” *Alexandria Gazette*. 30 May 1854: 2.

Hamilton, Virginia. 1988. *Anthony Burns: the Defeat and Triumph of a Fugitive Slave*. New York: Knopf.

Higginson, Thomas Wentworth. 1921, *Letters and Journals of Thomas Wentworth Higginson*. Ed. Mary Thacher Higginson. Boston: Houghton.

Morris, Thomas D. 1974. *Free Men All: The Personal Liberty Laws of the North, 1780-1861*. Baltimore: Johns Hopkins University Press.

Pease, Jane H. and William H. 1975. *The Fugitive Slave Law and Anthony Burns: A Problem in Law Enforcement*. Philadelphia: Lippincott

Parker, Theodore. 1970. *The Trial of Theodore Parker*. 1855. New York: Negro University Press-Greenwood.

Tuttleton, James W. 1978. *Thomas Wentworth Higginson*. Boston: Twayne-G.K. Hall.

Von Frank, Albert J. 1998. *The Trials of Anthony Burns: Freedom and Slavery in Emerson's Boston*. Cambridge: Harvard University Press.

Websites:

The African-American Mosaic: A Library of Congress Resource Guide for the Study of Black History and Culture. <http://lcweb.loc.gov/exhibits/African/afam001.html>.

Africans in America. <http://www.pbs.org/wgbh/aia>.



Booking a Program

To bring *Justice at War*, *The Trial of Anthony Burns*, *Uprising on King Street*, *The Nine Who Dared*, *American Tapestry*, *Secret Soldiers* or our teacher development workshop “Drama Across the Curriculum” to your school, please contact our Managing Director, Kortney Adams:

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